Wrap Up:

ITP602: Analisis Dampak Regulasi

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Case of AUSTRALIA:

BACKGROUND
Australia’s regulatory impact analysis system
Key aspects of Australia’s regulatory policy and governance arrangements
OECD Conference on Measuring Regulatory Performance
16 June, Sydney, Australia

Regulatory Reform Division
Department of the Prime Minister and Cabinet
Australia
www.pm.gov.au/regulation

ITP602 – Wrap Up
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RIA: Principles for Australian Government policy makers

1. Regulation should not be the default option for policy makers: the policy option offering the greatest net benefit should always be the recommended option.
2. Regulation should be imposed only when it can be shown to offer an overall net benefit.
3. The cost burden of new regulation must be fully offset by reductions in existing regulatory burden.
4. Every substantive regulatory policy change must be the subject of a Regulation Impact Statement.
5. Policy makers should consult in a genuine and timely way with affected businesses, community organisations and individuals.
6. Policy makers must consult with each other to avoid creating cumulative or overlapping regulatory burdens.
7. The information upon which policy makers base their decisions must be published at the earliest opportunity.
8. Regulators must implement regulation with common sense, empathy and respect.
9. All regulation must be periodically reviewed to test its continuing relevance.
10. Portfolio Policy makers must work closely with their regulatory policy areas throughout the policy making process.

Regulation Impact Statement Assessment

- Developing a RIS
- Two pass assessment process
- OBPR formal assessment
- RIS publication on website

Developing a Regulation Impact Statement (RIS)

What policymakers should consider when developing a RIS:
- What is the problem you are trying to solve?
- Why is government action needed?
- What policy options are you considering?
- What is the likely net benefit of each option?
- Who will you consult about these options and how will you consult them?
- What is the best option from those you have considered?
- How will you implement and evaluate your chosen option?

Office of Best Practice Regulation (OBPR)

- Assesses RISs and Post-Implementation Reviews
- Provides advice and guidance to assist agencies to prepare RISs
- Publishes RISs and regular reports on compliance with the Australian Government RIA requirements [http://its.dpmc.gov.au/]
- Conducts training on Australia’s RIS process
Regulatory training from the Australian Public Service Commission (APSC)

The APSC has two learning and development programmes specifically relating to regulation:

• **Introduction to Better Practice Regulation**
  - targeted at staff who are new to regulatory implementation or policy roles.
  - aims to develop regulatory skills on how to implement regulation with common sense, empathy and respect.
  - uses a combination of e-learning, a two day face-to-face workshop and on-the-job training.

• **Regulation for Regulators**
  - will focus on regulatory practitioner skills and is currently being developed by subject matter experts in consultation with relevant government agencies.
  - The programme is expected to be available from late 2016.
Case of Korea

Taken from:
https://www.oecd.org/mena/governance/41095101.ppt

I. Legal Framework of RIA in Korea (1)

Based upon the Basic Act on Administrative Regulations (BAAR) 1997

- According the BAAR, every regulatory body in Korea is compelled to conduct RIA whenever proposing new or revised regulations
- The Regulatory Reform Committee (RRC) is in charge of guiding, advocating and reviewing regulatory bodies to conduct RIA through publishing the RIA guidance.
I. Legal Framework of RIA in Korea (2)

What should be considered in the process of preparing RIA by regulatory bodies

- Necessity of introducing a new (revised) regulation
- Probability of achieving regulatory objectives
- Alternative tools and other related regulations with similar objectives
- Expected cost and benefit caused by the new (revised) regulation
- Anti-competitive elements incurred by the new (revised) regulation
- Objectivity and clearness of the new (revised) regulation
- Necessary budget and manpower to fulfill regulatory objectives
- Appropriateness of document requirements

I. Legal Framework of RIA in Korea (3)

Three (3) criteria for evaluating submitted RIAs by RRC

1. necessity and objective
   - necessity of introducing or strengthening regulations
   - regulatory objectives and expected outcome
   - alternative tools and other related regulations with similar objectives
2. cost and benefit analysis
   - impact on competition
3. appropriateness and effectiveness
   - clearness of the new (revised) regulation
   - consultation with interested parties
   - burden on the budget
II. To Make RIA More Effective (1)

1. Putting RIA in Public

   a) In order to increase regulatory transparency, since July 2006 the Korean government has opened RIA reports to the public through ministries' websites during the public notice period of proposed regulations which is 20 days.

   b) If proposed regulations affect foreign parties, ministries are recommended to extend the public notice period to 60 days.

II. To Make RIA More Effective (2)

2. Training & Education

   a) The Central Officials Training Institute (COTI) has offered public officials a course on regulatory reform every year since 2004. The one-week program deals with issues concerning the Basic Act on Administrative Regulations, the RIA, cost-benefit analysis and case studies on regulatory reform.

   b) Since 2005, a three-week course on regulatory reform has been regularly offered on the internet site of the COTI.
II. To Make RIA More Effective (3)

2. Training & Education

a) ...
b) ...
c) In addition, to foster experts in the RIA, the government has offered an advanced-level course on the RIA in collaboration with the Korea Institute of Public Administration.
d) Those who take the course are public officials responsible for conducting the RIA at each ministry.
e) Experts or senior officials in charge of regulatory reform give intensive lectures on how to make the RIA documents.

III. Other Means to Improve Reg Quality (1)

1. Inter-ministerial Consultation

a) Very active consultation mechanisms between ministries are also tools for improving regulatory quality when regulatory bodies propose new or revised regulations.
b) There are several consultation channels at the various levels starting from director-general level meetings up to ministerial meetings presided by vice prime ministers.
c) For example, for the purpose of securing the principles of competition and market openness,

   ▶ During the consultation process, the Fair Trade Commission is mandated to closely examine proposed regulations from a competition perspective and the Ministry of Foreign Affairs and Trade from a market-openness perspective.

   ▶ The examining role played by the The Korea Fair Trade Commission (KFTC) and the Ministry of Foreign Affairs and Trade (MOFAT) is formally mentioned at the Administrative Procedure Act.
III. Other Means to Improve Reg Quality (2)

2. Public Think Tanks

Public think tanks in Korea often play the role of a watch dog and/or an advocacy agency from a general regulatory reform perspective as well as from other specific policy perspective.

They conduct researches on government’s future policy directions, which in general contain new regulations or changes in existing regulations, by examining impacts of anticipated policies in terms of macro-economic effects, trade effects, employment effects, environmental effects etc. This might be regarded as anticipated RIA exercise.

EXAMPLE BENEFITS/COST OF REGULATION:
THE AUSTRALIA NEW ZEALAND FOOD AUTHORITY (ANZFA)

Case of ANZFA

Evaluating benefits and costs of food regulation
A scoping study

CENTRE FOR INTERNATIONAL ECONOMICS
Canberra & Sydney
March 2002
### EXAMPLE BENEFITS/COST OF REGULATION:
**THE AUSTRALIA NEW ZEALAND FOOD AUTHORITY (ANZFA)**

#### Benefits

<table>
<thead>
<tr>
<th>Activity</th>
<th>Direct outcome</th>
<th>Stakeholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compositional standards</td>
<td>Improved public health and safety</td>
<td>General public</td>
</tr>
<tr>
<td>Labelling requirements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Specific advice</td>
<td>Improved public health and safety</td>
<td>At risk groups</td>
</tr>
<tr>
<td>• Nutritional Information</td>
<td>More consumer information and choice</td>
<td>General public</td>
</tr>
<tr>
<td>Nutrient content claims</td>
<td>More consumer information and choice</td>
<td>General public</td>
</tr>
<tr>
<td></td>
<td>Improved public health</td>
<td></td>
</tr>
<tr>
<td>Food safety</td>
<td>Improved public health and safety</td>
<td>General public</td>
</tr>
<tr>
<td>Maximum residue limits (MRL’s)</td>
<td>Improved public health and safety</td>
<td>General public</td>
</tr>
</tbody>
</table>

#### Costs

<table>
<thead>
<tr>
<th>Activity</th>
<th>Direct outcome</th>
<th>Stakeholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compositional standards</td>
<td>Restriction of choice</td>
<td>Consumers</td>
</tr>
<tr>
<td></td>
<td>Restriction of product innovation</td>
<td>Food manufacturers</td>
</tr>
<tr>
<td>Labelling requirements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Specific advice</td>
<td>Increased compliance costs</td>
<td>Food manufacturers</td>
</tr>
<tr>
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</tr>
<tr>
<td></td>
<td>Increased costs of monitoring and surveillance</td>
<td>Government</td>
</tr>
<tr>
<td>Food safety</td>
<td>Increased compliance costs</td>
<td>Food retail and service</td>
</tr>
<tr>
<td></td>
<td>Increased costs of monitoring and surveillance</td>
<td>Government</td>
</tr>
<tr>
<td>Maximum residue limits (MRL’s)</td>
<td>Increased compliance costs</td>
<td>Primary food producers</td>
</tr>
</tbody>
</table>
### Example Benefits/Cost of Regulation:

**The Australia New Zealand Food Authority (ANZFA)**

How direct outcomes could map to quantifiable benefits or costs

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Indicators</th>
<th>Period</th>
<th>Directly Quantifiable?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Benefits</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Improved public health</td>
<td>• Reduction in diet related disease</td>
<td>• Primarily long term</td>
<td>• Yes, reduction in morbidity and mortality</td>
</tr>
<tr>
<td></td>
<td>• Reduction in food borne illness</td>
<td>• Primarily short term</td>
<td></td>
</tr>
<tr>
<td>Improved food safety</td>
<td>• Reduction in food borne illness</td>
<td>• Primarily short term but some long term component</td>
<td>• Yes, reduction in morbidity and mortality</td>
</tr>
<tr>
<td>More consumer information</td>
<td>• Increased willingness to pay by consumers</td>
<td>• Long term</td>
<td>• Very difficult</td>
</tr>
<tr>
<td></td>
<td>• Reduction in diet related disease</td>
<td>• Long term</td>
<td>• Yes, reduction in morbidity and mortality</td>
</tr>
<tr>
<td>Confidence in food supply</td>
<td>• Increased willingness to pay by consumers</td>
<td>• Both long and short term effects</td>
<td>• Very difficult</td>
</tr>
<tr>
<td>Industry sustainability</td>
<td>• Increase in industry profitability</td>
<td>• Primarily short term</td>
<td>• Yes, but contentious</td>
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EXAMPLE BENEFITS/COST OF REGULATION:
THE AUSTRALIA NEW ZEALAND FOOD AUTHORITY (ANZFA)

How direct outcomes could map to quantifiable benefits or costs

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</thead>
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<td>Costs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restriction of choice</td>
<td>Reduction in product range</td>
<td>Both long and short term effects</td>
<td>Very difficult</td>
</tr>
<tr>
<td>Restriction in product innovation</td>
<td>Loss of market share or reduction in profitability</td>
<td>Both long and short term effects</td>
<td>Very difficult</td>
</tr>
<tr>
<td>Increased compliance costs</td>
<td>Increased costs of production by industry</td>
<td>Primarily short term</td>
<td>Yes, but contentious</td>
</tr>
<tr>
<td>Increased costs of monitoring and surveillance</td>
<td>More government resources</td>
<td>Short and long term</td>
<td>Very difficult</td>
</tr>
</tbody>
</table>

Case of EU:

Mapping regulatory impacts

ASSESSING THE COSTS AND BENEFITS OF REGULATION
Study for the European Commission, Secretariat General

FINAL REPORT

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BRUSSELS, 10 DECEMBER 2013

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Mapping regulatory impacts

- Impacts: positive vs. negative (benefits vs. costs)\(^*\)
  - NOT “one size fits all” of costs and benefits analysis
  - \( f = (\text{Context of regulation}) \)
  - Guidance documents on impact assessment and cost-benefit analysis from all over the world show different taxonomies and typologies
  - Remember: legislation normally produces both direct and indirect impacts, which in turn can generate second-order effects (“ultimate impacts”).

\(^*\) “costs and benefits are terms used to describe the positive and negative effects of a proposal”. (Australian Government, Best Practice Regulation Handbook, 2010)
Mapping regulatory impacts

Regulatory Impacts

Regulatory Cost

DIRECT COSTS

Direct Compliance costs include:
- Regulatory charges, which include fees, levies, taxes, etc.
- Substantive compliance costs, which encompass those investments and expenses that are faced by businesses and citizens in order to comply with substantive obligations or requirements contained in a legal rule; and
- Administrative burdens are those costs borne by businesses, citizens, civil society organizations and public authorities as a result of administrative activities performed to comply with information obligations included in legal rules.

Hassle costs
Often associated with businesses, but they apply equally well to consumers: they include
- costs associated with waiting time and delays,
- redundant legal provisions,
- corruption
- etc.
Mapping regulatory impacts

**Regulatory Impacts**

**Regulatory Cost**

**Direct Impacts**

- **Direct costs**
  - Direct compliance costs
  - Hasse costs

**Indirect Impacts**

- **Indirect costs**
  - Indirect compliance costs
  - Other indirect costs

**Enforcement Costs**

- Costs at central government and local governments?

**Indirect Regulatory Costs**

- Costs incurred in related markets or experienced by consumers, government agencies or other stakeholders that are not under the direct scope of the regulation.
- These costs are usually transmitted through changes in the prices and/or availability and/or quality of the goods or services produced in the regulated sector.
- Changes in these prices then ripple through the rest of the economy, causing prices in other sectors to rise or fall and ultimately affecting the welfare of consumers.
Indirect Regulatory Costs:

- “Indirect Compliance Costs”
- Cost related to the fact that other stakeholders have to comply with legislation) and
- Costs related to substitution (e.g. reliance on alternative sources of supply), transaction costs and negative impacts on market functioning such as reduced competition or market access, or reduced innovation or investment.
Indirect Regulatory Costs:

- Note - *Substitution effects*
  
  - Regulation often cause people to change their behaviour → anticipate these changes.
  - If regulation results in an increase in the price of a product → people will usually respond by buying less of that product and switching instead to other substitute goods
  
    → Reducing the risks in one area may create higher risks in another.

Notes: Substitution example

Example: Increasing the stringency of airline safety regulation.

- Objective: Reduce # deaths due to plane crashes.
  
    → It will also increase the cost of flights.
  
    → It will cause some people to drive to their destination instead.

    → Car travel is much less safe than air travel, the increase in the number of road crash victims may well be greater than the reduction in air crash victims.
Notes: Substitution example
Example: Increasing the stringency of airline safety regulation.
- Objective: Reduce # deaths due to plane crashes.
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    - Car travel is much less safe than air travel, the increase in the number of road crash victims may well be greater than the reduction in air crash victims.

- Substitution effects is important!
  - Identify likely changes $\rightarrow$ substitutions
  - Estimate how significant these substitutions are likely to be
    - Assess the effectiveness of the regulatory options

Notes: Reduced competition and inefficient resource allocation
$\Rightarrow$ Effect of regulation on competition in markets $\Rightarrow$ affecting the efficiency of resource allocation $\Rightarrow$ Important cost impact.
Mapping regulatory impacts

Regulatory Impacts

Regulatory Cost

Notes: Reduced competition and inefficient resource allocation

Effect of regulation on competition in markets → affecting the efficiency of resource allocation → important cost impact.

Regulation may affect the competition by:

- **Making it more difficult for new competitors to enter the market**, by creating regulatory requirements that are difficult for them to meet or simply discouraging entry by artificially reducing the profitability of a given market.

- **Preventing firms from competing aggressively** – by setting rules that reduce price competition or restrict advertising (e.g., rules that prohibit sales below cost, or set minimum prices); or depriving market players of their minimum efficient scale by imposing market fragmentation.
Mapping regulatory impacts

Notes: Reduced competition and inefficient resource allocation

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- Preventing firms from competing aggressively—by setting rules that reduce price competition or restrict advertising (e.g. rules that prohibit sales below cost, or set minimum prices); or depriving market players of their minimum efficient scale by imposing market fragmentation.
- Inducing collusion, by making it easier for market players to coordinate their strategies, e.g. through increased market transparency, imposed price changes, mandatory standard adoption, etc.

Direct Regulatory Benefits.

- The improvement of the well-being of individuals, which in turn encompasses health, environmental and safety improvements; and
- Efficiency improvements, which include, notably, cost savings but also information availability and enhanced product and service variety for end consumers.
**Indirect Regulatory Benefits:**

- Spillover effects related to third-party compliance with legal rules (so-called “indirect compliance benefits”)
- Wider macroeconomic benefits, including GDP improvements, productivity enhancements, greater employment rates, etc.; and
- Other non-monetizable benefits, such as protection of fundamental rights, social cohesion, international and national stability, etc.

**Ultimate Impacts**

~ overlap with the ultimate goals of regulatory intervention:
- Well-being, happiness and life satisfaction, environmental quality, and more economic goals (GDP growth and employment).
**Mapping regulatory impacts**

**Ultimate Impacts**

- Important to assess the efficiency for the justification of action in regulation
  - Many governments today adopt a wider variety of regulatory goals when regulating, which leads to the measurement of distributional effects and, more generally, at more subjective outcomes such as life satisfaction
  - Second, in Section 2 of this report we will explain more in detail that a number of methods are being developed to track directly the ultimate impact of a given future state of the

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**... RIA ... Tahun 2009**

- Setiap kebijakan pasti menimbulkan konsekuensi.
- Begitu pula dengan proses reformasi di Indonesia, meski awalnya diidam-idamkan, namun dalam perjalananannya reformasi dianggap kebakan akibat kontrol yang lemah dan arah yang kurang jelas.
- Pemekaran wilayah, sebagai buah dari reformasi, ternyata menimbulkan persoalan baru.
- Harapan akan meningkatnya kesejahteraan rakyat, tidak tercapai.
- Cukup banyak daerah yang malah menerbitkan peraturan dan kebijakan yang kontra produktif.

- Untuk **meminimalisir** lahirnya kebijakan yang **kontraproduktif** tersebut, Bappenas meluncurkan *Regulatory Impact Assessment* (RIA) atau Pedoman Analisis Dampak Peraturan Perundang-undangan.

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KAJIAN RINGKAS

PENGEMBANGAN DAN IMPLEMENTASI
METODE REGULATORY IMPACT ANALYSIS (RIA)
UNTUK MENILAI KEBIJAKAN (PERATURAN DAN NON PERATURAN)
DI KEMENTERIAN PPN/BAPPENAS

BIRO HUKUM KEMENTERIAN PPN/BAPPENAS
JULI 2011

... Framework?

What, in general terms, is the problem to be addressed?

What is the specific policy objective to be achieved?

What are the different ways of achieving it?

IDENIFIKASI & ANALISA MASALAH

PENETAPAN TUJUAN

PENGEKBANGAN BERBAGAI ALTERNATIF KEBIJAKAN

PENILAIAN TERHADAP BERBAGAI ALTERNATIF KEBIJAKAN & PEMILIHAN KEBIJAKAN TERBAIK

PENYUSUNAN STRATEGI IMPLEMENTASI

Langkah Metode RIA (Sumber: Kementerian PPN/Bappenas, 2009)
These will be the impacts
If you implement the proposal
If you make these changes
These will be the gains

FINALLY

PROPOSAL
Assessment
Recommendations

RIA Report

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FINALLY

RIA Report


Terimakasih

ITP602: Analisis Dampak Regulasi

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