



REGULATION IMPACT STATEMENT POLICY OPTIONS

February 2016

Summary

When preparing a Regulation Impact Statement (RIS), Australian Government agencies must consider a range of viable policy options. The number of options included in the analysis should take into account the magnitude of the policy problem being considered.

The RIS should consider all practical policy alternatives that can be implemented to achieve the policy objective and address the identified problem. A RIS needs to include at least three options unless the agency certifies in the RIS that the policy problem and circumstances are such that fewer than three options are feasible for consideration. For election commitments and international agreements, a RIS can have fewer than three options.

How many options are required in a RIS?

While at least three options would normally be included in your RIS, the optimal number may well be larger and you are encouraged to include all practical options that should reasonably be considered by decision makers.

The options in your RIS should include the status quo (that is, the do nothing approach) and any proposed policy alternatives, with at least one of the policy alternatives being a non-regulatory option.

While every option considered should be practical and implementable, options should not be discounted just because they have or haven't been considered before or there are risks associated with them. There are several different policy approaches that can be applied to identify options.

When is it appropriate to have fewer than three options?

There may be circumstances when there are no viable alternatives to a proposed policy approach. In this scenario, the proposed policy approach should at least be compared to the status quo.

It is considered appropriate to include fewer than three options in a RIS if:

- The proposed policy approach is an election commitment.
In this case, the Government has already committed itself to one policy approach in a public and accountable way and no alternative options need to be considered.
- The proposed policy is the adoption of multi-lateral international agreements or has been the result of international processes.
In this case, it is not practical to consider alternative policies if the Government has spent significant time and effort developing the international agreements and/or the Government wishes to adopt an international policy position to maintain international consistency.

However, in these situations agencies can also consider alternative 'implementation' options that would be consistent with the overarching Government policy.

If the policy problem and circumstances are such that there are fewer than three options feasible for consideration, then the RIS may consider less than the three options that are normally expected, noting that the status quo must always be one of the options considered. When this occurs, the agency needs to certify in the RIS that the policy problem and circumstances are such that fewer than three options are feasible for consideration. The proposed policy option(s) need to be examined in the RIS as usual, and it would be reasonable for the RIS to include a clear explanation why other alternatives are not viable or practical.

Where an agency has certified that the policy problem and circumstances are such that fewer than three options are feasible for consideration, the OBPR will not make any judgement on the number of options when assessing whether the RIS is consistent with best practice.

Remember that the RIS needs to include a non-regulatory option. In circumstances where it is not feasible to include a non-regulatory option, the status quo option could be considered as such.

Guidance on developing RIS options

During the policy development process, it is important to consider all options identified prior to and following consultation. Agencies need to ensure each RIS gives genuine consideration to options put forward by stakeholders through the consultation process. Your analysis needs to treat these options as serious policy alternatives and ensure they are assessed equally against your original policy options. If stakeholder proposals are not adopted, your analysis needs to offer a thorough and transparent rationale. There are two ways in which consultation could be used to identify options:

- If appropriate, consult with industry and other relevant stakeholders early in the process while preparing the RIS to ensure you understand what options they want to see considered.
- During the public consultation period, if a reasonable option is identified that has not already been canvassed, analysis of this option should be undertaken before the final policy decision is made.

Further guidance on policy options is available in [Australian Government Guide to Regulation](#) (at pp 27-29).

For further information on any of the topics covered in this guidance note, contact OBPR on (02) 6271 6270 or at helpdesk-OBPR@pmc.gov.au.