

**BETTER  
REGULATION  
POLICY OF THE**

**COMMUNICATIONS REGULATION COMMISSION**



## COMMITTEE OF COMMISSIONERS OF COMMUNICATIONS

Paola Bonilla Castaño  
**Executive director**

Lina María Duque del Vecchio  
Nicolás Silva Cortés  
Sergio Martínez Medina.  
**Communications Commissioners**

Zoila Vargas Mesa  
**Executive Coordinator**

Alejandra Arenas Pinto  
**Regulatory Policy and Competition**

Miguel Andrés Durán  
**Intelligence and Data Analytics**

Laura Martínez Nova  
Julián Farías  
Luis Carlos Ricaurte  
Víctor Baldrich Mora  
**Advisors**

Erik Barbosa Parra  
**Design and layout**

**Agosto 2022\***

\*The original document in Spanish was published at August 31st of 2022

# CONTENT

<b>1.</b>	<b>Introduction .....</b>	<b>4</b>
<b>2.</b>	<b>Main trends in Better Regulation Policy.....</b>	<b>7</b>
<b>3.</b>	<b>Background to Better Regulation Policy in Colombia.....</b>	<b>13</b>
<b>4.</b>	<b>Pillars of the CRC’s Better Regulation Policy.....</b>	<b>18</b>
4.1.	Regulatory agenda.....	18
4.2.	Simplification of the regulatory framework.....	20
4.3.	Knowledge of the Ecosystem.....	22
4.4.	Innovative Regulatory Methodologies.....	25
<b>4.5.</b>	<b>Application of the Regulatory Impact Analysis methodology.....</b>	<b>27</b>
4.5.1.	Problem identification.....	29
4.5.2.	Definition of the analysis objectives.....	30
4.5.3.	Definition of regulatory alternatives.....	31
4.5.4.	Evaluation and comparison of regulatory alternatives.....	32
4.5.4.1.1.	Methodologies for evaluating regulatory alternatives.....	33
4.5.4.1.2.	Multi-criteria decision analysis.....	33
4.5.4.1.3.	Administrative costs methodology.....	34
4.5.4.1.4.	Cost-Effectiveness Analysis Methodology.....	35
4.5.4.1.5.	Cost-Benefit Analysis Methodology.....	35
4.5.5.	Adoption of the regulatory decision.....	36
4.5.6.	Ex-post assessment.....	37
<b>5.</b>	<b>Organizational structure of the CRC: Regulation is the whole cycle.....</b>	<b>39</b>
<b>6.</b>	<b>Conclusions and recommendations.....</b>	<b>42</b>
<b>7.</b>	<b>Annex 1. Case studies of the application of the Regulatory Impact Analysis methodology in the CRC.....</b>	<b>45</b>
<b>8.</b>	<b>Annex 2. Inventory of regulatory projects developed by the CRC with RIA methodology.....</b>	<b>45</b>
<b>9.</b>	<b>Bibliography.....</b>	<b>45</b>



# 1

## INTRODUCTION

Since April 28, 2020, Colombia became the 37th<sup>1</sup> country member of the Organization for Economic Cooperation and Development (OECD), a multilateral organization that has implemented rigorous international standards and good practices in different matters of public policy for the 38 country members<sup>2</sup>. One of the areas of study of this organization is the Better Regulation Policy, which is intended to ensure that regulation is part of the country members public policies, following the principles of transparency and open government it guarantees a comprehensive government policy that promotes the quality of regulation.

According to the highest standards of regulatory issuance given by the OECD, the governments of all country members should focus their efforts on defining a quality regulatory framework, which manages to meet legitimate public policy objectives without imposing unnecessary costs upon companies and citizens. Although there is no single way to achieve it, the OECD has developed a guide with a series of recommendations, tools and principles that are part of the so-called “regulatory governance cycle”, which applies to the elaboration of standards at all levels as defined in each State.<sup>3</sup>

1. Organization for Economic Co-operation and Development OECD. Colombia's path towards OECD accession [Accessed: 23 May 2020] Available at: <https://bit.ly/3d56Bs1>.

2. OECD. Our global reach. Member countries. [Accessed: 11 May 2022] Available at: <https://bit.ly/3BFiY8r>.

3. OECD. Implementation of the Regulatory Impact Analysis in the Central Government of Peru: Case Studies 2014-16, [online] Paris: OECD Publishing. July 31, 2019. ISBN 978-92-64-30580-9 [date of consultation: 28 May 2020]. Available at: <https://bit.ly/3vG16aI>.

Pursuant to the OECD, the regulatory governance cycle guarantees the quality and effectiveness of the issued regulations, insofar it involves an approach based on evidence and identified risks that furthers better decision-making. In fact, as per this international organization, issuing quality standards can encourage innovation, facilitate entry into new markets, promote the adoption of international standards and improve competition. In addition, it can have a positive impact on the achievement of social objectives such as environmental protection and consumers and employee's protection, all of which contribute to higher productivity and inclusive growth.<sup>4</sup>

The Communications Regulation Commission (CRC) is one of the authorities in Colombia that has chosen to become an innovative regulator following the recommendations, principles, tools and best practices that other regulators in the world and the OECD have made available for all stakeholders. Therefore, it has been a pioneer in the incursion and adoption of the Better Regulation Policy by using some of these recommendations and mechanisms and implementing them within its internal processes in order to create a broad and flexible concept, which is also robust, to further the overall regulation intended to promote transparency, efficiency, effectiveness and objectivity, based on evidence.

The Better Regulation Policy for the CRC was created in 2018 as a strategy to improve the internal procedure of design and development of the general regulation<sup>5</sup>.

---

4. Ibid.

5. The design and development procedure of the CRC is an internal procedure that is purported to ensure the proper planning, execution and closure of the regulatory projects that will be developed at the Communications Regulation Commission (CRC) for each applicable sector. This procedure, based on the AIN methodology, is comprised of 3 phases (problem formulation, regulatory proposal preparation and decision) wherein 6 steps are applied, namely: Problem identification, objectives definition, identification of regulatory alternatives, alternatives assessment, preparation of regulatory proposal, regulatory decision.

It considered the results of pilot tests that were carried out since 2016, with the purpose of strengthening the developed analyses, thus increasing the participation of stakeholders during the development of regulatory projects, simplifying the current regulatory framework, making it clearer and simpler, and avoiding any disproportionate or excessive regulation.

After years of experiences, tests and pilots, the CRC has managed to define the Better Regulation Policy as a holistic concept that involves, first, the planning of the issues that will be reviewed on each term through the annual regulatory agenda. Second, the impact studies of ex ante regulation through the application of the Regulatory Impact Analysis (RIA) methodology. Third, the construction of a regulatory framework that not only helps adapting to the new dynamics of the market, but also to the technological progress experienced in the regulated markets. Moreover, it should be easy to consult, understand and it must not generate excessive burdens and costs. Fourth, the application of innovative regulatory mechanisms that enable the issuance of more efficient regulation and the involvement of more schemes used by the industry in the design regulatory measures processes, such as the Sandbox. And fifth, to know more about the regulated markets, the dynamics generated thereby and the novelties that take place through the analysis of the collected information.


Considering that the CRC in recent years has been showing important progress in the different dimensions of the Better Regulation Policy, it is relevant to have a single document that compiles the experiences and the progress made by this Commission on this matter. That will become the first step in the consolidation of a Better Regulation Policy and thus, facilitate and continue with the transfer of knowledge both internally and externally, enabling other national and international entities to know first-hand the experience of the Colombian regulator and to facilitate the implementation of their own tools.

In this context, in order to meet the previous objective, this document describes some experiences that CRC has undergone in search of deepening the levels of rigor in the analyses made and the confidence generated as the sole regulator for the Telecommunications, Postal and Audiovisual Content sectors.

Thus, this document is comprised of 5 sections, namely: the main international trends in Better Regulation Policy; the background of the Colombian experience on this matter; the five pillars whereon this Better Regulation Policy is built, the organizational structure of the Commission wherein regulation is not only the center but rather constitutes the entire regulatory cycle. Finally, a set of conclusions and recommendations are presented, resulting from the experienced evolution by the adoption of a strategy to achieve the consolidation of a Better Regulation Policy. Finally, this document is complemented by two annexes, the first annex are five representative case studies of each of the methodologies for evaluating alternatives that have been applied in regulatory projects since the implementation of the RIA methodology in the design and development procedure of the regulations, and the ex-post assessment. The second annex shows a list of regulatory projects implemented through the RIA.



# 2



## MAIN TRENDS IN BETTER REGULATION POLICY



To identify some of the best practices applied by regulators in other countries in terms of better regulation, the CRC conducted an international review that includes countries in the region and from other parts of the world. The results of this review against key questions that the CRC designed to know the international trends in the matter are shown below. This was built with information collected by Cullen International and the OECD.<sup>67</sup>



---

6. Communication sent to the CRC via email of March 30, 2022 with information from Cullen International studies and the standards found in each country during their research.

7. OECD. OECD Regulatory Policy Outlook 2021. October 6, 2021. [online] Paris. OECD Publishing. <https://bit.ly/3zsYhKp>

## Has the regulator adopted a comprehensive Better Regulation Policy?

//////////

<b>MEXICO</b>		YES, Federal Institute of Telecommunications (IFT) has a general coordination of better regulation, which is responsible, inter alia, of coordinating and implementing regulatory impact analysis, public consultation processes and the elaboration and publication of the list of the entity's procedures and services.
<b>ARGENTINA</b>		NO, but since the issuance of Decree 891 of 2017 all government entities must implement good practices of: regulatory simplification, citizens and stakeholders participation, Cost-Benefit analysis of the regulation implementation, ex-post assessment of the new rules.  Moreover, Decree 733/2018 requires the digitalization of all national government processes.
<b>BRAZIL</b>		NO, but the regulator, ANATEL, has adopted good practices such as RIA and a biannual regulatory agenda.
<b>PERU</b>		NO, but since 2018, the authorities have adopted OECD good practices, the regulator, OSIPTEL, issued the package called "OSIPTEL Regulatory Quality Guidelines" together with the "Regulatory Quality Statement Manual" and the "Standard Technique Manual". <sup>[8]</sup>
<b>GERMANY</b>		NO, the RIA is mandatory for the issuance of all national laws and regulations by all entities.
<b>UNITED KINGDOM</b>		YES, OFCOM has regulatory principles which are published on its website. <sup>[9]</sup>

8. OSIPTEL. RIA and Regulatory Agenda. [website]. Taken on July 10, 2022. Available at: <https://bit.ly/3bvfhb0>

9. COMMUNICATIONS OFFICE (OFCOM). Policies and guidelines. [website] Retrieved July 10, 2022. Available at: <https://bit.ly/3BDsLvS>









## Is there a procedure for issuing regulations?



<b>MEXICO</b>		YES, IFT has implemented the RIA methodology, the public consultation processes and the creation and publication of the procedures and services list.
<b>ARGENTINA</b>		YES, entities must carry out public consultations regarding draft regulations. Public hearings are usually held for public services.
<b>BRAZIL</b>		YES, ANATEL carries out public consultations on draft regulations and AINs.
<b>PERU</b>		YES, the package of Regulatory Quality Guidelines defines the entire analysis procedure and the preparation of supporting reports after the issuance, repeal or amendment of a regulation. One of the requirements for OSIPTEL is to publish the draft regulation in the official newspaper "El Peruano" to receive feedback, besides applying the RIA methodology.
<b>GERMANY</b>		YES, all entities require consultation with all stakeholders and have the obligation to take their views into consideration.
<b>UNITED KINGDOM</b>		YES, the law requires the OFCOM regulator to publish regulatory decisions before their official issuance as well as the impact analysis of such decision.

## Does the regulator apply RIA?






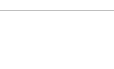
<b>MEXICO</b>		YES, since 2000, all regulatory initiatives filed by the executive must have the application of the RIA and the performance of public consultations. Furthermore, as an autonomous constitutional body, the IFT, in November 2017, published its Guidelines for Public Consultation and Regulatory Impact Analysis in the Official Gazette. <sup>[10]</sup>
<b>ARGENTINA</b>		NO, but the good practices described in the first table are applied, however, control mechanisms to verify compliance have not yet been implemented.
<b>BRAZIL</b>		YES, it is mandatory for all government entities from 2020.
<b>PERU</b>		YES, for the issuance, repeal or amendment of any regulatory measure, OSIPTEL must apply the RIA methodology.
<b>GERMANY</b>		YES, it is mandatory for all entities issuing national laws and regulations.
<b>UNITED KINGDOM</b>		YES, OFCOM is required to conduct an impact assessment for the issuance of any administrative deed or a justification as to why the decision does not require this analysis. <sup>[11]</sup>

10. SECRETROGOVERNMENT AIO (SEGOB). Official Journal of the Federation. November 08 of 2017. [website]. Taken on July 10, 2022. Available at: <https://bit.ly/3SnGXiC>

11. LEGISLATION.GOV.UK. Communications Act 2003. [website]. Section 7 of the UK Communications Act 2003. Available at: <https://bit.ly/3JrFiEy>.

## What methodologies does the regulator apply to issue regulations?

//////////

<b>MEXICO</b>		IFT applies: Cost-Benefit Analysis; Cost-Effectiveness Analysis.
<b>ARGENTINA</b>		ENACOM has not defined any methodology for issuing regulations.
<b>BRAZIL</b>		ANATEL applies: Multicriteria Analysis; Cost-Benefit Analysis; Cost-Effectiveness Analysis; Cost analysis; Risk analysis; Risk Analysis – Risk.
<b>PERU</b>		OSIPTEL applies: Cost-Benefit Analysis; Cost-Effectiveness Analysis; Multicriteria Analysis
<b>GERMANY</b>		Bundesnetzagentur applies: Cost-Benefit Analysis; Cost analysis; Risk analysis.
<b>UNITED KINGDOM</b>		To make regulatory decisions, the OFCOM applies a 6-step impact assessment. The evaluation of alternatives includes: Cost-Benefit Analysis; Risk analysis; Impact distribution analysis; Implementation cost for the regulator. <sup>[12]</sup>

12. OFCOM. Better Policy Making. Ofcom's approach to Impact Assessment. [online] July 25, 2005. Available at: <https://bit.ly/3OYb4tO>.

## Does the regulator apply ex-post assessment?



<b>MEXICO</b>		YES, IFT conducts biannual assessments of competency decisions and is building a guide for the evaluation of particular decisions. Additionally, since 2012, the technical regulations developed by the executive branch must be evaluated ex post.
<b>ARGENTINA</b>		NO, the regulator, ENACOM, publishes annual reports, but they do not include ex-post assessments specifically.
<b>BRAZIL</b>		YES, Ministry of Economy published an ex-post assessment <b>guide</b> . ANATEL will apply this assessment for the first time in 2022.
<b>PERU</b>		YES, since 2018 the regulator, OSIPTEL, can carry out the evaluation of the standards issued two years after their publication.
<b>GERMANY</b>		Yes, since 2018 the ex-post assessments of all entities must be published and since 2019 the government has included quality requirements for these evaluations, under the responsibility of the National Regulatory Control Council. <sup>[13]</sup>
<b>UNITED KINGDOM</b>		Yes, OFCOM has an ex-post assessment program that is part of its ongoing activities. <sup>[14]</sup>

13. OECD. OECD Regulatory Policy Outlook 2021. [online] Paris. OECD Publishing. October 6, 2021. Available at: <https://bit.ly/3zsYhKp>

14. OFCOM. Work plan 2022/2023. [online] March 25, 2022 Available at: <https://bit.ly/3zvNVcH>.

Pursuant to the foregoing international, it is possible to conclude that, first, more and more countries are applying better regulation tools in their regulation design and development processes, either because they implemented it internally or because a law expressly imposes said obligation. Second, there are different methodologies to evaluate the regulatory alternatives that are defined on each regulatory project, because, according to each specific case and the information available, regulators in the world have a range of options to apply and endeavor for objectivity in decision-making. Third, while procedures for implementing the ex-post assessment have already been adopted, in most cases they have not been materialized, with the exception of OFCOM in the United Kingdom.

# 3.

## **BACKGROUND TO BETTER REGULATION POLICY IN COLOMBIA**



The consolidation of a single regulatory policy in Colombia has been one of the great challenges that the Government, from the National Planning Department (DNP, Spanish acronym), has drawn up since the beginning of the process to become a member of the OECD. In fact, one of the recommendations recorded in the study carried out by the agency for the country in 2013<sup>15</sup>, made reference to the development of a formal and homogeneous regulatory policy that focused on the creation of a culture of better regulation throughout the Government, focused on the executive branch at the national order, which included the development, implementation, evaluation and review of the issued regulation, and furthermore, to start its institutionalization through a document issued by the National Council for Economic and Social Policy<sup>16</sup> (CONPES, Spanish acronym).<sup>17</sup>

15. From The issuance of the Conpes 3816 of 2014, the DNP (Spanish acronym) has been the authority that has the responsibility of implementing and institutionalizing the regulatory enhancement in the entities of the executive branch of the public power in Colombia. "The DNP is an exclusively technical entity that promotes the implementation of a strategic view of the country in the social, economic and environmental fields, through the design, guiding and evaluation of public policies in Colombia, the management and allocation of public investment and the accomplishment of the corresponding goals in Government plans, programs and projects." Taken from: <https://bit.ly/3brFJIE>.

16. The National Council for Economic and Social Policy (CONPES) "is the highest national planning authority in Colombia and works as an advisory body to the Government in all aspects pertaining to the economic and social development of the country. For such purpose, it coordinates and guides the agencies responsible for economic and social administration in the Government, through the study and approval of documents on the development of general policies that are presented in session." Taken from: <https://bit.ly/3bszEWh>

17. Op Cit. OECD.

Based on the foregoing and other suggestions made by the OECD, the DNP<sup>18</sup> issued document CONPES 3816 of 2014<sup>19</sup>, with the central purpose of laying the foundations to institutionalize the RIA methodology in the early stages of the regulation production processes from the Executive Branch of the Public Power, as an element of the regulatory governance cycle that the OECD suggests implementing, and as a tool to strengthen trust, effectiveness and transparency in the processes of issuing regulations.

This document defined strategies and action plans in the short, medium and long term for: (i) the management and use of tools to improve the production of standards, in general; (ii) the implementation of the RIA methodology in entities of the Executive Branch at the national order, gradually; (iii) the establishment of guidelines and guides to improve public consultation and transparency in regulatory production processes; and (iv) the definition and application of mechanisms for the administration and rationalization of the Colombian regulatory inventory.<sup>20</sup>

18. From The issuance of the Conpes 3816 of 2014, the DNP (Spanish acronym) has been the authority that has the responsibility of implementing and institutionalizing the regulatory enhancement in the entities of the executive branch of the public power in Colombia. "The DNP is an exclusively technical entity that promotes the implementation of a strategic view of the country in the social, economic and environmental fields, through the design, guiding and evaluation of public policies in Colombia, the management and allocation of public investment and the accomplishment of the corresponding goals in Government plans, programs and projects." Taken from: <https://bit.ly/3brFJIE>.

19. DNP. National Council for Economic and Social Policy – CONPES. Document CONPES 3816 Regulatory Improvement: Impact Analysis. Bogotá, D.C., October 2, 2014. [online]. Available at: <https://bit.ly/3SmXlu9>.

20. Ibid.



However, besides the strategies and action plans defined in the CONPES document, the Regulatory Commissions have led the process of incorporating this type of regulatory enhancement tools in Colombia. Thus, regarding the Entity's regulatory agenda<sup>21</sup> and the public consultation of the regulatory projects<sup>22</sup>, from the issuance of Decree 2696 of 2004, regulators at the national level started applying mechanisms to benefit transparency, value participation and quality groups within the developed regulatory production processes. Therefore, since the effective date of said standard, the Regulatory Commissions must, among other things: (i) publish the draft regulatory agenda of the following term, no later than October 30 of each annuity; (ii) publish the final version of the regulatory agenda for the following year, no later than December 31 of each year; and (iii) publish for comments on its website the draft regulations, as follows: (i) if they do not involve tariff formulas, at least 30 days before their issuance date; and (ii) if they involve tariff regulation, 3 months before the effective date of the validity term of the tariff formulas.

21. PRESIDENCY OF THE REPUBLIC OF COLOMBIA. *Regulatory Decree 2696 of 2004*. Chapter II. Official Journal No. 45651 of 25 August 2004. Available at: <https://bit.ly/3zWYnv2>  
22. *Ibid.*, Chapter III.

On the other hand, regarding the RIA methodology, the CRC, since 2016 ventured into the path for its incorporation into the design and development of its general regulation, thus becoming a pioneer in the implementation of regulatory enhancement tools without being required to do so. This path began through pilot tests and, later, acknowledging its benefits and relevance in strengthening trust, effectiveness and transparency in regulatory production. This has become one of the pillars of the better regulation approach, which has been built progressively and jointly from the internal structure and operation of the Entity, considering the best international standards.<sup>23</sup>

Consequently, as of January 2018, the RIA was incorporated into the internal procedure of design and development of regulatory projects of the Entity, and thus became a cyclical and continuous process to make regulatory decisions, which begins with the identification of a problem to be solved and ends, in principle, with the corresponding ex-post assessment, which, given its cyclical nature, can result in the identification of a new problem to be solved, and so, a new cycle would begin.<sup>24</sup>

23. Pursuant to article 2.2.1.7.3.15 of Decree 1074 of 2015, within the following three (3) years from August 5, 2015, the application of the AIN in the processes of elaboration, issuance and review of technical regulations was optional; and since August 5, 2018, its implementation became an obligation for the issuing entities. Thus, those entities that issue technical regulations were the first required to apply them.

24. CRC. Design and application of methodology for simplification of the CRC regulatory framework: Methodological document, [online], Bogotá, Colombia [date of consultation: 23 June 2020]. Available at: <https://bit.ly/3oVjQGS>.

On the other hand, on July 2018, the Council for Management and Institutional Performance<sup>25</sup> created the Better Regulation Committee, in response to one of the strategies and recommendations set forth in the aforementioned CONPES 3816 of 2014 and the provisions of Decree 1083 of 2015<sup>26</sup>, with the purpose of coordinating, guiding and setting general guidelines on the Better Regulation Policy<sup>27</sup>. In this context, on December 2019, the Administrative Department of the Public Function, through the Integrated Planning and Management Model (MIPG, Spanish acronym)<sup>28</sup>, developed a policy document for better regulation whereby it sought to promote the use of good practices in the regulation process by all entities that are part of the Executive Branch of public power, both at a national and territorial level, and thus improve the quality, efficiency and transparency of the issued measures.<sup>29</sup>

25. Pursuant to Decree 1499 of 2017, the Council for Management and Institutional Performance is a cross-sectoral instance of the National Government, in charge of coordinating and managing the activities which are necessary for the proper operation of the Management System, that integrates the Administrative Development and Quality Management Systems in Colombia.

26. Whereby the Single Regulatory Decree of the Public Service Sector is issued.

27. FUNCIÓN PÚBLICA. Consejo para la Gestión y el Desempeño Institucional. Acuerdo No. 005 del 30 de julio de 2018. [Online] Available at: <https://bit.ly/3SkCUUI>.

28. The Integrated Planning and Management Model (MIPG, Spanish acronym) is a tool that simplifies and integrates the systems of administrative development and quality management and articulates them with the internal control system, to make the processes within the entity simpler and more efficient. Available at: <https://bit.ly/2PIVWqM>.

29. Council for Institutional Management and Performance, Regulatory Improvement Committee. Integrated Planning and Management Model. Regulatory Improvement Policy. Version 1. December 2019. [Online]. Retrieved May 2022. Available at: <https://bit.ly/3oTlctm>.



Finally, and specifically regarding the Information and Communications Technologies (ICT) sector, after the issuance of Act 1978 of 2019<sup>30</sup>, the CRC must observe criteria for better regulation such as the application of the RIA methodology upon, through the exercise of its legal powers, designing and issuing regulations of a general nature. Consequently, as of July 25, 2019, it is the duty of this Commission to apply the criteria for better regulation in its regulatory work for all the applicable sectors, namely telecommunications, postal and audiovisual content.

Thus, the efforts and progresses that have been achieved in terms of better regulation in Colombia, and specifically in the communications regulator, have been recognized by the Andean Development Corporation – CAF – development bank of Latin America – through the document “Agile States in Latin America: the regulatory enhancement strategy of the Communications Regulation Commission of Colombia “, wherein the CRC is acknowledged as an example of an agile State in Latin America due to the implementation of better regulation tools, such as: regulatory agenda, RIA, <sup>31</sup>ex-post assessment and simplification of the regulatory framework, which have resulted in an increased efficiency, effectiveness, transparency and objectivity within the regulatory issuance processes, thus becoming a cutting-

30. “Whereby which the Information and Communication Technologies (ICT) sector is modernized, competences are distributed, a single regulator is created and other provisions are dictated.”

edge regulator in terms of better regulation and resulting in significant progress regarding competitiveness and digital transformation in Colombia. In fact, in 2021, at the First Contest of Good Regulatory Practices of Colombia developed by this corporation and the DNP, the CRC was awarded the first place in 4 of the 7 categories of the contest, namely: regulatory impact analysis, ex-post assessment, public consultation and regulatory filtering.<sup>32</sup>

For the CRC, these efforts do not end in the adoption of the foregoing tools. Since the definition of the better regulation strategy, the regulator, autonomously and together with the DNP, has participated in different scenarios and knowledge transfer activities, in order to contribute to the endeavors that have been developed to strengthen, institutionalize and formalize the processes of better regulation within the different entities of the executive branch in Colombia.<sup>33 34</sup>

31. Ghersinich Eckers, J., & López Azumendi, S. *Agile states in Latin America: the regulatory improvement strategy of the Communications Regulation Commission of Colombia*. June 8, 2021. Caracas: CAF. [online]. Taken on May 9, 2022. Available at: <https://bit.ly/3PGS58d>.

32. DNP and CAF. *Colombia's First Good Regulatory Practices Competition. Results report*. October 2021. Available at: <https://www.caf.com/media/3381935/2021-10-22-informe-final-1.pdf>

33. The CRC has disclosed both its organizational structure and functioning as well as the application of the Regulatory Impact Analysis methodology and the way in which it has included the DNP Regulatory Enhancement Group, the Financial Regulation Unit (URF) and the Ministry of Science and Technology into different procedures.

34. Together with the DNP, the CRC has participated, since its creation, in some sessions of the Regulatory Enhancement Committee as invited entity to share its experiences. Likewise, the CRC has shown its achievements during different sessions of the Capacity Building Strategy for the Implementation of the Better Regulation Policy in Colombia during 2022, so that other entities of the national and territorial level may apply these tools.



# 4



## PILLARS OF THE CRC'S BETTER REGULATION POLICY

Taking into consideration both the international experiences reviewed and the internal scenarios wherein different better regulation tools have been put into practice, this Commission has defined five pillars that are the basis of its Better Regulation Policy: (i) Regulatory Agenda, (ii) Simplification of the regulatory framework, (iii) knowledge of the ecosystem, (iv) Innovative regulatory methodologies and (v) Application of the RIA methodology. Each of the foregoing is set out in detail throughout the following sections. It is important to clarify that these pillars of better regulation apply to the Communications Commission Session and the Audiovisual Content Session, which, as of the effective date of Act 1978 of 2019, comprise the decision-making bodies of the CRC.

### 4.1 Regulatory agenda

The starting point within the regulatory policy cycle and one of the main pillars is the elaboration of the regulatory agenda, as a fundamental part of a strategic planning exercise that responds to criteria of transparency and objectivity in the identification of trends, through the regulatory simplification approach, resources availability analysis and activities prioritization, and permanent interaction with stakeholder groups. The agenda defines strategic activities that are aligned, among other aspects, with the evolution of the digital environment, the maximization of social welfare, the encouragement of competition and the promotion of the regulated communications and audiovisual content sectors, as well as to guarantee pluralism and informative impartiality.<sup>35</sup>

35. It is the mandatory indicative document, issued annually, that contains the projects and studies that the Commission will carry out or continue to develop, aligned with the strategic axes identified by the CRC.



Thus, following the provisions set forth in Chapter 2 of Title 13 of Part 2 of Book 2 of Decree 1078 of 2015<sup>36</sup>, the regulatory agenda is built from a “Draft Agenda”, published for discussion with the different stakeholders no later than October 30 of each year, together with the topics and initiatives to be addressed, and with the expected dates of the most important milestones for the following year. Its final version is published no later than December 31 of the same year<sup>37</sup>. The foregoing notwithstanding the fact that other initiatives that the entity deems necessary may also be included.

The construction of the regulatory agenda is carried out based on (i) the needs of the sector as mentioned in the different spaces of participation made available, (ii) international trends and (iii) the results of the ex-post assessment at the end of the application of the RIA methodology, which will determine whether it is necessary to review the regulatory measure(s) in order to assess the need of adjusting, simplifying or eliminating.

Moreover, for the structuring of the regulatory agenda, the CRC carries out diagnoses of the regulatory ecosystem<sup>38</sup> wherein pertinent information from different sources is provided, including; (i) Legal references such as the National Development Plan, (ii) the balance of the current regulatory agenda, (iii) the development plans of the information and communication technologies sector prepared by Ministry of ICT to provide public policy guidelines, (iv) guiding references such as CONPES<sup>39</sup> documents, (v) the results of ex-post assessments and (vi) recommendations of international and multilateral organizations.

*36. Whereby the Single Regulatory Decree of the Information and Communications Technologies Sector is issued.*

*37. Article 7 of Decree 2696 of 2004, compiled in the Single Regulatory Decree 1078 of 2015.*

*38. For more information about the diagnoses made, please refer to the documents “Agenda Proposal” from the regulatory agendas adopted by the CRC at the following link: <https://bit.ly/3uWLRsN>*

*39. “The CONPES documents reflect the public policy decisions approved by CONPES and in this sense, they are one of the main tools for public policy formulation and implementation. These documents are the result of a coordinated and joint work between different entities and institutions of the national Government, where specific actions are established to achieve the proposed objectives, beyond missionary actions” See: Ministry of Environment and Sustainable Development. “National Council for Economic and Social Policy – CONPES”. Taken on: July 18, 2022. Available at: <https://bit.ly/3RGBhQh>*

The matters that will be subject to review for each term are framed in the strategic pillars of the CRC. As a reference, please recall that these pillars, as to 2022, within the framework of the Institutional Strategic Plan of the Entity 2021-2025, are:<sup>40</sup>

- Welfare and rights of users and audiences
- Markets and competition
- Innovation and better regulation
- Stakeholders management
- Institutional strengthening

## 4.2 Simplification of the regulatory framework



For this Commission, the regulatory simplification approach generated as a result of the search for solutions intended to reduce the administrative burdens experienced by operators and users in the communications sector<sup>41</sup>, in order to have an efficient, simple, clear regulatory framework that acknowledges the evolution of the market and technology, and the existence of other transversal legal regimes without the need to duplicate the rules. For such purpose, the first step was taken by this Commission in 2016, by compiling all the general regulation issued until that moment, which led to the issuance of CRC Resolution 5050 of 2016, which is updated as the corresponding administrative deeds are issued. Once the regulatory framework was compiled, in 2018, the CRC designed a methodology to simplify all the regulation issued up to that moment, which was based on a comprehensive review of the regulatory framework compiled in CRC Resolution 5050 of 2016<sup>42</sup>, with the participation of several stakeholders.

This initiative resulted in three major achievements: (i) the construction of a methodology for the prioritization of the articles to be reviewed, which had two filters<sup>43</sup> and an ordering criterion<sup>44</sup>, which allowed to define the regulatory issues that would be reviewed through a simplification approach<sup>45</sup>; (ii) the simplification roadmap, comprised of 14 matters to be reviewed between 2018 and 2023<sup>46</sup>; and (iii) the elimination of 25% of the effective regulatory framework as of December 2018, as a result of the first application of this methodology to the cross-cutting topic called “disused standards”<sup>47</sup>. These achievements were particularly highlighted by the Presidency of the Republic of Colombia in 2019, within the framework of the “Simple State, Agile Colombia” strategy, as one of the entities with the best results, through the acknowledgement of the Good Regulatory Practices.<sup>48</sup>

40. CRC. Institutional Strategic Plan 2021-2025. April 2021. [online]. Available at: <https://bit.ly/3RHpHo4>

41. Includes telecommunications and postal communications.

42. “Whereby the effective General Resolutions issued by the Communications Regulation Commission are compiled”

43. Age Filter: The rules enacted during the last two years were not considered for the purposes hereunder, given that market characteristics and the competition, have remained most likely stable and without any serious alteration, or either because such the measures have not been implemented for a sufficient time to validate their effect on the market.

Regulatory Activity Filter: the topics that are currently under review under any of the projects in progress in the CRC, or that are in the Regulatory Agendas for the terms 2018 to 2020, will be disclosed to the corresponding work groups so that any reviews thereof is focused on regulatory simplification.

44. Cost Criteria (associated with compliance with the duly justified regulation): After applying the above filters, a preliminary list of topics is obtained. Such list is then published so the corresponding sector may propose, from its perspective, the prioritization of said list, after making a cost analysis, that is, the sector will be asked to prioritize the topics that they consider most expensive.

45. CRC. Design and application of methodology for simplification of the CRC regulatory framework. Methodological document. September 2018. [online]. Available at: <https://bit.ly/3OYLBR>.

46. CRC. Design and application of methodology for simplification of the CRC regulatory framework. Roadmap for simplifying the regulatory framework issued by the CRC. September 2018. [online]. Available at: <https://bit.ly/3vFFw5f>.

47. CRC. Resolution CRC 5586 of 2019. “Whereby disused standards are eliminated from the regulatory framework issued by the Communications Regulation Commission.” Available at: <https://bit.ly/3zSFNo3>.

48. Presidency of the Republic of Colombia. By intervening 1,111 procedures, ‘Simple State, Agile Colombia’ exceeded the goal of the first year and achieved savings of more than \$ 24,000 million. July 18, 2019. [online]. Available at: <https://bit.ly/2JMQqh1>.



Furthermore, recognizing the dynamics of the markets which are subject to the regulation, it requires simplification to be constant and comprehensive, as well as considering the good results obtained throughout the year in 2018, the CRC established the simplification approach as a pillar of better regulation of constant application, which is aimed at providing a dynamic regulatory framework, which is simple, with a clear language and that is aware of its role within the sectoral regulatory framework, and on the other hand, even if the regulation generates costs and administrative burdens, the purpose is not to be excessive. Likewise, this simplification approach does not only refer to the reduction or elimination of regulations, but is rather a broader concept that includes improvements in the interaction processes with the subjects of the regulation and between such subjects and their users, as well as the optimization, digitalization and automation of the required procedures in order to reduce the generated costs.

Consequently, the pillar of regulatory simplification is observed during the design and development of the general regulation, through the comprehensive review of the regulatory issues that are addressed in the projects that are carried out at the CRC, in order to identify if at least one of the measures thereunder meets any of the following criteria:

**a) Market evolution:** occurs when the conditions in the market that caused the regulation have ceased to exist or when due to changes in other elements such as demand or supply, said market has evolved or disappeared, in such a way that it is not feasible to continue enforcing the existing standard.

**b) Technological evolution:** this happens due to the implementation of technologies that have modified certain characteristics of the provision of communications services and audiovisual contents, or that have transformed business models of the agents directly or indirectly involved and, therefore, the standard is no longer applicable to agents within the sector.

**c) Law duplicity:** refers to provisions that exist in two or more standards and that fulfill the same or similar functions.

**d) Transience:** applies to those articles that were applicable during a certain period of time, which has already expired.

It may be worth indicating that costs and administrative burdens are an intrinsic part of the review carried out through a simplification approach. Thus, in case of identifying regulatory measures that generate high costs and administrative burdens for the subjects to comply with, the purpose is to include, within the evaluation of applied alternatives, possible solutions that reduce said costs and burdens and achieve the same levels of effectiveness.

Therefore, upon occurrence of at least one of the four criteria described above regarding the articles of CRC Resolution 5050 of 2016 that are subject to review, such regulations will be likely simplified, insofar their repeal does not collide with effective legal provisions, constitutional mandates or public policy guidelines.



### 4.3 Knowledge of the Ecosystem



The CRC has a diversity of instruments, such as the generation of studies, information sources, external consultation databases, standardized processes and opportunities for sharing knowledge, experiences and good practices, which have enabled the generation of an environment of regulatory development, which has become the pillar of knowledge of the ecosystem within the Telecommunications, Postal and Audiovisual Content sectors that leverages the implementation of the Better Regulation Policy. This pillar is divided into two main parts: the first one is associated with the performance of studies that belong to these sectors, and the definition of the markets that comprise them; the second part is associated with the constant monitoring and analysis of the sectors information to constantly share it with all its agents involved.

Within the framework of the first major component of this pillar, knowledge, management and innovation activities are carried out through the performance of prospective studies on the dynamics of the ICT sector in a convergent environment, the research of technological and regulatory trends, and the generation of reports on the implementation of the regulation with the purpose of feeding the project bank, which in turn will allow it to identify elements to be included into the cycle of regulatory policy. The purpose of the development of studies is to identify technological trends and business models through monitoring and prospective exercises that enable the development of a vision on the future dynamics of the communications and audiovisual content industries within a convergent environment. This must be done in such a way as to include fundamental inputs to update expectations on the development of regulatory agendas in the medium or long term, as well as establishing the inputs that enable the development of future regulatory and normative adjustments considering the new realities. Some examples of the studies developed by the CRC are:

- ICT and Postal Industry Report 2020<sup>49</sup>
- Study on technological and consumer trends of ICT and postal services 2021<sup>50</sup>
- Study on net neutrality in Colombia 2021<sup>51</sup>
- Study on the role of OTT services in the communications sector in Colombia 2021<sup>52</sup>
- Study on the Audiovisual Content Industry and Information Pluralism in Colombia 2021<sup>53</sup>

As a complement to these studies, it is relevant to highlight the provision of database query tools that contain regulatory information on telecommunications, postal and audiovisual content services that are a bibliographic source for the development of international comparative analyses, thus enabling the observation and knowledge on the experiences of other countries in terms of the evolution of their regulations and the adoption of standards and technical regulations.

The second component of this pillar is related to the information of the quoted sectors and how, for the knowledge of the ecosystem that is regulated by the Commission, it is of vital importance to have updated and quality information that promotes evidence-based decision-making, and that

furthermore transmits security and transparency to all agents and users of the regulated sectors. For such purpose, the CRC has implemented an open data strategy intended to validate and improve the quality of the information collected from regulated agents in terms of completeness, conformity, consistency and integrity, considering the guidelines established by the National Administrative Department of Statistics (DANE) in terms of statistical information management.

As a result of these processes, the CRC frequently publishes the information collected from the agents of the sector, extracted from the obligations of periodic information reports according to the regulation, and such information can be reviewed by internal users of the CRC, regulated agents and final consumers of telecommunications, postal and content services. This represents a sign of transparency for the sector and regulated agents and facilitates the exercise and development of the CRC regulatory projects and activities by unifying the sources of information and facilitating access to them.

49. Available at: <https://bit.ly/3pbCltf>.

50. Available at: <https://bit.ly/3d4xsEW>.

51. Available at: <https://bit.ly/3bxiSFh>.

52. Available at: <https://bit.ly/3Qk4cs4>.

53. Available at: <https://bit.ly/3OW2Pyz>.

This information is made available on the Commission's open data platform, Postdata,<sup>54</sup> through different tools that range from the publication of updated information up to reports and analysis documents, which include:

- **Datasets:** Industry data reported by telecommunications, postal and content service operators to the CRC are made available for consultation by the public. The series published on this platform added up to 159 as of August 2022.
- **API's<sup>55</sup>:** The Postdata platform enables the databases available on the page to be consumed directly through API's, which facilitates the use of the information by researchers and stakeholders in the sector, besides facilitating the publication of this updated information in the open data platform of the state: [datos.gov.co](https://datos.gov.co).

- **Dashboards:** These are different display resources such as interactive boards and dynamic documents that facilitate the consultation and understanding of the published information. These resources, besides facilitating the visualization for general users, also enable queries for particular relevant information for collaborators of the Commission. As of August 2022, there were 27 published dashboards.
- **Data Flash:** The CRC has published since 2020 a series of reports that carry out an analysis of the different regulated markets and services to facilitate the understanding of the ecosystem to all users and stakeholders on this matter. As of August 2022, 57 of these reports have been published, using the datasets and resources published by the CRC as their main source of information.

54. <https://www.postdata.gov.co/>

55. API stands for API Application Programming Interface. It can be understood as a form of implementation that facilitates communication between applications.



## 4.4 Innovative Regulatory Methodologies *//////////*

In a context that is characterized by rapid progress in terms of technological development and dynamics that constantly transform the business models for the stakeholders which are involved directly or indirectly, it is essential that the regulator masters the ability to promote innovation and technological progress through its regulatory decisions.

Therefore, the use of innovative tools to issue regulation becomes a fundamental element for a cutting-edge, convergent, and innovative regulator. There are different alternative mechanisms to issue regulation that can be applied according to the specific case and the objectives raised, which may involve the use of emerging technologies, flexible regulation mechanisms, innovation applied to regulation and use of data. A clear example of flexible regulation mechanisms is the Regulatory Sandboxes that, although they were created as a tool to combat the rigidity of financial markets, have proven suitable to be applied in

other sectors such as the communications sector. Thus, leveraged by the innovations that have arisen in other sectors, since 2020, the CRC has implemented the first Sandbox in the world exclusively for communications services. Providers of Telecommunications Networks and Services from multinationals to community, Content and Application Providers, Postal Service Operators and entrepreneurs have had the opportunity to apply for products, services, and solutions to experiment under this model.<sup>56</sup>

It may be worth noting that, since August 3, 2022, Colombia has issued the general conditions for the application of the Regulatory Sandbox of the ICT sector, which was built jointly by the Ministry of ICT, the National Spectrum Agency (NSA) and the CRC, taking as a reference the general rules established by this Commission in 2019, to consider this Regulatory Sandbox as an alternative regulatory mechanism<sup>57</sup>, and ever since, the incorporation of this type of tools in the sector has become a public policy.

56. CRC. *Regulatory Sandbox for communications services*.

<https://www.crcom.gov.co/es/micrositios/sandbox>

57. Ministry of ICT. Decree 1448 of 2022. "Whereby Title 25 is added to Part 2 of Book 2 of Decree 1078 of 2015, Only Regulatory Decree of the Information and Communications Technology Sector, to determine the general conditions for the application of the Regulatory Sandbox by the Ministry of Information and Communications Technologies, and the Sectoral Regulatory Sandbox".

Moreover, with the purpose of using information as a regulatory tool, the Commission has developed different innovations both in the way in which data is collected from the sector and in the way in which it is presented, using emerging technologies. Consequently, tools such as Web Scraping<sup>58</sup> have been incorporated, thus allowing the design and development of the website Comparator of Plans and Packages of Mobile and Fixed Services<sup>59</sup>, launched in March 2022, intended for users of these services to find in a single centralized site updated information on tariff regarding the plans and services offered by the main operators, allowing them to make informed decisions.<sup>60</sup> On the other hand, regarding the use of the data that is collected and the advertisement levels granted, the CRC, as explained in the pillar of knowledge of the ecosystem, built the Postdata web portal<sup>61</sup> from its open data strategy as a data platform, where the statistical information of the regulated sectors is published. As part of this strategy, the public has been involved in providing solutions to the challenges faced by the Commission through the Data Jams<sup>62</sup> from 2020.

Finally, innovation has also been applied to regulation. Within the framework of the regulatory project called Quality conditions review of the telecommunications services, which resulted in the issuance of CRC Resolution 6890 of 2022<sup>63</sup>,

this Commission decided to modify the methodology for measuring the quality of the mobile Internet service, migrating from the use of existing conventional methods of measurements through testing probes (in cars or backpacks) or fixed probes that emulate a mobile terminal, to the method called Crowdsourcing, which uses the mobile terminal equipment of users as a source of information collection. This innovation in the way of measuring the quality of the mobile Internet in Colombia results in measurements closer to the real experience of the users, while guaranteeing a greater geographical coverage and representativeness and validity of the results due to the number of samples – eliminating the periodic rotation scheme – achieving, in turn, a reduction of the administrative burden and the high costs resulting from the current methodology.<sup>64</sup>

In any case, it is worth saying that with technological advances there is a growing number of innovative tools that governments and regulators in the world can use to issue more efficient, robust, objective, and effective regulations. Therefore, under this pillar, the Commission will continue to explore the different mechanisms available to apply them to its regulatory work.

58. Technique that daily reads and stores information from the websites of the different operators, to later consolidate it in the same website, thus contributing to reduce search times and costs to users.

59. CRC. Comparator of internet, telephony and TV plans by subscription. <https://comparador.crcom.gov.co/>

60. CRC. CRC launches comparator of plans and packages of mobile and fixed services. Press release. March 23, 2022. [online]. Available at: <https://bit.ly/3BNKlgC>.

61. CRC. Postdata. <https://www.postdata.gov.co/>

62. The Data Jams are activities carried out by the CRC wherein the public is challenged to participate using the information published in Postdata as well as other open data platforms of national entities in order to provide new alternatives to support regulatory obligations.

63. Whereby some provisions of the quality system for telecommunications services contained in Chapters 1 and 2 of Title V of Resolution CRC 5050 of 2016 are modified and other provisions are dictated

64. CRC. Quality conditions review in the provision of telecommunications services. Supporting document of the regulatory proposal. February 2022. [online]. Available at: <https://bit.ly/3zt9taq>.

## 4.5 Application of the Regulatory Impact Analysis methodology



The RIA methodology is a tool that is used for decision-making in terms of regulation or public policies, intended to analyze from a technical point of view, whether it is necessary and pertinent to intervene in the economy and society, through the study of information and evidence that facilitates making the best decision in economic, social and environmental terms.<sup>65</sup>

The incorporation of this methodology into the CRC has been carried out through a systemic approach that enables to critically evaluate the positive and negative effects of the proposed and existing regulation, and of non-regulatory alternatives<sup>66</sup>, based on evidence for decision making, thus strengthening the technical, economic, and legal analyses that are carried out in the design and development of general regulations. Despite not being mandatory under the guidelines of document CONPES 3816 of 2014, the CRC began its first steps in 2016, when it decided to implement the methodology within the framework of the regulatory project titled “Definition and regulatory conditions for broadband”, which resulted in the issuance of CRC Resolution 5161 of 2017.<sup>67</sup>

65. DNP. State Modernization Group. *Methodological Guide for the Elaboration of Regulatory Impact Analysis (AIN)*. Version 2.0. March 2021. Available at: <https://bit.ly/3oUp25s>.

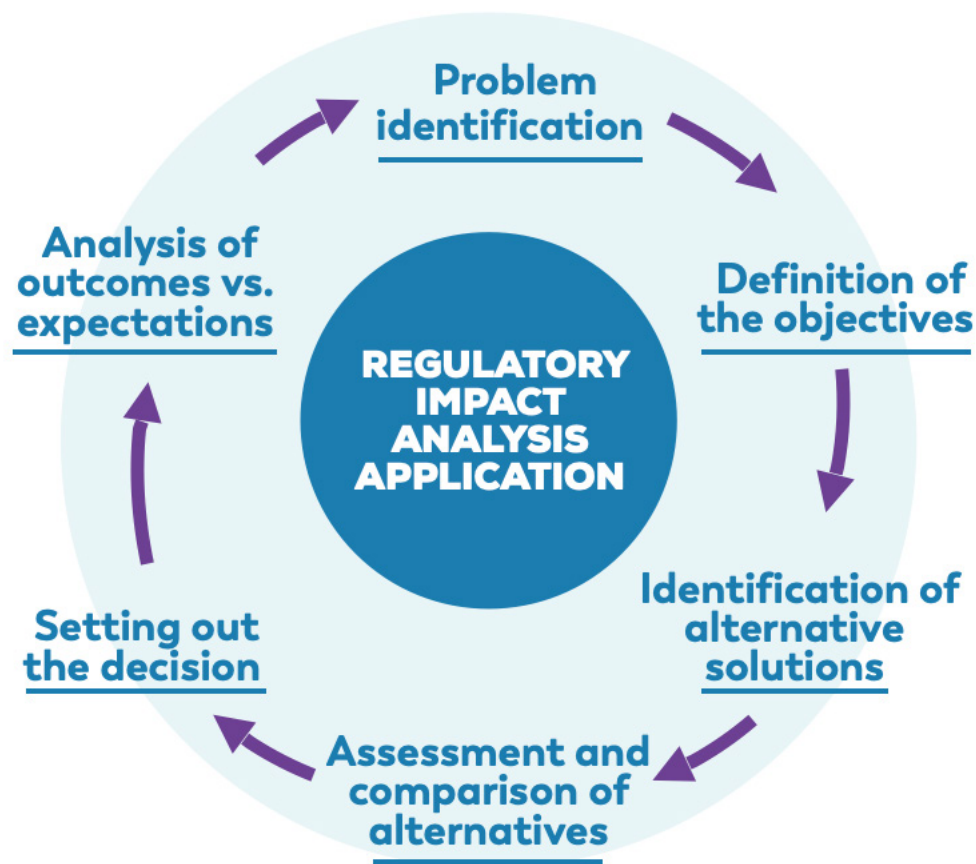
66. The non-regulatory alternatives referenced is the so-called “Status Quo” or doing nothing in the different documents published by this Commission for regulatory projects.

67. CRC. Resolution 5161 de 2017. “Whereby the definitions and regulatory conditions of broadband in the country are established, and other provisions are dictated”. Official Journal No. 50.270 of June 20, 2017. Available at: <https://bit.ly/3SikMKy>.



Based on the positive results that emerged from here, the Commission set the goal of incorporating the RIA into the regulatory projects that would be developed from 2018. Therefore, it adjusted its internal procedure for the design and development of regulatory projects of a general nature, and thus, making regulatory decisions became a cyclical and continuous process, in accordance with OECD recommendations. The above, prior to the issuance of Act 1978 of 2019, which established for the CRC to use regulatory enhancement criteria including the RIA. The cycle adopted by the CRC consists of six stages, which are shown in Figure 2. It should be noted that, being a cyclical process, the results of the ex-post assessment may end in the identification of a new problem to be solved, which would imply the beginning of a new cycle. On the other hand, it is relevant to consider that each iteration or development of the cycle is a new opportunity for the application of innovative tools that are integrated into the different stages of the cycle, thus becoming a tool for continuous improvement of regulation quality.<sup>68</sup>

**Figure 2. . Regulatory Impact Analysis Methodology**



Source: CRC

68. CRC. Design and application of the methodology for simplification of the CRC regulatory framework. Methodological document. September 2018. [online]. Bogota, Colombia. Date of consultation: 23 June 2020. Available at: <https://bit.ly/3OYL1BR>.

As for the participation of the agents involved in the regulation, this cycle of the RIA requires the incorporation of multiple opportunities for stakeholders to participate in each of the corresponding stages. Consequently, the CRC has incorporated them in the phases of publication of the problem tree and objectives, regulatory alternatives and regulatory proposal -the only mandatory one for regulatory commissions-. Moreover, different consultation tools have been developed that have enabled the participation of the different agents of the sector and enforced their right to express their opinions and assessments on the regulation. It is important to highlight that the mechanisms of transparency and participation of the industry and the users of communications services are an integral part of each of the stages of the regulatory enhancement cycle, therefore, their strengthening should be a constant concern of the public bodies.

Since 2018<sup>69</sup>, the CRC has applied the RIA methodology in 30 regulatory projects in total, of which the Communications Commission Session has developed 26, 22 have already been completed and 4 are in progress; on the other hand, in the Session of the Audiovisual Content Commission<sup>70</sup>, a total of 4 regulatory projects have been carried out, of which 3 have already been completed and 1 is currently under development. Further details of the regulatory projects in which each type of alternative evaluation can be found in Annex 2.

69. Date of publication of the regulatory improvement policy document of the Communications Regulation Commission.

70. The Session of the Audiovisual Content Commission was created under the article 17 of Law 1978 of 2019, which amended Article 20 of Law 1341 of 2009.

71. CRC. Review of the criteria for the Universal Postal Service provision – SPU. Microsite regulatory project. [online]. Available at: <https://bit.ly/3QIZXwe>

It should be noted that the rigor applied by the CRC regarding this methodology has been acknowledged in the first edition of the Contest of Good Regulatory Practices of Colombia organized by CAF and the DNP in 2021, in the category Normative Impact Analysis, specifically for the regulatory project titled “Review of the criteria for the Universal Postal Service provision – SPU”<sup>71</sup>, wherein the methodologies of evaluation of alternatives of multicriteria analysis and cost-effectiveness were applied, as explained below.

### 4.5.1 Problem identification



The RIA methodology begins with the identification of the problem or problems that require regulatory intervention, through the problem tree. Considering the best international practices and the recommendations from the OECD, the CRC develops this phase by taking the regulatory topic that was defined in the corresponding Agenda as a starting point. Also, there is the possibility that through higher level regulations or public policy guidelines, this Commission is required to develop regulatory projects not included in the agenda. Consequently, in first place, a review of the legal and regulatory background at the national level that is inherent to this topic is carried out, if applicable, and the regulatory experiences in other countries on the same subject, as well as those economic and technical aspects that are relevant, among others.

Secondly, and taking into account the best practices in the application of the RIA methodology that the OECD has compiled that indicate that both the nature and scope of the problem to be identified must be described, the CRC established a set of basic questions that must be raised in order to identify a problem that requires the intervention of this Commission, including: What information and evidence exists that supports the magnitude of the problem?, What are the causes of the problem?, What are the inherent consequences of the problem?<sup>72</sup> Which stakeholders are affected and how are they affected in the present or may be affected in the future?

The answers to these questions result in the construction of the so-called “problem tree”, a scheme that enables identifying the situations that generated the identified problem and its effects.

Once the problem is defined, along with its causes and consequences, through a tool developed by this Commission called “Criticality Calculator”<sup>73</sup>, its impact on the ICT, postal and audiovisual content sectors is analyzed, as well as the effects on other sectors of the economy, users, and the government, while trying to determine the scope of the problem identified for different interest groups. According to the level of criticality that the calculator throws (high, medium or low), the methodology of the RIA (Multicriteria, Administrative Costs, Cost-Effectiveness or Cost-Benefit) will be defined in a preliminary way, for the solution alternatives in the respective regulatory project.

After identifying the problem that requires intervention by the regulator, both the general objective and the specific objectives of the regulatory project are determined. Thus, for this Commission, the first step is to define the fundamental purpose of the regulatory project and the result that is expected

73. Pursuant to the “Proposal to incorporate the use of the impact calculator in the preparation of AIN in the CRC” (DNP and OECD; 2016); the criticality calculator has the “purpose of better rationalizing the resources for the elaboration of the IFA, focusing in greater depth on those interventions that can potentially create greater impacts”.

## 4.5.2 Definition of the analysis objectives

to be achieved. The overall objective must satisfactorily match the way in which the identified problem will be solved. On the other hand, the specific objectives are the specific results that are expected to be achieved with the execution of each of the activities contemplated in the regulatory project. The specific objectives should correspond to the causes identified in the problem formulation.

For the definition of the analysis objectives, the Commission follows the recommendations for an adequate structuring of strategic objectives through the SMART objectives, to make them easy to understand, concrete and achievable. Specifically, this strategy seeks to define objectives that are Specific, Measurable, Attainable, Realist and Timely or time-bounded.<sup>74</sup> Likewise, this methodology considers the recommendations of the DNP to define general, specific and operational objectives as provided in the second version of the Methodological Guide for the elaboration of the RIA.

74. Administrative Department of the Civil Service. Directorate of Management and Institutional Performance. Guide for process management within the framework of the integrated planning and management model (MIPG, Spanish acronym) Version 1. July 2020. [online]. Available at: <https://bit.ly/3Jx7DcO>.

Given the close relation between the identification of the problem and the definition of the objectives of the regulatory project, and knowing the benefits of generating opportunities for the participation of all the stakeholders within each regulatory initiative, the CRC prepares a document titled “Problem formulation”, which is shared with them in order to obtain more information for the development of the corresponding regulatory impact analysis and feedback regarding the studies carried out on the corresponding matter. Consequently, from the planning phase of the regulatory project, stakeholders and parties that may be potentially affected by the identified problem are involved.

### 4.5.3 Definition of regulatory alternatives

Based on the defined problem, the objectives set for the regulatory project and the available information, the identification of alternatives is developed. In application of the RIA methodology, the methodology of evaluation must be chosen. The possible regulatory alternatives to be evaluated must be defined, as well as the criteria used to evaluate these alternatives.

In accordance with another good practice recommended by the OECD RIA processes, within the alternatives or options that are defined as possible solutions to the identified problem, the “status quo” or “doing nothing” is always considered with the purpose of including in the legal, economic and technical analyses that are carried out in each project, the possibility of non-intervention. This implies the non-modification of the current scenario at the time of carrying out the evaluation and requires considering the administrative and regulatory costs involved in the issuance of new measures.<sup>75</sup>

75. Op. Cit. OECD 2020.



In this phase, the CRC proposes the second scenario of participation for the different stakeholders, and through meetings, worktables, forums, publications, etc. shares its proposal of alternative solutions in order for concerned parties to participate in an exercise of feedback and proposal. Thus enriching the definition of these potential solutions and materializing one of the key purposes of the RIA application: the actual involvement of multiple stakeholders.

#### 4.5.4 Evaluation and comparison of regulatory alternatives



The RIA methodology includes several tools to carry out both quantitative and qualitative evaluations, which, when correctly and rigorously applied, provide the necessary evidence for decision making. In fact, according to the OECD, “[t]he regulator must carefully evaluate the methodology it will apply for the analysis, taking into account the available information, its ability to carry out economic evaluations and the time available.”<sup>76</sup>

Up to this date, the CRC has applied 4 methodologies for evaluating alternatives in different general regulatory projects that have been carried out, as follows: (i) Multi-criteria analysis: 24; (ii) Administrative costs: 2; (iii) Cost-Effectiveness Analysis: 6; and iv) Cost-Benefit Analysis: 3. These methodologies can be applied independently or jointly with each other, thus strengthening the analyses that are carried out and constantly increasing the quality of the regulatory decisions.

<sup>76</sup>. Ibid.

As a regulatory authority in the field of telecommunications, postal and audiovisual content, the CRC hopes to continue building an important asset of experiences that contribute to the strengthening of the Better Regulation Policy, ranging from the way of identifying regulatory problems to the adoption of innovative methodologies for the evaluation of the applicable alternatives.<sup>77 78</sup>

#### 4.5.4.1. Methodologies for evaluating regulatory alternatives



This section presents a summary of the methodologies for evaluating regulatory alternatives adopted for the development of RIA. A further description thereof is presented in the Annex “Case studies of the application of the Regulatory Impact Analysis methodology in the CRC”. It is important to bear in mind that regulatory problems present a dynamic of constant change, wherein it is necessary to conceive that the appropriation of methodologies for evaluating regulatory alternatives is a continuous exercise that requires the strengthening of instruments and good practices by each of the technical teams that oversee this activity.

<sup>77</sup>. This list collects the Regulatory Projects Developed by the CRC during the term from August 2016 to August 2022.

<sup>78</sup>. The 4 methodologies that have been applied in different regulatory projects developed by the CRC are explained through real case studies, executed by this Commission, which can be reviewed in the Annex 1 hereto.



## 4.5.4.1.2. Multi-criteria decision analysis



Multicriteria Decision Analysis is a methodological set of tools that belongs to the operations research discipline, which consists in identifying the highest performance alternative<sup>79</sup> from the classification of options through a ranking based on an overall performance assessment process based on a limited number of criteria or desirable characteristics of the alternatives.

This methodology is based on the selection of criteria that collect desirable attributes, results or impacts expected by the regulatory alternatives resulting from the context defined in the problem tree, which must be weighted according to their order of importance or preferences according to the regulator's utility function. Once this process is developed, the regulator will proceed to assess the performance of each of the alternatives with the selected criteria using a scale or valuation metric, in order to obtain an overall output and determine the regulatory solution to be adopted.

It is important to highlight that “multi-criteria analysis helps to make decisions in a transparent and systematic way, being a credible option against cost-benefit analysis.

Its strength lies in its ability to present benefits that can be introduced into the analysis to make decisions, without being quantified.<sup>80</sup> Similarly, it should remember that “the criteria should give the idea of advantages (benefits) and disadvantages (costs) of the options. These criteria must be clearly defined in order to ensure that any possibility of subjectivity therein must to be eliminated as much as possible<sup>81</sup>.” Therefore, it is a methodology that is fully valid, robust and bears technical objectivity.

For a further description of the multi-criteria decision analysis methodology, please refer to Case No. 1 “National Automatic Roaming Remuneration Conditions” in Annex 1. These are study cases of the application of the RIA methodology in the CRC.

79. Department for Communities and Local Government. *Multi-criteria analysis: a manual*. Page 19 [online]. London: 2009. 168 p. [Accessed: December 13, 2021]. Available at: <https://bit.ly/3Q0mKO2>.

80. DNP. *Methodological Guide to Regulatory Impact Analysis*. 2016. Page. 39. Available at: <https://bit.ly/2RSQRll>

81. *Ibidem*.

### 4.5.4.1.3. Administrative costs methodology



Aligned with the regulatory simplification approach, the administrative cost methodology is based on the analysis of the financial and operational burden perceived by the regulated subjects from the implementation of regulatory provisions. Consequently, for the development of this methodology, an estimation of the costs of implementing the regulation is made, either through the micro costing method, where each input and activity is discriminated in terms of its quantity and price to obtain the total cost, or the costing method, in which regulatory compliance costs are investigated and then disaggregated using “cost-drivers”.<sup>82</sup>

The administrative costs methodology aims to find the best alternative to achieve the minimum possible value to comply with regulation. In any case, whereas there is preference to balance administrative costs with other attributes of regulatory alternatives, such as benefits for users, other criteria can be used as additional and complementary criteria for the development of multi-criteria analysis.

For a further description of the administrative costs methodology, please refer to Case No. 2 “Review of the Periodic Information Reports System of Communications Services” in Annex 1. These are study cases of the application of the RIA methodology in the CRC.

82. Means the factors that cause, generate or induce the cost, which enable the regulator to set the technical criteria of imputation, expressed in terms of percentage for the distribution of costs among these factors. See CRC. Yellow Document “Modifications to the obligation of accounting separation by the PRST and OTVS”. Page 21. “Direct costs which are indirectly attributable”. [Online] November of 2017. [Accessed on 18 of July Feb 2022]. Available at: <https://bit.ly/3IK2OF>



#### 4.5.4.1.4. Cost-Effectiveness Analysis Methodology



In some cases, the availability of qualitative or quantitative information will determine the type of assessment needed to support decision-making. In particular, the cost-effectiveness analysis is developed in cases where data on the costs of the alternatives and on their results expressed in measurement units that represent their effectiveness is available. This measure must not be monetizable<sup>83</sup>.

Cost-effectiveness analysis is a methodology that enables comparing services or interventions regarding processes or procedures in terms of their costs and the measurement units of the results obtained<sup>84</sup>. This evaluation methodology “enables the establishment of a ratio between the incremental cost per incremental unit of benefit (i.e. marginal cost/marginal benefit)”<sup>85</sup>. In this sense, it can be considered that under this analysis, results based on the concept of Pareto<sup>86</sup> may be obtained, implies the reallocation of resources in an economically efficient way.

For a further description of the Cost-Effectiveness analysis methodology, please refer to Case No. “Review of the criteria for the Universal Postal Service provision (SPU)” in Annex 1. These are study cases of the application of the RIA methodology in the CRC.

83. OECD *Reviews of Regulatory Reform. Colombia. Methodological Guide to Regulatory Impact Analysis*. [Online] 2016. [Accessed November 30, 2021]. Available at: <https://bit.ly/3ptskww>.

84. Hulme, Claire. *Using Cost Effectiveness Analysis; a Beginners Guide*. In: *Evidence Based Library and Information Practice*. [Online]. 2006 1. 10.18438/B81S34. [Accessed November 30, 2021]. Available at: <https://bit.ly/3PBQobX>.

85. Garber, Alan M; Phelps, Charles E. *Economic Foundations of Cost Effective Analysis*. In: *National Bureau of Economic Research Working Paper Series*. No. 4164. [Online]. September 1992. [Accessed November 30, 2021]. Available at: <https://bit.ly/3ze3DKs>.

86. The concept of Pareto enhancement defines any situation wherein, within a change from situation A to situation B, at least one individual improves without other individuals being disadvantaged. *Polyconomics. Economics made Simple*. [Accessed November 30, 2021]. Available at: <https://bit.ly/3oa221Z>.

#### 4.5.4.1.5. Cost-Benefit Analysis Methodology



The cost-benefit analysis methodology is framed in the comparison of the profits (gain or benefit) perceived from the implementation of regulatory alternatives compared to the costs incurred into for their adoption or development. In this sense, the monetization of both costs and social benefits is considered, and therefore, it demands a high level of rigor in the method to be used to approximate the information necessary to carry out the monetization process, in order to avoid biases that overestimate the calculation of the monetary values of the measures adopted or their underestimation generated from the lack of information. That is, a high reliability of the information used as a source of analysis is required to obtain accurate results that allow establishing the net effect of the regulation on welfare and costs.

For a further description of the Cost-Benefit analysis methodology, please refer to Case No. 4 “Regulations on Internal Telecommunications Networks (RITEL)” in Annex 1. These are study cases of the application of the RIA methodology in the CRC.

## 4.5.5. Adoption of the regulatory decision



Once the evaluation of alternatives has been carried out, it can be identified whether a regulatory intervention is necessary to solve the corresponding problem or not. As already mentioned, within the evaluated alternatives the option of the status quo is always considered and, if deemed the best valued, the public body proceeds with the publication of a document for the knowledge of the stakeholders, which will contain the analyses carried out and the conclusions obtained from the RIA.

Otherwise, if the best valued alternative represents a regulatory intervention, in compliance with the Decree 1078 of 2015, for a minimum term of 10 business days, the document containing the applied RIA and other technical, economic and legal studies performed and the draft of the regulation will be submitted to the for discussion with the stakeholders. The observations and suggestions submitted are examined by the Commission and, if applicable, considered in the final decision. In accordance with the Article 7 of Act 1340 of 2009<sup>87</sup> and Article 2.2.2.30.8 of Decree 1074 of 2015<sup>88</sup>, when the regulatory project has the capacity to influence economic competition<sup>89</sup>, it must be submitted to the opinion by the Superintendency of Industry and Commerce (SIC), Colombia's competition authority.

87. Whereby rules on the protection of competition are issued.

88. Whereby the Single Regulatory Decree of the Industry, Tourism and Trade Sector is issued.

89. Single Regulatory Decree 1074 of 2015. "ARTICLE 2.2.2.30.3. Draft regulations to be reported to the Superintendence of Industry and Trade. (...) An act shall be deemed to have such an impact when, regardless of its constitutional or legal objective:

1. Is intended or may have the effect of limiting the number or variety of competitors in one or more relevant markets; or
2. Imposes a conduct on companies or consumers or modifies the conditions under which obligations previously imposed by law or an administrative act shall be enforceable, wherein the act has or may have the effect of limiting the ability of companies to compete, reducing their incentives to compete, or limiting the free choice or information available to consumers, in one or more related relevant markets."

The corresponding analyses derived from the comments and the responses to them, will be documented in the so-called "response to comments", that is published with the final regulatory act which must be approved by the Communications Commission Session or by the Audiovisual Content Session of the Commission, decision-making bodies of the CRC. This process will conclude with the publication of the regulatory final act in the Official Journal and on the website of the CRC.<sup>90 91</sup>

## 4.5.6. Ex-post assessment



The last step in the application of the RIA is the ex-post assessment, whose aim is to analyze the observed results of regulatory decisions and compare them with the expected goals, both for those cases in which the regulatory decision is to intervene, and those cases in which the decision is not to intervene. For such purpose, the CRC has defined an internal procedure for the ex-post assessment of regulatory measures of a general nature wherein the different stages and people responsible for developing these evaluations are considered.

90. In compliance with article 2.2.13.3.3 of Decree 1078 of 2015

91. In compliance with article 65 of Act 1437 of 2011

The procedure indicates that, once the regulatory projects have been completed, the need to carry out an evaluation of the impacts or results associated with regulatory decisions is studied, and for those that require it, an ex-post assessment guide is prepared. This guide gives a context of the regulatory decision taken, the general objective of the evaluation, the measures that must be evaluated together with the expected impacts and the hypotheses, and the methodologies and sources of information to carry out the evaluation in the future, as well as the suggested dates on which both the collection of information and the ex-post assessment itself should be carried out.

All the ex-post assessment guides that are elaborated in the CRC are included in the so-called “ex-post assessment bank”, a tool where all the activities that must be applied in this regard are recorded, allowing their planning. Such activities include the collection of information, which can be gathered from the data bases collected by the Commission through the periodic information reporting obligations contained in the regulation or through specific information requirements to operators, other public bodies or those agents identified as concerned stakeholders in the regulation issued.

However, in order to achieve the objective of comparing the observed results with the expected results, two types of evaluations can be performed: impact or results monitoring. The first one corresponds to assessments of how regulatory

intervention affects one or more variables of interest and include quantitative methodologies and econometric methods that determine the causality of the intervention towards the defined variables of interest. For such purpose, impact evaluations require a counterfactual, i.e., the results that would have been obtained in the absence of the intervention and that can be compared with the observed results. In the literature there are multiple methodologies and econometric methods to carry out this kind of evaluations, and depending on each regulatory intervention, the method that best suits the objective to be evaluated and the available information can be determined.<sup>92</sup>

On the other hand, results monitoring is based on quantitative and qualitative methods that have the purpose, as its name indicates, to monitor variables or indicators of interest that were intended to be affected by the regulatory decision. The main difference with impact evaluations is that these evaluations do not require a counterfactual and seek to describe the change in variables of interest without attributing statistical causality to regulatory intervention.

At the preparation date of this document, the CRC has made the ex-post assessment of six regulatory decisions that ended in an intervention through the imposition of measures through administrative acts, following the procedure previously described, which have been developed entirely by the internal work team of the Commission:

92. Definition based on: OECD. *Outline of Principles of Impact Evaluation* [Online] Available at: <https://bit.ly/3SrCECY>.

Regulatory Project	Resolution	Issuance Year	Evaluation Year
Definition and regulatory conditions of broadband <sup>[93]</sup>	5161	2017	2020
Entry conditions for the sale of Mobile Terminal Equipment <sup>[94]</sup>	5406	2018	2021
Simplification of disused standards of the regulatory framework of the CRC <sup>[95]</sup>	5586	2019	2021
Criteria related to fixed-mobile calls in a mobile number portability environment in Colombia <sup>[96]</sup>	5322	2018	2022
Accounting Separation <sup>[97]</sup>	5589	2019	2022
Review of the regulatory framework for digital security risk management <sup>[98]</sup>	5569	2018	2022

93. Available at: <https://bit.ly/3vHwG75>

94. Available at: <https://postdata.gov.co/story/resultados-del-seguimiento-la-resolucion-crc-5406>

95. Available at: <https://bit.ly/3BF7eIz>

96. Available at: <https://bit.ly/3vFK77v>

97. Available at: <https://bit.ly/3BF7DFz>

98. Available at: <https://bit.ly/3cTOzcg>

Additionally, in compliance with the Article 13 of Decree 2696 of 2004, compiled in the Decree 1078 of 2015, the CRC has made, through the hiring of experts in the field, ex-post assessments of the regulatory framework issued by this body since 2007, to evaluate the regulatory framework issued between 2000 and 2005. Since then, every 3 years ex-post assessments of the general regulatory measures issued by the CRC have been carried out, the last of these studies were published in March 2022.<sup>99</sup>

It may be worth mentioning that, for the development and application of this pillar of regulatory enhancement, the CRC was also awarded in the first contest of good regulatory practices in Colombia organized by CAF and the DNP, with the first place in the ex-post assessment category.

For a further description of the implementation of an impact assessment, please refer to Case No. 5 “Broadband Redefinition” in Annex 1. These are case studies of the application of the normative impact analysis methodology in the CRC, where the application of the RIA methodology is shown, from beginning to end, including the ex-post assessment.

*99. These ex post assessment is done under the provisions of article 13 of Decree 2696 of 2004, compiled in article 2.2.13.4.1 of Decree 1078 of 2015, which provides that every three years, the regulatory commissions must submit a report that summarizes the effects of the regulatory framework issued on the sustainability, viability and dynamics of the corresponding sector.*



## **ORGANIZATIONAL STRUCTURE OF THE CRC: REGULATION IS THE WHOLE CYCLE**





An essential part of the Better Regulation Policy is based on a solid, coherent, and innovative regulatory model, which allows to constantly identify those variables that can be corrected, complemented or eliminated, both in the process of development of regulation and in the follow-up, with an approach based on evidence and knowledge of the ecosystem of the regulated sector.

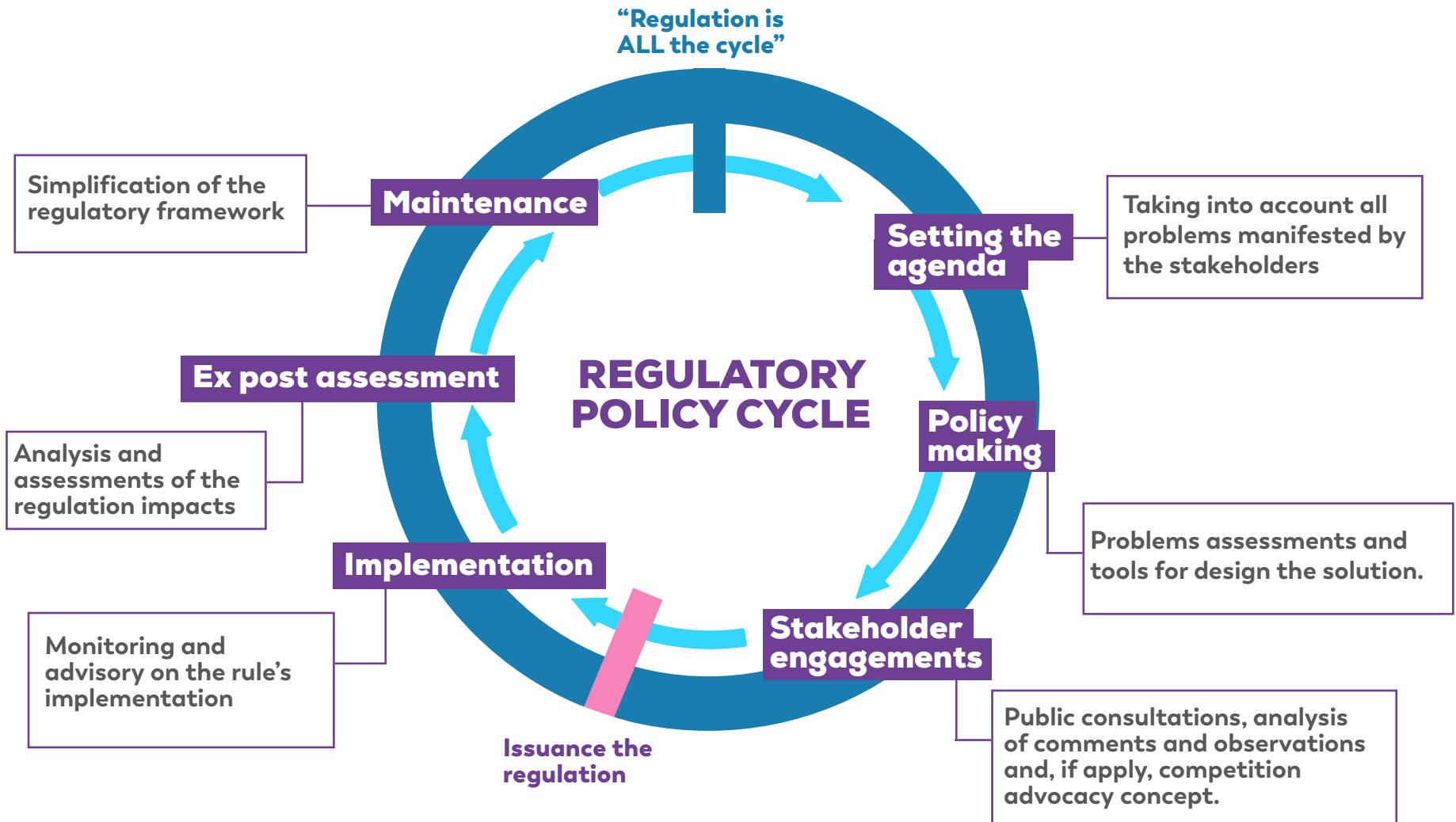
In this context, the Commission has designed its organizational structure under the premise of “regulation is the whole cycle”, which includes each of the pillars of the best regulation policy explained in section 4, and requires the adoption of a cyclical scheme that responds to different phases or stages of the procedure for the design and development of regulatory projects of a general nature, in order to achieve the objectives sought in the event of a possible regulatory intervention and thus ensure its effectiveness and quality.

As explained in section 4.5, the procedure for the design and development of regulatory projects involves the first six stages of the RIA in which different internal working groups of the CRC participate. Likewise, the transversal nature of the regulatory work is maintained, by recognizing the mission granted by the legislator to the regulator in Colombia as an autonomous and independent organism. Consequently, the CRC is fully involved in its entirety in this mission and takes advantage of the different specialties of human talent available in each working group. The following graph shows the stages of the Regulatory Policy Cycle of the CRC, in which the organizational structure of this Commission is framed, the pillars of best regulation are included and the powers granted by the law and other public policy guidelines are acknowledged.<sup>100</sup>

100. Concept independence of the CRC - Department Administrative of the Filed Public Function No. 20224000255801 July 2022



**Figure 1. Regulatory policy cycle**

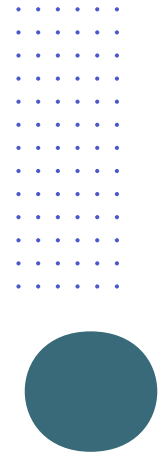


Source: CRC



# 6

## CONCLUSIONS AND RECOMMENDATIONS



Considering the advances and experiences of the CRC in the application of different best regulation tools, the main conclusions of this document are the following:

- This document constitutes a first step in the consolidation of the Best Regulation Policy applied in the CRC, by compiling the main experiences and progress made on the subject, which is useful as an input and benchmark in the application of best regulation tools for other concerned entities at a national and international level, supporting their incorporation processes through the generation and transfer of knowledge. Due to its nature, this policy document is flexible and will be subject to constant updating and transformation in accordance with new methodologies and progresses in this area.
- The different better regulation mechanisms applied in the work of the CRC should be recognized as a continuous and iterative process of improving regulatory quality, which constantly adapts to the dynamics of the ICT sector and is subject to a long-term vision. Consequently, the regulatory policy cycle must have a structure based on tools such as simplification, innovation, the use of data and evidence in decision-making, which is transparent, avoids unnecessary burdens on the regulated subjects, involves all stakeholders in its design, construction and implementation and enables an optimal development of the sector.

- The CRC evolved from the design and implementation of an initial strategy to the consolidation of a better regulation policy. The multiple experiences, tests and pilots developed by this Commission, referring to the application of mechanisms to issue flexible regulation (regulatory sandbox), the adoption of innovative methods applied to regulation (methodologies to measure the quality of services such as crowdsourcing), the use of data for evidence-based decision-making as well as the adoption of emerging technologies to improve processes (web scraping, artificial intelligence, machine learning), the simplification approach, the incorporation of the RIA methodology in the design and development of the regulation and the incorporation of ex-post assessment for regulatory decisions, are clear evidence of the path traveled and the progress that the Commission has made, thus making it a pioneer and leader in better regulation practices in Colombia.
- The CRC has been part of the implementation processes of the Better Regulation Policy of other public organisms at national and international level, sharing the experiences it has developed internally within the different stages of the regulatory cycle. Autonomously and with the purpose of supporting the formalization and institutionalization of better regulation tools in Colombia, together with the DNP, this Commission has participated in different knowledge transfer scenarios, in which it has disclosed the progress made and the projects where achievements have been accomplished. Similarly, the CRC has presented its experiences within the framework of the Inter-American Telecommunications Commission (CITEL), the Organization of American States and the International Telecommunication Union (ITU).

- In a forward-looking view, this Commission hopes to continue consolidating an important pool of experiences as an authority in the field of better regulation tools, in order to measure and understand the regulatory problems identified, develop future regulatory and normative responses that adapt to new realities, strengthen current competences and tools, experiment with new instruments and practices used in the RIA, strengthen and improve the quality of regulation with the application of innovative tools in the different phases of the regulatory policy cycle and strengthen the mechanisms of transparency and participation of the industry and users of communications services and audiovisual content.

In addition, some recommendations are included that may be useful to other concerned organizations, based on the CRC experience:

- It is advisable to generate opportunities for participation, such as round-tables, surveys, interviews and focus groups in the different phases of the RIA process, in order to know the perception of the stakeholders about the project designed, as well as their level of interest, and consider the relevant aspects when making decisions.
- Make available to regulated subjects, in those sectors where they have not yet been generated, controlled test spaces such as the Regulatory Sandbox, supervised by the regulator, in which innovative products, services and solutions are tested, that may enable the evaluation and calculation of possible impacts on the market, which may lead to possible modifications to the general regulatory frameworks.

- Prepare implementation plans of the regulatory decision, in accordance to the positions identified in the development of the regulatory project. From the design of the regulatory measure, the regulator must be able to foresee that the measure can be complied by the regulated subjects and easily verified by the surveillance and control authority.
- Incorporate and strengthen ex post analysis methodologies. For such purpose, it is important to identify the information needs for the development of ex-post assessments. At the time of making the regulatory decision and defining the need to carry out this evaluation, it is necessary to set out the objectives to be achieved with it and the information that will be required for it, to foresee the actions that must be applied before executing the evaluation and guarantee its feasibility.
- Use information as a fundamental input for regulatory decision-making and as a regulatory tool. On one hand, the use of emerging technologies both in the elaboration of the regulation and in the internal processes of each organization, as well as in those processes facing the industry and users. On the other hand, the publication and dissemination of ecosystem information, as well as the studies and analyses carried out, enable all agents in the sector and other stakeholders to have knowledge of the behavior and evolution of the market, which in turn allows the empowerment of users and sends signals of transparency and trust to regulated agents and the authorities involved.
- Promote and strengthen the internal capacities of the human talent involved in the design and development of regulatory projects, in order to continue learning, experimenting, and implementing innovative tools for regulatory improvement, taking into consideration the continuous technological progress and the generation of more and better regulatory mechanisms in the world.



# REGULATIONS

## 7. ● ANNEX 1. CASE STUDIES OF THE APPLICATION OF THE REGULATORY IMPACT ANALYSIS METHODOLOGY IN THE CRC //////////

## 8. ● ANEXX 2. INVENTORY OF REGULATORY PROJECTS DEVELOPED BY THE CRC WITH RIA METHODOLOGY //////////

## 9. ● BIBLIOGRAPHY //////////

COMMUNICATIONS REGULATION COMMISSION (CRC). CRC Resolution 5586 of 2016. “Whereby disused standards are eliminated from the regulatory framework issued by the Communications Regulation Commission.” Official Journal No. 50.833 of 11 January 2019. Available in: <https://bit.ly/3zSFNo3>.

CRC. Resolution 5161 of 2017. “Whereby the definitions and regulatory conditions of broadband in the country are established, and other provisions are dictated.” Official Journal No. 50.270 of June 20, 2017. Available in: <https://bit.ly/3SikMKy>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Regulatory Decree 2696 of 2004. “Whereby the minimum rules are defined to guarantee the disclosure and participation in the actions of the Regulatory Commissions”. Official Journal No. 45.651 of August 25, 2004. Available in: <https://bit.ly/3zWYnv2>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Regulatory Decree 1083 OF 2015. “Whereby the Single Regulatory Decree of the Public Service Sector is issued”. Official Journal No. 49.523 of May 26, 2015. Available in: <https://bit.ly/3vD5iXV>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Regulatory Decree 1074 OF 2015. “Whereby the Single Regulatory Decree of the Trade, Industry and Tourism Sector is issued”. Official Journal No. 49.523 of May 26, 2015. Available in: <https://bit.ly/3SIYHLc>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Regulatory Decree 1078 OF 2015. “Whereby the Single Regulatory Decree of the Information and Communications Technologies Sector is issued”. Official Journal No. 49.523 of May 26, 2015. Available in: <https://bit.ly/3SIYHLc>.

# DOCUMENTS

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Regulatory Decree 1499 OF 2017. “Whereby Decree number 1083 of 2015, Single Regulatory Decree of the Public Function Sector, is modified, regarding the Management System as established in article 133 of Act 1753 of 2015”. Official Journal No. 50.353 of September 11, 2017. Available in: <https://bit.ly/3zRwG6Z>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Act 1340 of 2009. “Whereby rules on the protection of competition are issued”. Official Journal No. 47.420 of 24 July 2009. Available in: <https://bit.ly/3bpQdlL>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Act 1437 of 2011. “Whereby the Code of Administrative Procedure and Administrative Litigation is issued”. Official Journal No. 47.956 of 18 January 2011. Available in: <https://bit.ly/3Q5vF12>.

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. Act 1978 of 2019. “Whereby the Information and Communication Technologies (ICT) sector is modernized, competences are distributed, a single regulator is created and other provisions are dictated.” Official Journal No. 51.025 of July 25, 2019. Available in: <https://bit.ly/3vGe8UN>.

CRC. Design and application of methodology for simplification of the regulatory framework of the CRC. Methodological document. September 2018. [online]. Bogota, Colombia. Date of consultation: 23 June 2020. Available in: <https://bit.ly/3OYLIBR>.

CRC. Design and application of methodology for simplification of the regulatory framework of the CRC. Roadmap for simplifying the regulatory framework issued by the CRC. September 2018. [online]. Available in: <https://bit.ly/3vFFw5f>.

CRC. Institutional Strategic Plan 2021-2025. April 2021. [online]. Available in: <https://bit.ly/3RHpHo4>

CRC. Industry report of the ICT and postal sectors 2020. September 2021. [online]. Bogota, Colombia. Available in: <https://bit.ly/3pbCltf>.

CRC. Monitoring of technological and consumer trends. October 2021. [online]. Bogota, Colombia. Available in: <https://bit.ly/3d4xsEW>.

CRC. The role of OTT services in the communications sector in Colombia 2021. February 2022. [online]. Bogota, Colombia. Available in: <https://bit.ly/3cYmUqF>.

CRC. State of Net Neutrality in Colombia 2021. March 2022. [online]. Bogota, Colombia. Available in: <https://bit.ly/3Qk4cs4>.

CRC. Study on the Audiovisual Content Industry and Information Pluralism in Colombia. April 2021. [online]. Bogota, Colombia. Available in: <https://bit.ly/3OW2Pyz>.

CRC. Review of quality conditions in the provision of telecommunications services. Supporting document of the regulatory proposal. February 2022. [online]. Available in: <https://bit.ly/3zt9tqp>.

CRC. Yellow Document “Modifications to the obligation of accounting separation by the PRST and OTVS”. Page 21. “Direct costs which are indirectly attributable “. [online] November 2017. [Accessed July 18, 2022]. Available in: <https://bit.ly/3IKI2Of>.

NATIONAL PLANNING DEPARTMENT (DNP). National Council for Economic and Social Policy – CONPES. Document CONPES 3816 Regulatory Enhancement: Impact Analysis. Bogotá, D.C., October 2, 2014. [online]. Available in: <https://bit.ly/3SmXlu9>.

DNP. Methodological Guide to Regulatory Impact Analysis. 2016. Page. 39. [online]. Available in: <https://bit.ly/2RSQRll>

DNP. State Modernization Group. Methodological Guide for the Elaboration of Regulatory Impact Analysis (RIA). Version 2.0. March 2021. [online]. Available in: <https://bit.ly/3oUp25s>.

ADMINISTRATIVE DEPARTMENT OF THE PUBLIC FUNCTION (DAFP). Office of Management and Institutional Performance. Guide to process management within the framework of the integrated planning and management model (MIPG) Version 1. July 2020. [online]. Available in: <https://bit.ly/3Jx7DcO>

DAFP. Council for Management and Institutional Performance. Agreement No. 005 of July 30, 2018. [Online] Available at: <https://bit.ly/3SkCUUI>.

DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT. Multi-criteria analysis: a manual. Page 19 [online]. London: 2009. 168 p. [Accessed: 13 December 2021]. Available in: <https://bit.ly/3Q0mKO2>.

GARBER, ALAN M; PHELPS, CHARLES E. Economic Foundations of Cost Effective Analysis. In: National Bureau of Economic Research Working Paper Series. No. 4164. [Online]. September 1992. [Accessed November 30, 2021]. Available in: <https://bit.ly/3ze3DKs>

GHERSINICH ECKERS, J.; LÓPEZ AZUMENDI, S. Agile states in Latin America: the regulatory enhancement strategy of the Communications Regulation Commission of Colombia. June 8, 2021, Caracas: CAF. [online]. Retrieved 9 May 2022. Available in: <https://bit.ly/3PGS58d>.

HULME, CLAIRE. Using Cost Effectiveness Analysis; a Beginners Guide. In: Evidence Based Library and Information Practice. [Online]. 2006 1. 10.18438/B81S34. [Accessed November 30, 2021]. Available in: <https://bit.ly/3PBQobX>

ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). Implementation of the Regulatory Impact Analysis in the Central Government of Peru: Case Studies 2014-16. [online] Paris: OECD Publishing. July 31, 2019. ISBN 978-92-64-30580-9. [date of consultation: 28 May 2020]. Available in: <https://bit.ly/3vG16ql>.

# WEBSITES

OECD. Regulatory Impact Assessment, OECD Best Practice Principles for Regulatory Policy. OECD Publishing, Paris. February 2020. [online]. <https://bit.ly/3vzuYog>.

OECD. OECD Regulatory Policy Outlook 2021. [online] Paris. OECD Publishing. October 6, 2021. Available in: <https://bit.ly/3zsYhKp>.

OECD. OECD study on regulatory policy in Colombia: Beyond administrative simplification. [online] Paris: OECD Publishing. ISBN 978-92-64-20196-5. [date of consultation: 14 June 2021]. Available in: <https://bit.ly/3OYpUAD>.

OECD Reviews of Regulatory Reform. Colombia. Methodological Guide to Regulatory Impact Analysis. [Online] 2016. [Accessed November 30, 2021]. Available in: <https://bit.ly/3ptskww>.

OECD. Outline of Principles of Impact Evaluation [Online] Available at: <https://bit.ly/3SrCECY>.

OFFICE OF COMMUNICATIONS (OFCOM). Policies and guidelines. [website] Retrieved 10 July 2022. Available in: <https://bit.ly/3BDsLvS>.

OFCOM. Better Policy Making. Ofcom's approach to Impact Assessment. [online] July 25, 2005. Available in: <https://bit.ly/3OYb4tO>.

OFCOM. Work plan 2022/2023. [online] March 25, 2022. Available in: <https://bit.ly/3zvNVcH>.

CRC. Comparator of Internet, telephony and TV plans by subscription. [Website]. Available in: <https://comparador.crcom.gov.co/>

CRC. Impact assessment of CRC RESOLUTION 5161 of 2017. Broadband redefinition. [Website]. Available in: <https://bit.ly/3vHwG75>.

CRC. CRC launches comparator of plans and packages of mobile and fixed services. Press release. March 23, 2022. [Website]. Available in: <https://bit.ly/3BNKlgC>.

CRC. Postdata “Data Exchange Platform”. [Website]. Available in: <https://www.postdata.gov.co/>

CRC. Review of the criteria for the Universal Postal Service provision – SPU. Microsite regulatory project. [online]. Available in: <https://bit.ly/3QIZXwe>.

CRC. Results of the follow-up to CRC Resolution 5322. [Website]. Available in: <https://bit.ly/3vFK77v>.

CRC. Results of the follow-up to CRC Resolution 5569. [Website]. Available in: <https://bit.ly/3cTOzcg>.

CRC. Results of the follow-up to CRC Resolution 5586 of 2019. [Website]. Available in: <https://bit.ly/3BF7eTz>.

CRC. Results of the follow-up to CRC Resolution 5589. [Website]. Available in: <https://bit.ly/3BF7DFz>.



CRC. Regulatory sandbox for communications services. [Website]. Available in: <https://www.crcom.gov.co/es/micrositios/sandbox>

DNP. The National Council for Economic and Social Policy. CONPES. [Website]. Available in: <https://bit.ly/3bszEWh>.

DNP. About the Entity. [Website]. Available in: <https://bit.ly/3brFJIE>.

DAFP. Welcome to the Integrated Planning and Management Model microsite. [Website]. Available in: <https://bit.ly/2PIVWqM>.

LEGISLATION.GOV.UK. Communications Act 2003. [website]. Section 7 of the UK Communications Act 2003. [Website]. Available in: <https://bit.ly/3JrFiEy>.

MINISTRY OF ENVIRONMENT AND SUSTAINABLE DEVELOPMENT. “National Council of Economic and Social Policy – CONPES”. Accessed: July 18, 2022. [Website]. Available in: <https://bit.ly/3RGBhQh>

PRESIDENCY OF THE REPUBLIC OF COLOMBIA. News. [Website]. Accessed: July 18, 2019. Available in: <https://bit.ly/2JMQqh1>.

POLYCONOMICS. Economics made Simple. Accessed: November 30, 2021. [Website]. Available in: <https://bit.ly/3oa221Z>.

OECD. Colombia’s path towards OECD accession. [website]. Accessed: May 23, 2020. Available in: <https://bit.ly/3d56Bs1>

OECD. Our global reach. Member countries. [website]. Accessed: May 11, 2022. Available in: <https://bit.ly/3BFiY8r>.

SUPERVISORY BODY FOR PRIVATE INVESTMENT IN TELECOMMUNICATIONS (OSIPEL). RIA and Regulatory Agenda. [website]. Retrieved July 10, 2022. Available in: <https://bit.ly/3bvfhb0>.

SECRETARY OF GOVERNMENT (SEGOB). Official Journal of the Federation. November 08, 2017. [website]. Retrieved July 10, 2022. Available in: <https://bit.ly/3SnGXiC>.



**BETTER  
REGULATION  
POLICY OF THE  
COMMUNICATIONS REGULATION COMMISSION**

