



El futuro
es de todos

DNP
Departamento
Nacional de Planeación

EX POST EVALUATION OF THE REGULATION

Methodological reflections

July 27th, 2021



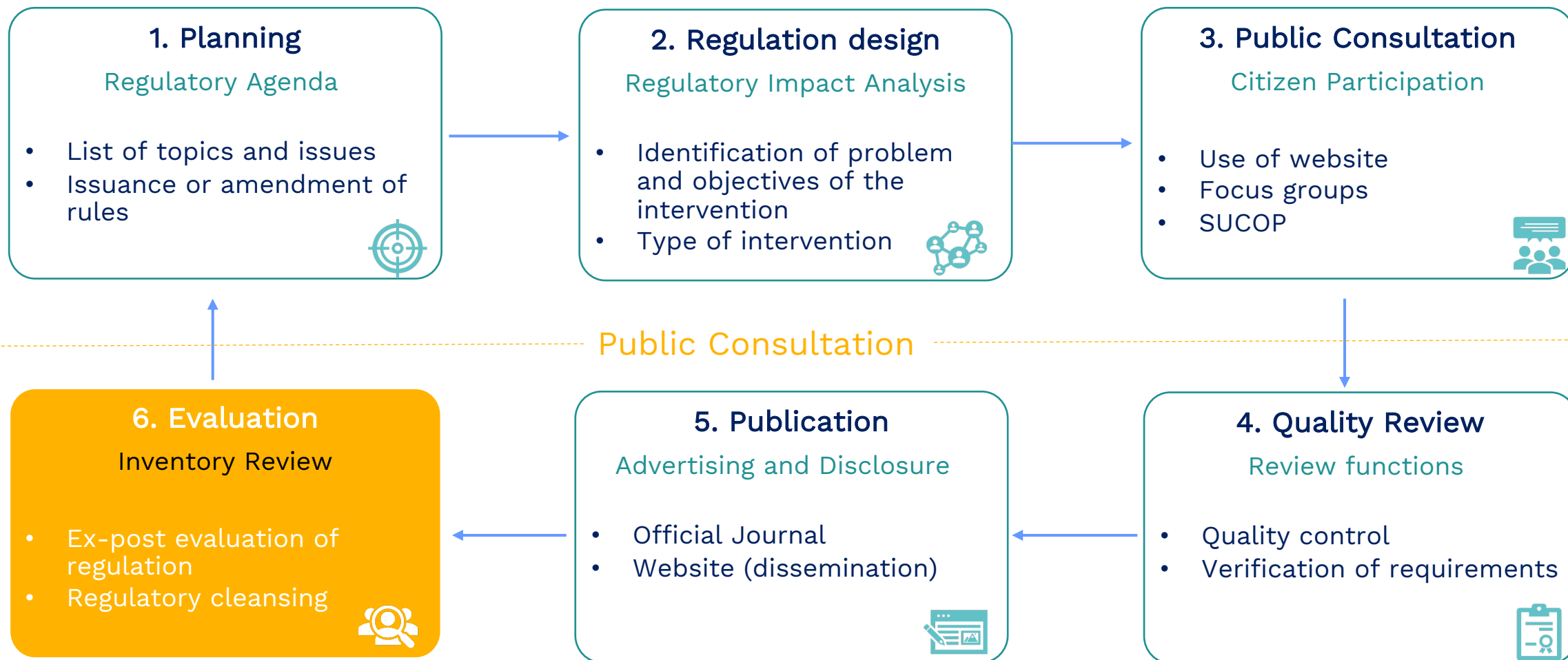
Agenda



1. Regulatory governance cycle
2. Importance of evaluating
3. Practical case study
4. Steps to carry out an evaluation

Regulatory Governance Cycle

Seeking the quality of regulation



The Importance of Evaluating

Are you meeting the regulation's goals?



The Ex-Post Evaluation is an analysis that enables you to establish

- Whether the regulation met the objectives for which it was designed
- If there are problems associated with making modifications and/or adjustments



Practical Case Study

How to pin down the concepts?

Decree 1377 of 2013 Protection of personal data

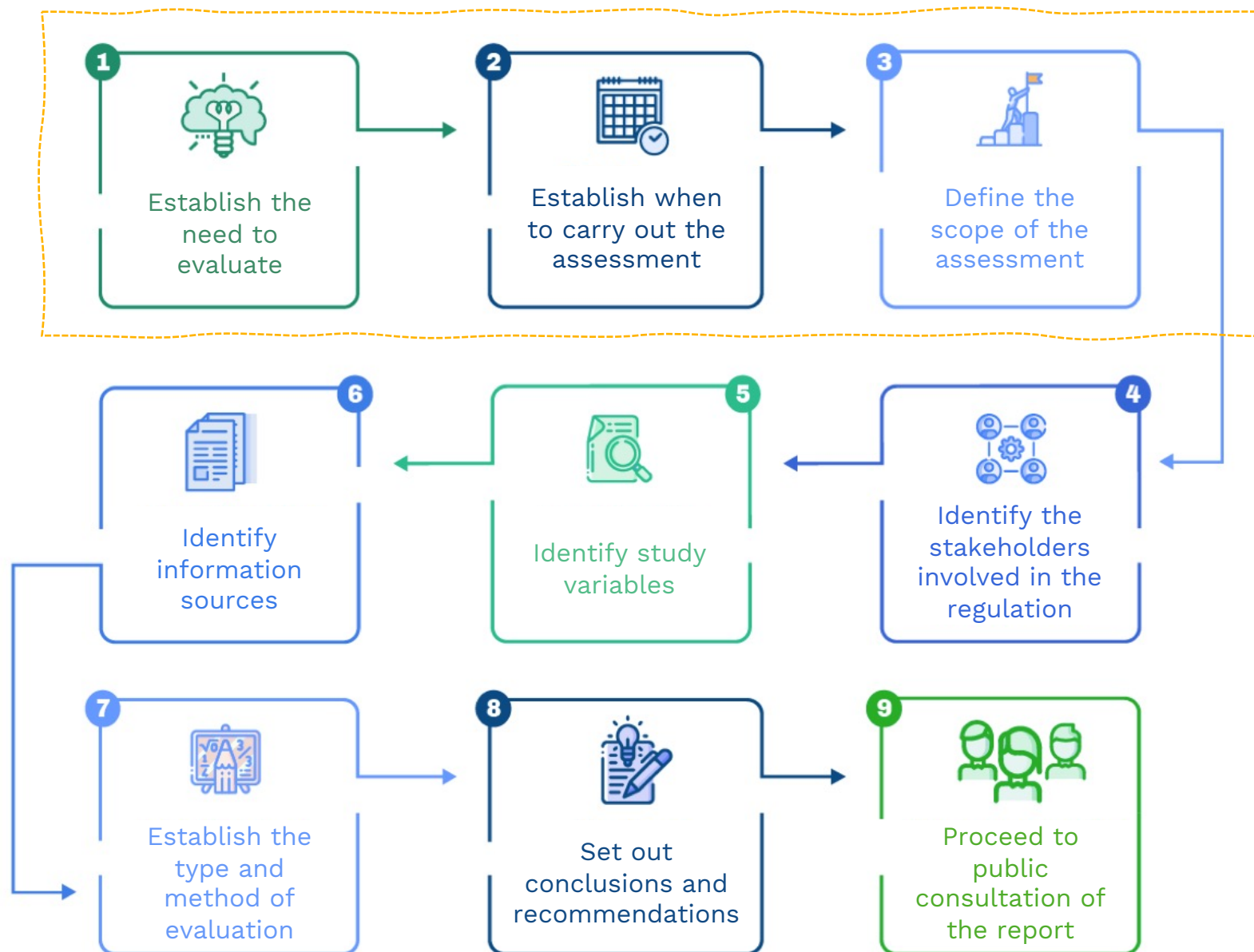


- It regulates the constitutional right of all persons to know, delete, update and rectify all types of personal data collected and stored by public and private entities.
- The evaluation will be carried out by the National Planning Department and aims to measure the efficiency and effectiveness of the regulation's performance.

Steps to carry out an evaluation

Where to start?

Preliminary considerations



Steps to carry out an evaluation

Preliminary considerations

1 Establish the needs to carry out the assessment

1



Consider regulations:

- With high economic and social impacts/effects.
- In which, per their (RIA), implementation involves high costs.

2

2 Establish when to perform the assessment



Recommended:

- 5 years after the regulation is implemented.
- 2 years if implementation has encountered difficulties.

3

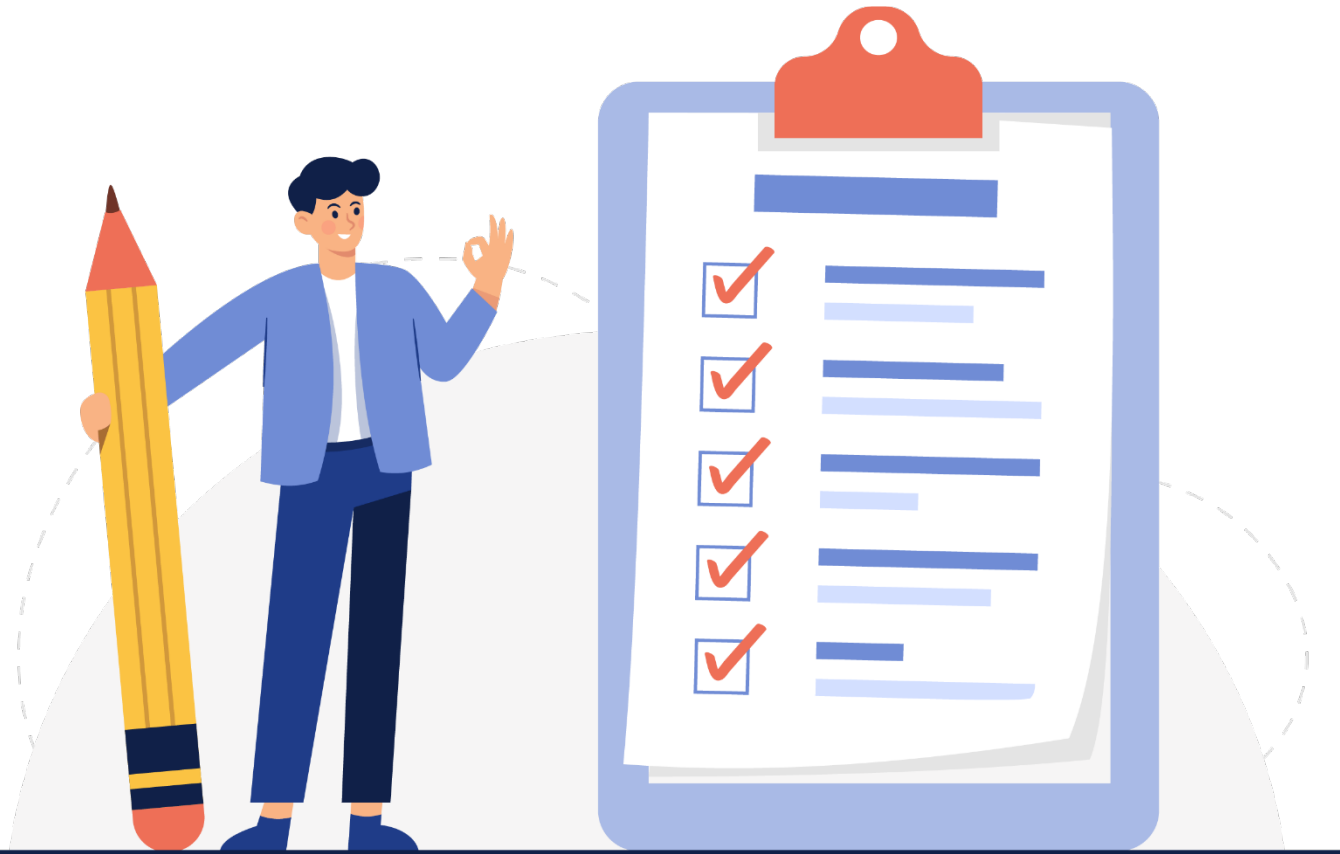
3 Define the scope of the assessment



- Evaluate the whole regulation
- Evaluate some articles
- Evaluate a set of regulations

Ex-post evaluation

Are we understanding each other?



Question 1

- Can we consider this regulation as a **high impact** one?
- Are there **risks** associated with non-compliance with the regulation?
- Has enough **time** elapsed in **implementing** the regulation to conduct an Ex-Post Evaluation?

Practical Case Study

1. Establish the need to carry out the evaluation

Decree 1377 of 2013 Protection of personal data



- The economic or social **impact** of regulation: the greater the impact —measured for example by the population affected— the greater the attention and **priority** of regulation.
- Pre-existence of **market failures**, such as asymmetry of information affecting consumers.
- There are risks associated with non-compliance of the regulation, for example, in terms of the integrity and confidentiality of **personal data**.

Practical Case Study

2. Establish when to perform the evaluation

Decree 1377 of 2013 Protection of personal data



- Over time, regulatory frameworks lose their effectiveness in solving problems.
- This regulation can be subject to an Ex Post evaluation since more than 7 years have elapsed since its entry into force.

- Where regulations have produced excessive burdens on businesses or citizens, consideration should be given to their evaluation in the short term, with the aim of mitigating their negative effects

Steps to carry out an evaluation

Preliminary considerations

3. Define the scope of the evaluation

Task: Identify regulatory objectives

What problem was the regulation looking to solve?

What policy options were considered?

What were the effects (quantitative and qualitative) of the regulation?

What is the causal relationship between the intervention and the observed effects?

Which stakeholders have been consulted?

How was the regulation implemented and evaluated?

Are there indicators for monitoring? (E.g., If there was RIA, review these indicators)



Ex-post evaluation

Are we understanding each other?

Question 2



- Does the need for state intervention stem from technological advances and digitization?
- Is the cost of regulation related to protecting the right of citizens to have their information protected?

Practical Case Study

3. Define the scope of the evaluation

Decree 1377 of 2013 Protection of personal data



Problem to be solved: Protect the personal information registered in any database or files, considering the conditions of security and privacy.



Need for state intervention: in the face of technological advances and digitization, it is necessary to incorporate the protection of the rights of information, privacy, free development of personality, free expression.



Policy Options: Decree 1377 of 2013 implements an adaptation and adoption of the European Continental Regulations, related to the privacy and personal data protection policies.

Other approaches to self-regulation through guilds and associations were considered.



Practical Case Study

3. Define the scope of the evaluation

Decree 1377 of 2013 Protection of personal data



Impacts of the regulation: According to a study carried out by the SIC, organizations have not implemented a protection policy for personal information, they do not have the necessary efficient mechanisms for the protection of their users' data against unauthorized access or security breaches.



Identification of net benefits: The benefit of regulation is to protect the right of citizens to have their information protected.

The cost is related to its implementation by the companies and the State. The SIC shows that by 2020 more than 33 thousand companies and public entities in the country neither partially nor totally comply with the measures on the protection of personal data.

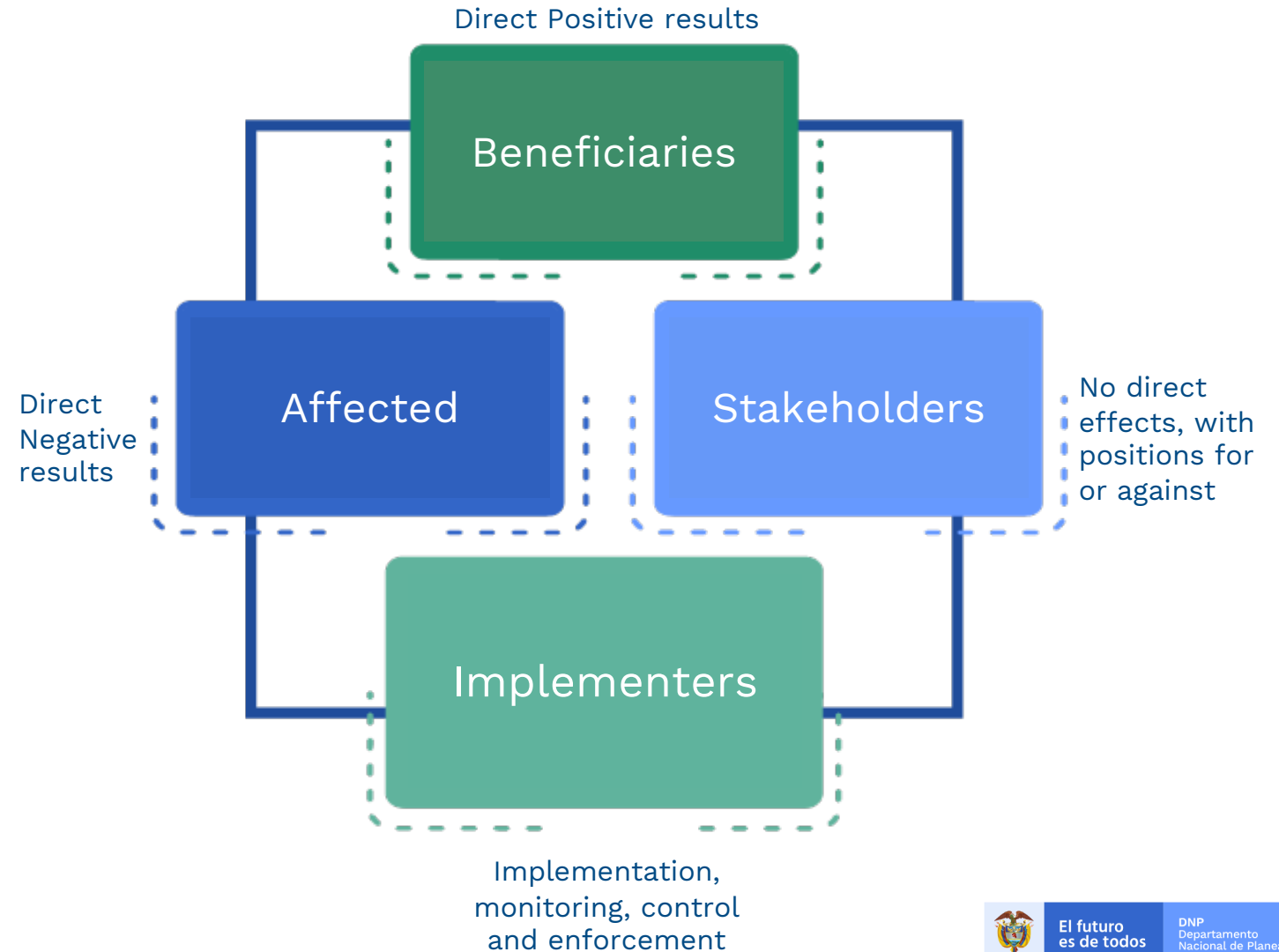
Steps to carry out an evaluation

Identify stakeholders

4



- Mapping stakeholders involved with regulation



Ex-post evaluation

Are we understanding each other?



Question 3

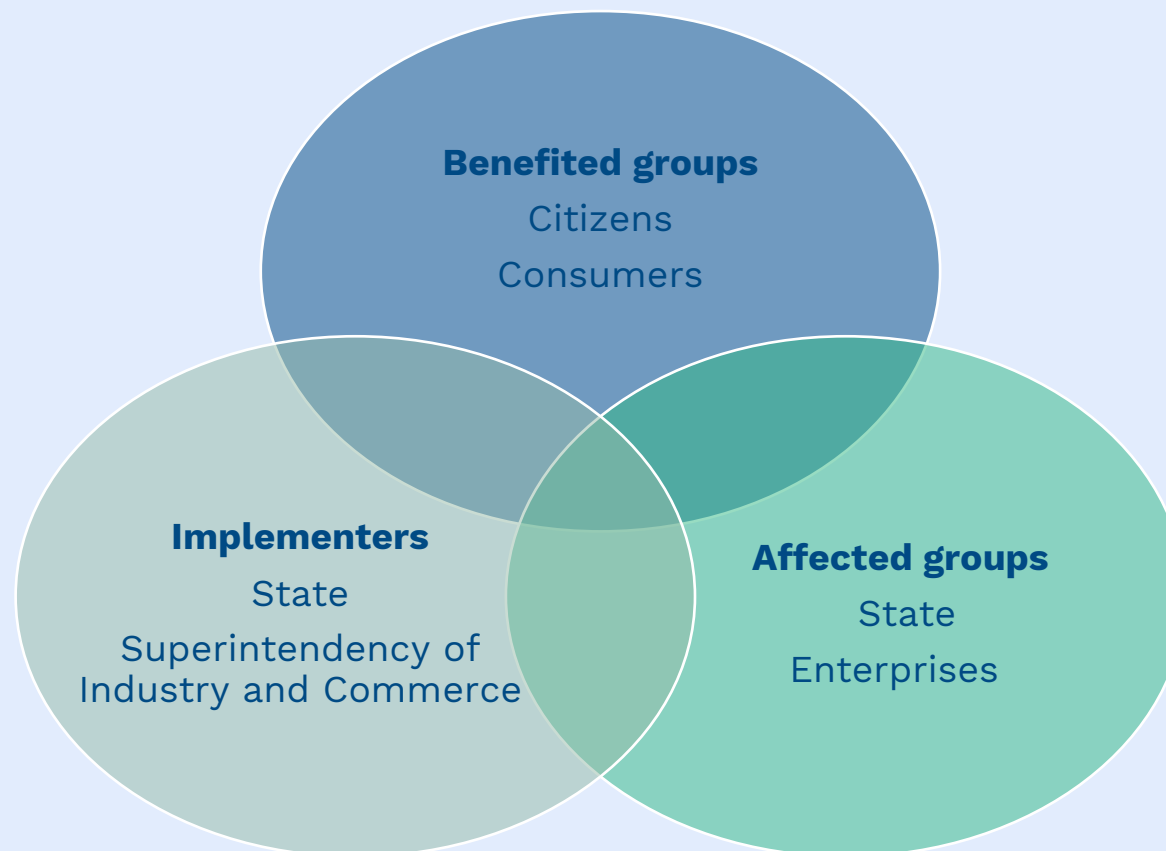
- Would the beneficiaries be citizens and consumers?
- Would the implementers be enterprises and the state?



Practical Case Study

4. Identify the stakeholders involved in the regulation

Decree 1377 of 2013 Protection of personal data



Steps to carry out an evaluation

Theory of change and definition of indicators

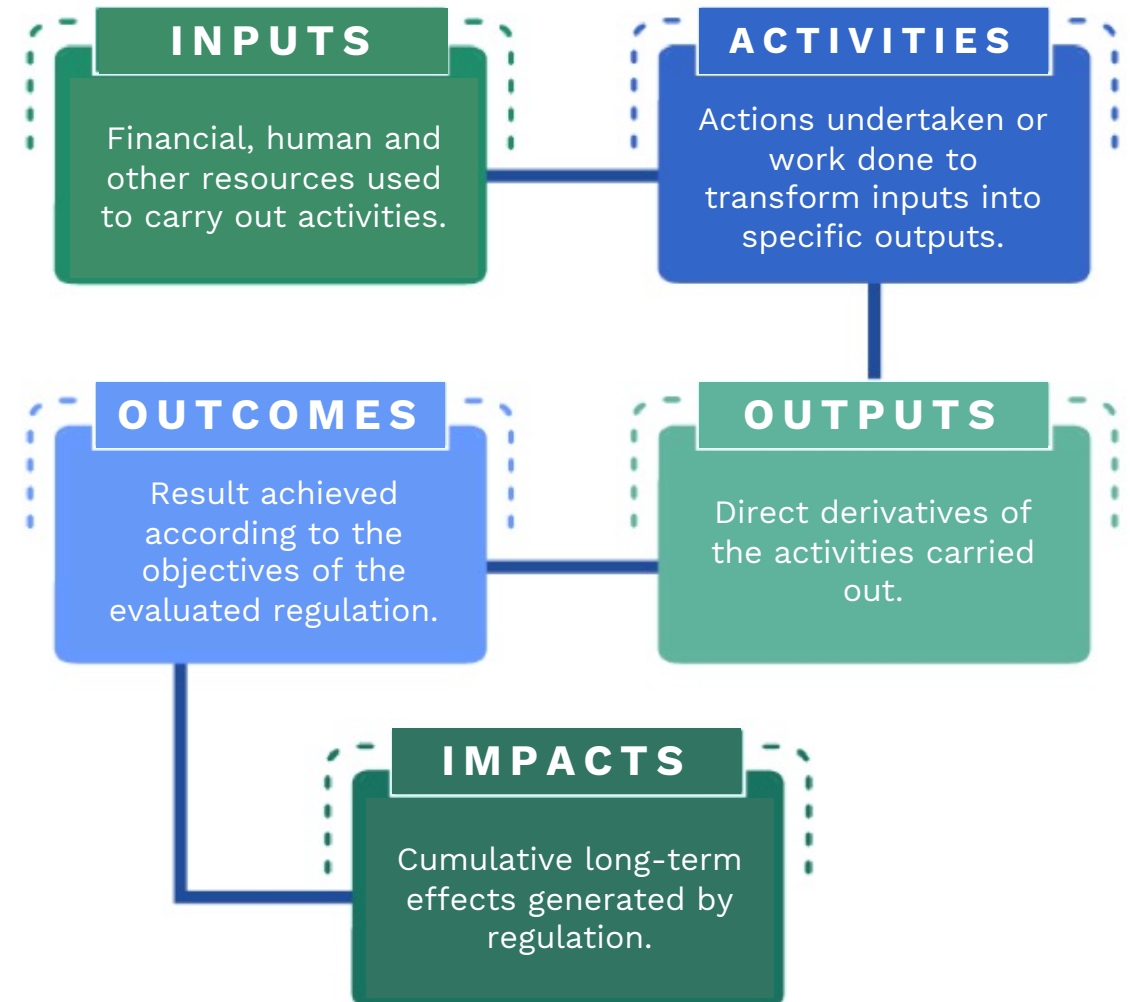
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Steps of the theory of change:

- Identify inputs
- Set activities
- Identify outputs
- Recognition of outcomes
- Determine the accumulated effects in the long term.

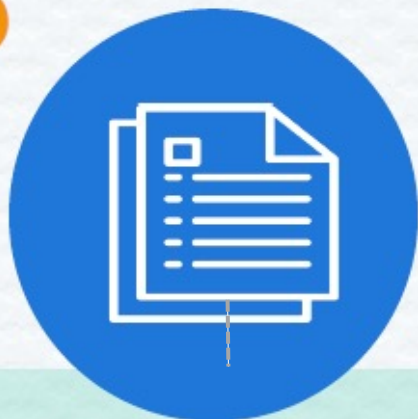
Transmission channels through which regulatory impacts occur



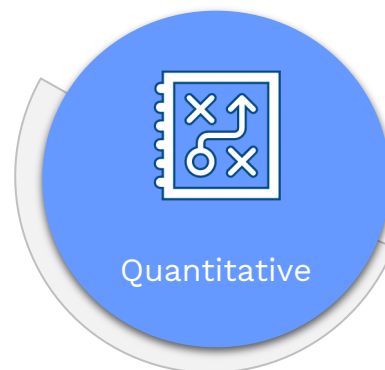
Steps to carry out an evaluation

Identification of sources of information

6



- Determine the quantitative and/or qualitative information required.
- Validation of information sources.
- Consult official or private sources.



- Official data sources (DANE, Open Data, Terridata ...)
- Data of entities involved in the evaluation
- Private sector data
- International studies



- Descriptive research
- Interviews



- Forms
- Surveys
- Probes
- Experimentation



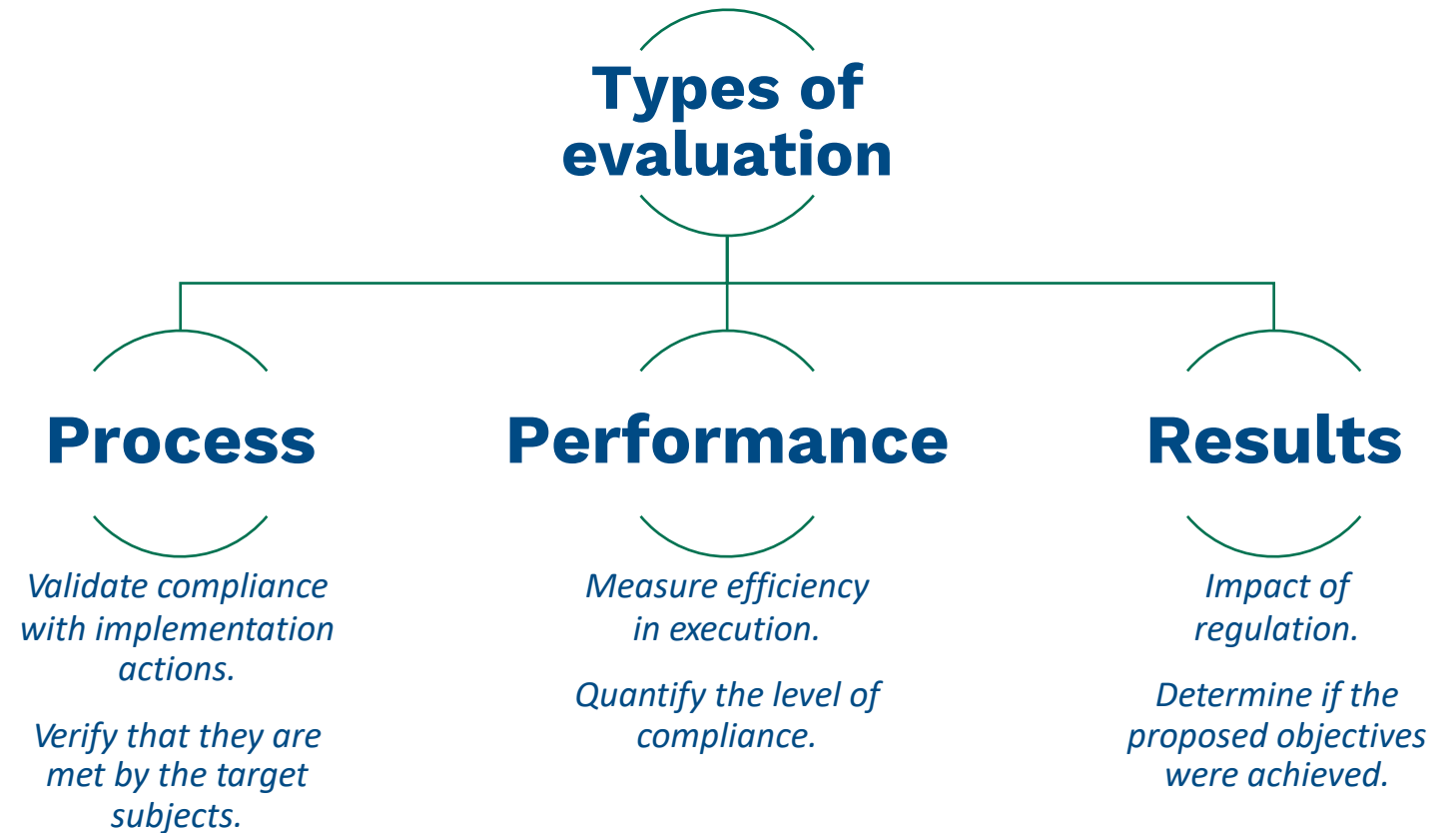
Steps to carry out an evaluation

Select the type and method of evaluation

7



- Quantitative methodologies
- Qualitative methodologies
- Combined methodologies



Steps to carry out an evaluation

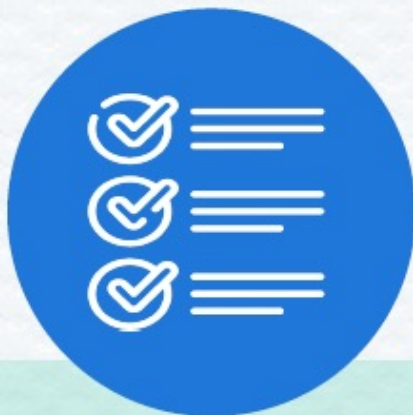
7. Select the type and method of evaluation

<p>Implementation reports</p> <ul style="list-style-type: none"> ✓ Periodic reports. ✓ Input for more robust assessment needs. 	<p>Fitness Check</p> <ul style="list-style-type: none"> ✓ Regulatory relevance in a specific sector. ✓ Strategic perspective. 	<p>Cost effectiveness</p> <ul style="list-style-type: none"> ✓ Incurred costs and achieved results. ✓ Monetizable costs. 	<p>Cost benefit*</p> <ul style="list-style-type: none"> ✓ Net benefits of regulation. ✓ Monetizable costs and benefits.
<p>“Traffic light” Method - TLSM</p> <ul style="list-style-type: none"> ✓ It makes it possible to identify opportunities for simplification at bureaucratic level. ✓ It incorporates elements of "cost benefit". 	<p>Multi-criteria analysis</p> <ul style="list-style-type: none"> ✓ Possibility to quantify non-monetizable benefits. ✓ Construction of participatory criteria. 	<p>Agile Impact Assessment - RIE</p> <ul style="list-style-type: none"> ✓ Based on expert concepts (by interest group). ✓ Counterfactual analysis. 	<p>Impact assessments</p> <ul style="list-style-type: none"> ✓ Causal effect. ✓ Statistical techniques. ✓ They require greater technical capacity, time and resources.

Steps to carry out an evaluation

Evaluation report and conclusions.

8



- Present the results clearly and simply.
- Be transparent about the results, information, assumptions and methods used.

The conclusions of the evaluation can be oriented in three directions:

1

Maintain the regulation when it is evident that the issued regulations are sufficient and the results obtained positive.

2

Its **adjustment** when the need to maintain regulation is evident and opportunities for improvement have been identified.

3

The **elimination** of regulation, if its ineffectiveness or impertinence is evident.



Steps to carry out an evaluation

9. Public consultation of the report

1. Planning

- Formulating the objectives of the public consultation
- Identification of stakeholders
- Design and preparation of the methodology
- Definition of communication channels and strategy



2. Development of the evaluation

- Publication of the input
- Promotion of participation



3. Analysis of results and response

- Collection and analysis of results
- Response to citizens and/or stakeholders

