DRAFT/DELIBERATIVE: Template for Reviewing Regulatory Analyses.

Title: Payday, Vehicle Title, and Certain High-Cost Installment Loans
RIN: 3170-AA40
Publication Date:

Sec. 1022 (and GIPRA):

1. ***Universe –*** Does the analysis assess the costs and benefits to persons identified by the Act, including consumers, covered persons, 1026 covered persons, and consumers in rural areas?

   Yes.

2. ***Content –*** Does the analysis assess the potential loss of access to consumer financial products and services?

   Yes.

Cost-benefit analysis best practices (based on OMB Circular A-4):

3. ***Is there a clear statement of the problem the rule is intended to address?***

   Yes. The rule discusses potential market failures.

4. ***Does the analysis identify a market failure?***

   Yes. The analysis contends that consumers lack sufficient information to reliably estimate the length of time they will be in debt. The primary study they use to justify this claim shows that, of people who experience very extended periods of indebtedness, few of them anticipated they would be in debt for that long. The author of the study commented on the proposed rule with data showing that the broader universe of payday borrowers reliably approximates the length of time they would be in debt. The Bureau rejected the authors' analysis and felt the appropriate measure was to limit the scope of the market failure question to those that experienced extended delays.

5. ***Does the analysis present evidence of a market failure?***

   The evidence surrounding the reliability of consumers predictions of how long they would be in debt is discussed at length.

6. ***Does the analysis define an appropriate baseline? Does it use the baseline consistently?***

   Yes.

7. ***Does the analysis define an appropriate time horizon?***

   No. The Bureau didn't do an extended analysis over time.

Commented [A1]: To be fair to the Bureau, this is an incredibly difficult CBA to do right. Getting it right would require information about demand elasticities, cross-elasticities with substitute products, and estimates of harm associated with a broad array of bad outcomes that occur when someone is down on their luck. This strikes me as an issue that needs a large scale simulation program or modeling that would take years to build.

That said, the analysis fails to take even small steps to improve the analysis, such as aggregating upfront and marginal cost estimates, monetizing already estimated labor time estimates, and doing the same for the alternatives identified. There is no formal treatment of uncertainties though they clearly exist, like living expenses in the residual income assumptions used to determine how many borrowers had positive net revenues.

The analysis lacks transparency. How basic cost estimates were derived are mysteries, and the "simulations" the agency did are a black box.

The market failure argument is tighter than usual, and will find some economists sympathetic to it, while surely others would disagree.

Other usual problems apply.

On the other hand, the agency did a better job discussing the academic evidence than usual.

Commented [A2]: This is like justifying a market failure by looking only at 1 star reviews on a five star scale.

8. ***Does the analysis identify a range of regulatory alternatives, including potential alternatives to regulation? What alternatives to regulation were identified (such as additional enforcement)?***

   Some alternatives are identified. These are: limits on re-borrowing covered short-term loans without an ability-to-repay requirement; an ability-to-repay requirement for short-term loans with no principal step-down approach; disclosures as an alternative to the ability-to-repay requirement; and limitations on withdrawing payments from borrowers' accounts without such disclosures.

9. ***Are benefits connected to market failure?***

   The benefits identified are connected with the stated market failure regarding unanticipated length of indebtedness.

10. ***Does the analysis assess the potential effectiveness of the regulation?***

    The rule does assess the extent to which the rule would prevent extension of this type of credit – which is an incomplete assessment of effectiveness. Ideally, an analysis would identify a broad measure of harm (cost to consumers) and assess the extent to which it is reduced when credit is restricted. (E.G. bankruptcies, late fees, defaults, cost of credit, etc.)

11. ***Does the analysis correctly identify and account for costs, benefits, and transfers for each alternative? Does it explicitly identify and account for impacts on credit access and availability?***

    A textbook approach to a cost benefit analysis of this involve evaluating the consumer surplus of this type of credit and evaluating the unanticipated cost of credit that consumers do not account for when they enter into the transaction. The net benefit maximizing rule would shift production quantities to the point where marginal costs plus unanticipated costs equal marginal benefits. The Bureau's analysis does not contemplate nor approximate this approach. It does not evaluate whether the ATR/principal-step-down requirements better approach this efficient quantity than a disclosure standard or other alternative.

    Some transfers are identified as benefits to consumers (e.g. reductions in late fees), without qualification they would be offset as losses elsewhere.

    The analysis does identify compliance costs associated with the rule, though it excludes any deadweight loss discussion associated with the regulatory "tax."

    Access is analyzed, but it is highly confusing. In some parts of the analysis, the Bureau estimates vast reductions in loan volume and revenue, but then they state that only 5-6% of borrowers would lose access to payday loans.

12. ***Are costs, benefits, and transfers quantified for each alternative? Does it explicitly identify and account for impacts on credit access and availability?***

    Some cost estimates/assumptions are identified on a per-unit or per-firm basis. They are not aggregated.

    The Bureau claims they ran simulations, but the model specifications and results are not transparent. It isn't clear whether they have probability distribution functions and have run monte carlo estimates, or whether they've simply looked at a pool of loans and crossed out ones that wouldn't satisfy the rule. It doesn't seem as though any simulation takes into account behavioral responses (such as reduced loan amounts to meet the standard).

    Cost and benefit estimates are not assessed for alternatives.

    The analysis does a pretty good job at summarizing available evidence on whether payday lending is a net good or a net harm, but that evidence is decidedly mixed.

13. ***Are costs, benefits, and transfers monetized for each alternative? Does it explicitly identify and account for impacts on credit access and availability?***

    No.

14. ***Are future costs and benefits discounted to present value using appropriate rates?***

    Nothing to discount.

15. ***Does the analysis identify key sources of uncertainty?***

    No.

16. ***Does the analysis conduct sensitivity analyses for sources of uncertainty?***

    No.

17. ***Was the analysis put out for public comment prior to finalizing?***

    Yes.

18. ***The following questions should be included in a thorough evaluation, but are more difficult, time-consuming, and/or less-objective: Is the analysis transparent and reproducible? Is it transparent in its assumptions? Does it rely on the best available science and evidence? Does it comply with data quality standards?***

Commented [A3]: The analysis at time suffers from lack of transparency.