Regulators ensure access to key markets and sectors that deliver essential services to citizens and businesses. They monitor quality, facilitate infrastructure management and enhance market efficiency. Whether trains run on time, there is clean water in the tap, lights switch on or the broadband is working hinges also on the work of these bodies operating at the interface between public authorities, the private sector and end-users. These different stakeholders have powerful incentives to influence regulatory policies. The fundamental question is how to limit undue influence, allowing the regulator to act objectively, impartially, and consistently, without conflict of interest or bias.

Formal or de jure governance arrangements matter for protecting regulators from undue influence. Data on the independence of regulators in network sectors was gathered as part of the OECD’s product market regulation (PMR) database. The indicator captures the formal structures that insulate the regulator from undue influence, including whether a regulator can receive instructions from the executive, whether its independence is stated in law, which bodies can overturn its decisions and how staff are recruited and dismissed. Scores vary from 0 to 6, from the most to the least independent governance structure. Data show that, while most regulators are formally independent, there is a fair degree of variety in institutional set-ups. Despite the formal independence, it is common that government performs a corrective or checking function and provides guidance and instructions to the regulator. For example, the German Bundesnetzagentur displays the highest independence across the electricity, gas and telecom sectors, as it only receives instructions from the government in exceptional circumstances and its decisions can be appealed in court exclusively in the final instance. How formal arrangements are translated into practice can have a significant impact on a regulator’s independence. Data on these practices were gathered through a survey that addressed the organisational, relational and contextual aspects informing the actual behaviour of regulatory agencies. Results show that there are critical junctures in the life of a regulator where perceptions of proximity or dependence could impair their capacity to act independently. One of these critical junctures is the nomination of the board or agency head. For most regulators, the executive nominates the board members. The nomination can be made by the cabinet, the prime minister or sector ministries. Only in the case of six regulators, e.g. the Mexican telecommunications regulator, there is a selection committee (either fully independent or composed of government and independent members) to nominate candidates to the board. The appointment process appears more transparent. For nine regulators, e.g. the Energy Regulatory Commission of France, the nominee has to undergo parliamentary hearings and a formal vote of parliamentary committees.

**Methodology and definitions**

PMR data on the independence of regulators in six network sectors (electricity, gas, telecom, railroad transport infrastructure, airports and ports) were gathered in 2013 through a questionnaire including around 300 questions on regulatory management practices. The data coverage for these questions is 90% and for many countries 100%. Countries with rather low data coverage include Japan (35%), Luxembourg (46%) and Canada (58%), typically because questions were not answered for all sectors. More information on the PMR database can be found at [www.oecd.org/eco/pmr](http://www.oecd.org/eco/pmr).

Data on the practical aspects of independence of regulators were gathered in 2015 through a questionnaire on de facto arrangements. Results are presented here for 44 regulators from 23 countries, including regulators from 19 OECD countries (Australia, Austria, Canada, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Mexico, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom), 3 accession countries (Colombia, Lithuania and Russia) and South Africa. Network sectors covered included energy (33%), transport (13%), communications (15%), water (6%) and payment services (2%). More information on the survey can be found at [www.oecd.org/gov/regulatory-policy/independence-of-regulators](http://www.oecd.org/gov/regulatory-policy/independence-of-regulators).

**Further reading**


**Figure notes**

4.1: When data for a certain sector is missing (either because the country didn’t supply the data or no regulator exists for a specific sector), the average across all other countries is used. In the following cases no economic regulator exists: gas (Iceland), rail (Chile, Iceland, New Zealand), airports (Germany, Japan), ports (Belgium, the Czech Republic, Finland, Germany, Hungary, Ireland, Japan, New Zealand, Norway, Poland, the Slovak Republic, Sweden, the United Kingdom). Data for Latvia and the United States are not available.

4.2: No information on the nominating authority for 13 regulators.

Further information on data for Israel: [http://dx.doi.org/10.1787/888932315602](http://dx.doi.org/10.1787/888932315602).
4. INSTITUTIONS

Special feature: Institutions and practices for protecting regulators from undue influence

4.1. Independence of regulators in six network sectors, 2013

Least independent

Most independent


StatLink: http://dx.doi.org/10.1787/888933532542

4.2. Authority nominating the board/head of the regulator, 2015


StatLink: http://dx.doi.org/10.1787/888933532561

4.3. Authority appointing the board/head of the regulator, 2015


StatLink: http://dx.doi.org/10.1787/888933532580