



# INDEPENDENCE OF (ENERGY) REGULATORS: GLOBAL TRENDS AND OECD GUIDANCE

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# Outline

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1. OECD sources, data and guidance

2. Global trends

3. Case studies

4. What's next?



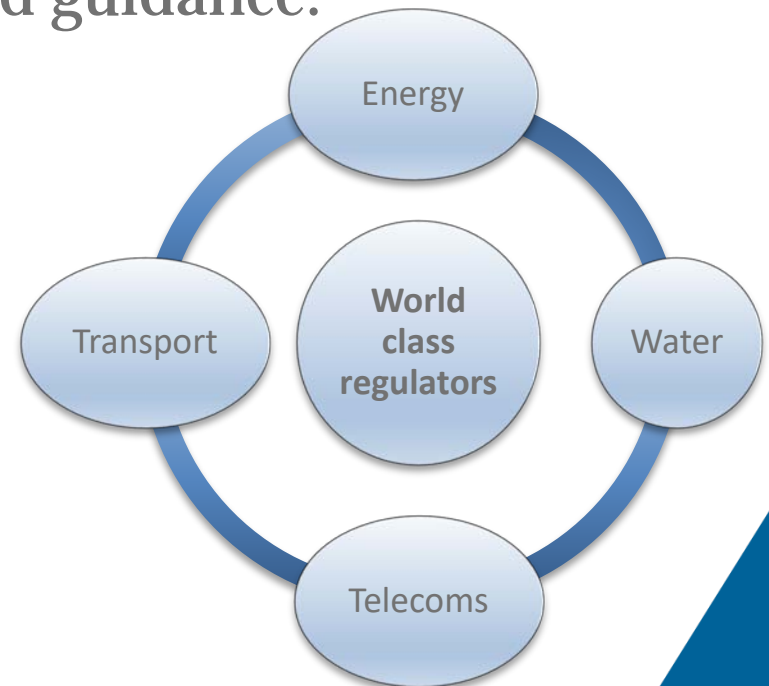
# 1. OECD sources, data and guidance



# OECD Network of Economic Regulators (NER)

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- Brings together over 70 regulators across sectors, 30 countries and regions of the world.
- Open forum that promotes dialogue, shares good practices, generates analysis and guidance.
- Work on cross-cutting areas:
  - Performance
  - Governance
  - Independence
  - Behavioural insights
  - Market transformation
  - Emerging technologies



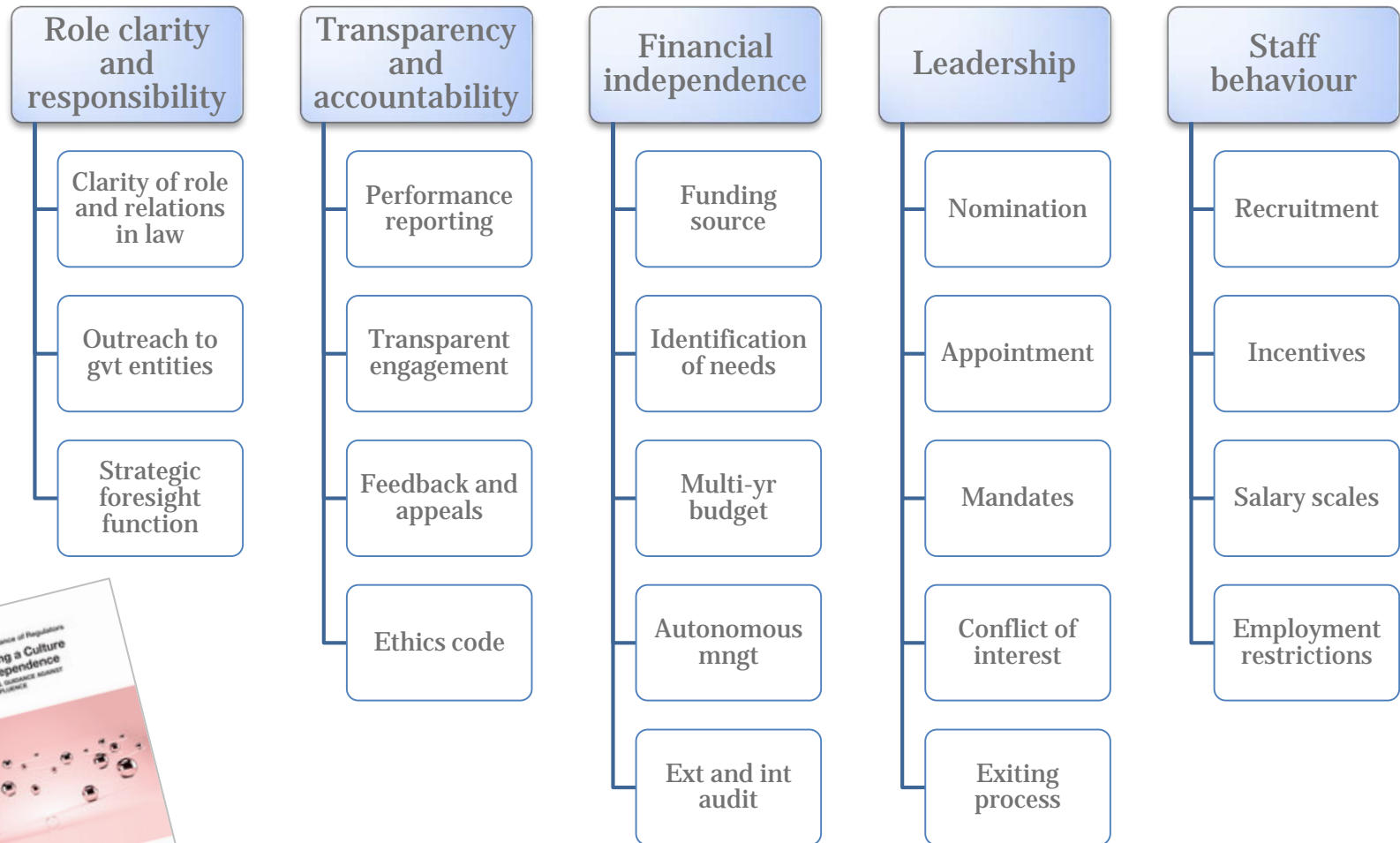


# OECD and regulators: Normative frameworks, broad global trends and in-depth studies





# Practical guidance by the OECD for creating a culture of independence (2017)



Source: OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, OECD Publishing, Paris.



# Governance of Regulators Indicators – Product Market Regulation database (2018)

77 questions on 3 topics:

Five sectors: energy, e-communications, air transport, rail transport, water

130 regulators from 38 countries

10,000 responses processed by the Secretariat

Latin American participants: Brazil, Argentina, Chile, Mexico (to come: Costa Rica, Colombia, Peru)



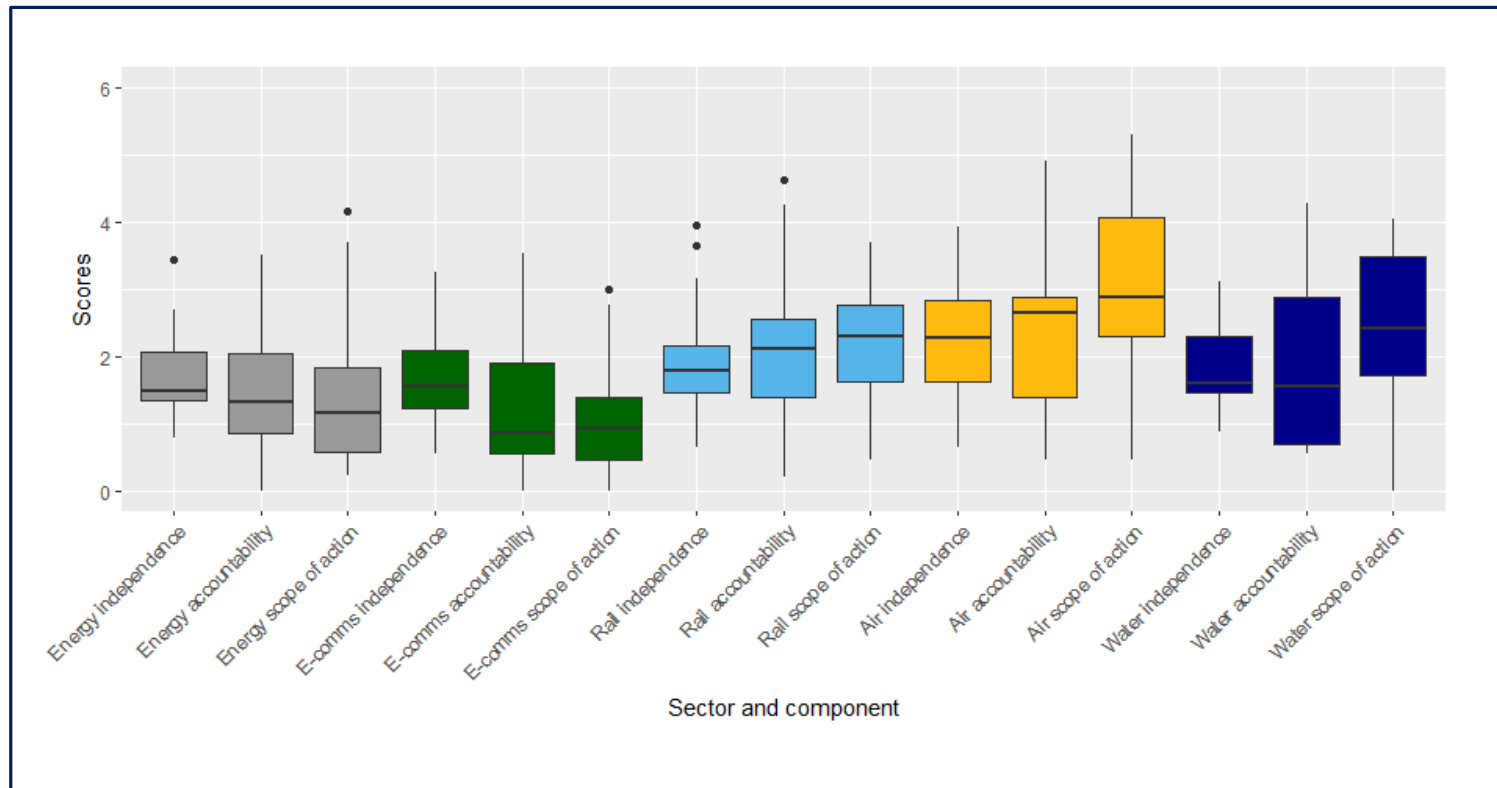


## 2. Global trends: independence of regulators





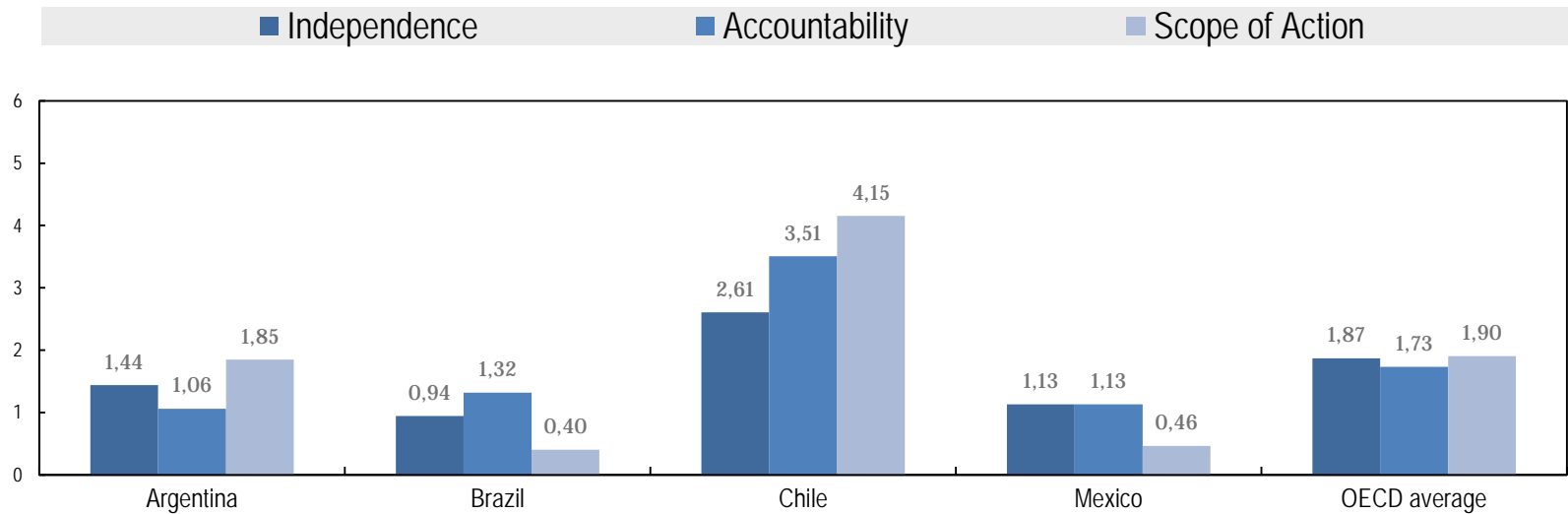
# There is more convergence on independence than other indicators





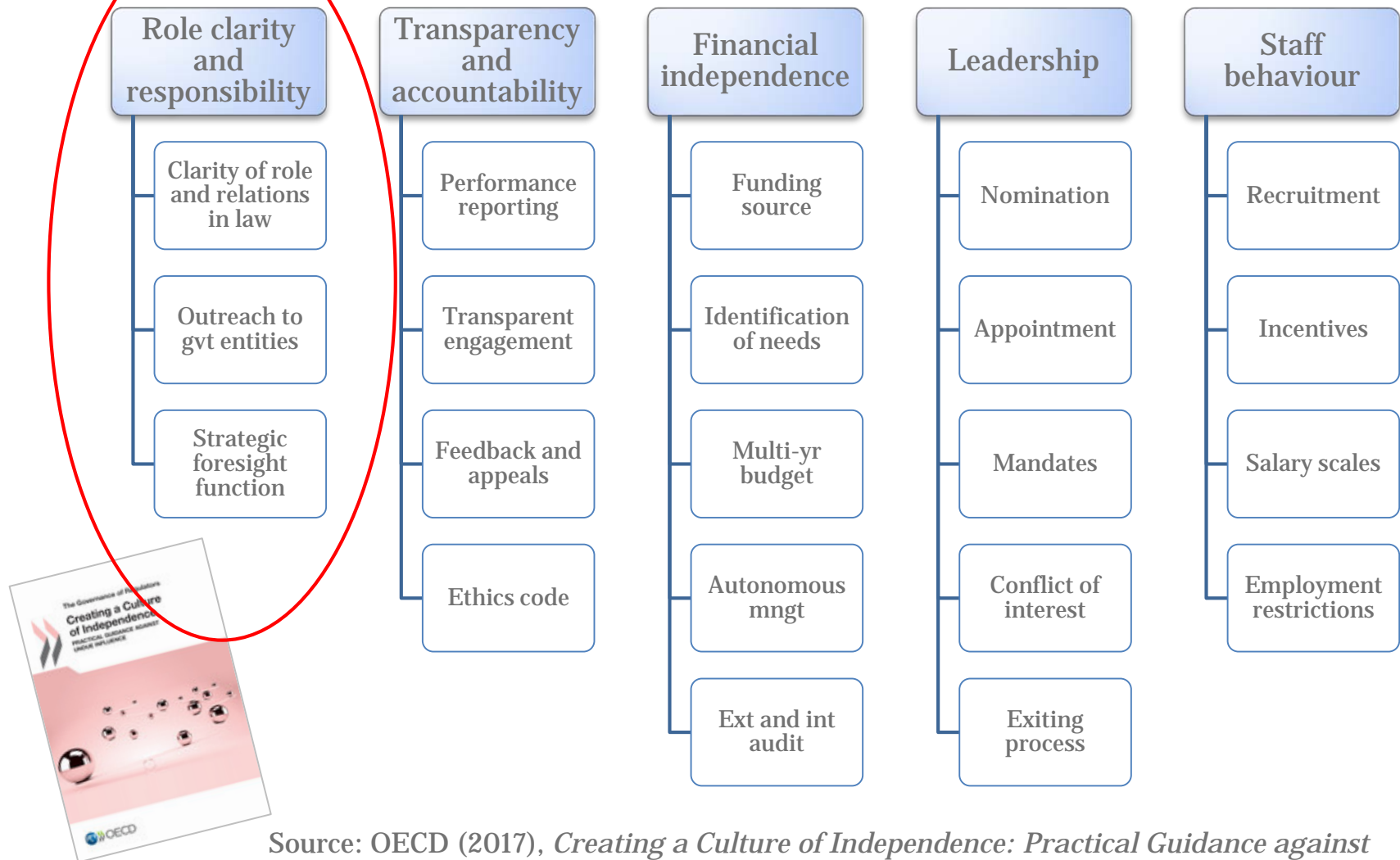
# Energy regulators Arg, Bra, Mex “do better” than OECD average

## Average independence, accountability, scope of action indicators





# Practical guidance by the OECD for creating a culture of independence (2017)

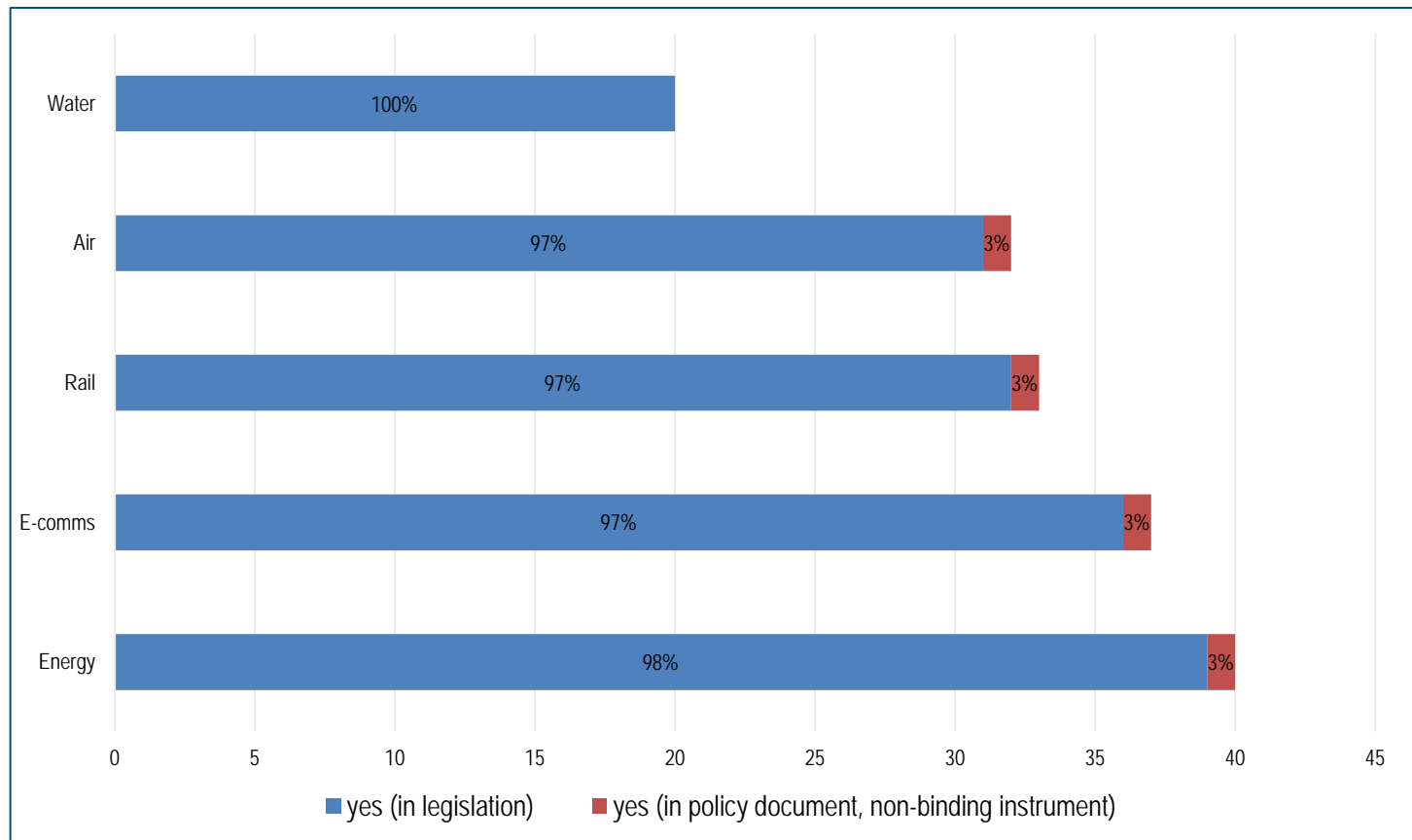


Source: OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, OECD Publishing, Paris.



# Role clarity is ensured by legislation in most cases

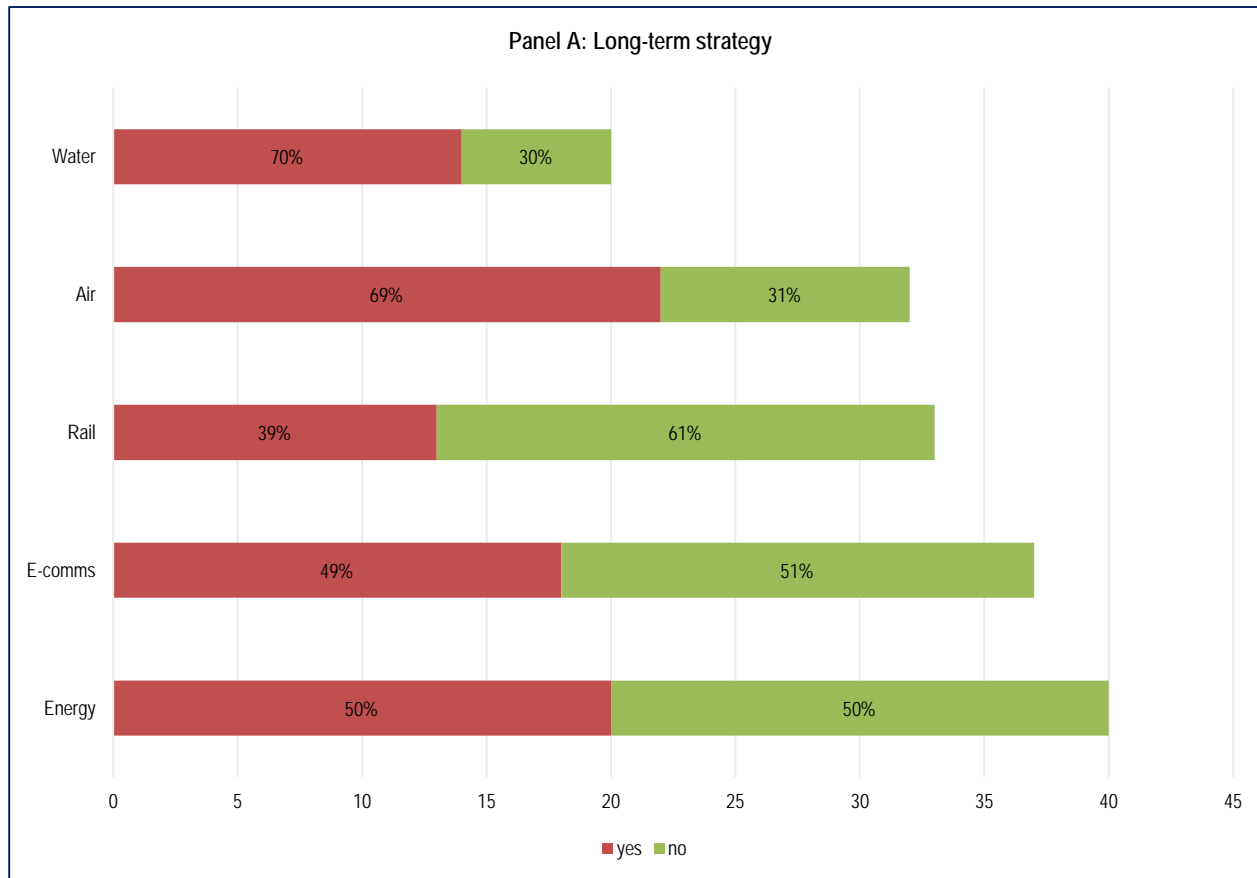
**Question: Are the objectives and functions of the regulator defined?**





# 1/2 of energy regulators receive government guidance on strategy...

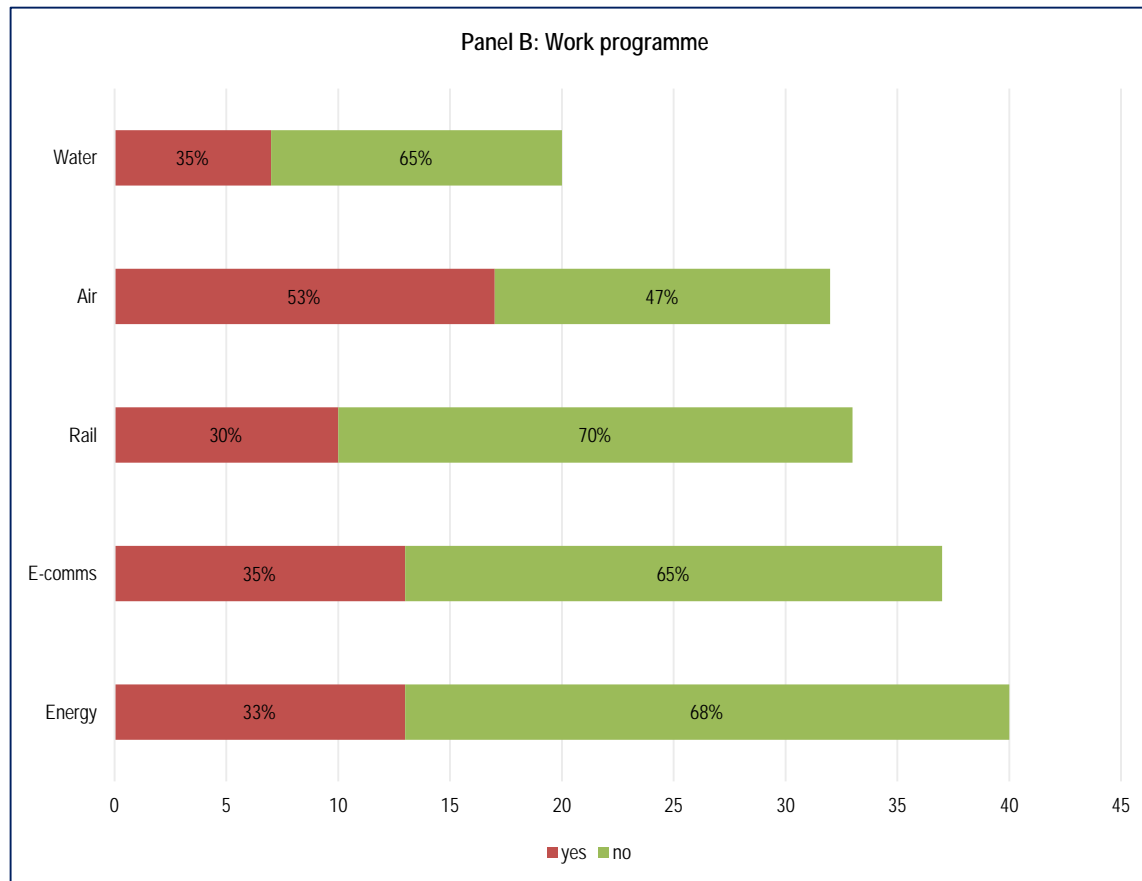
**Question: Does the regulator receive guidance from the government?**





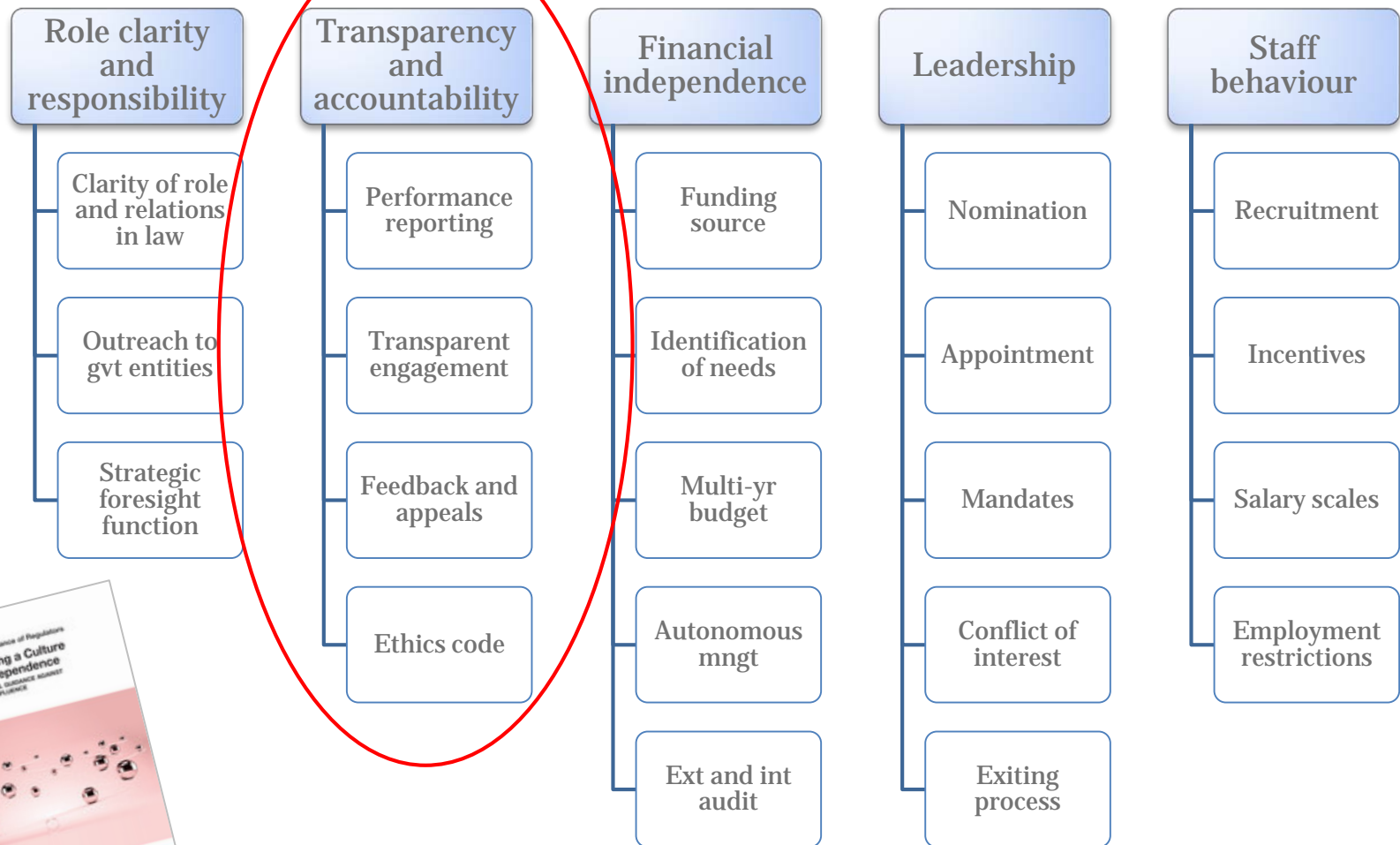
# .. fewer on their work programme

**Question: Does the regulator receive guidance from the government?**





# Practical guidance by the OECD for creating a culture of independence (2017)

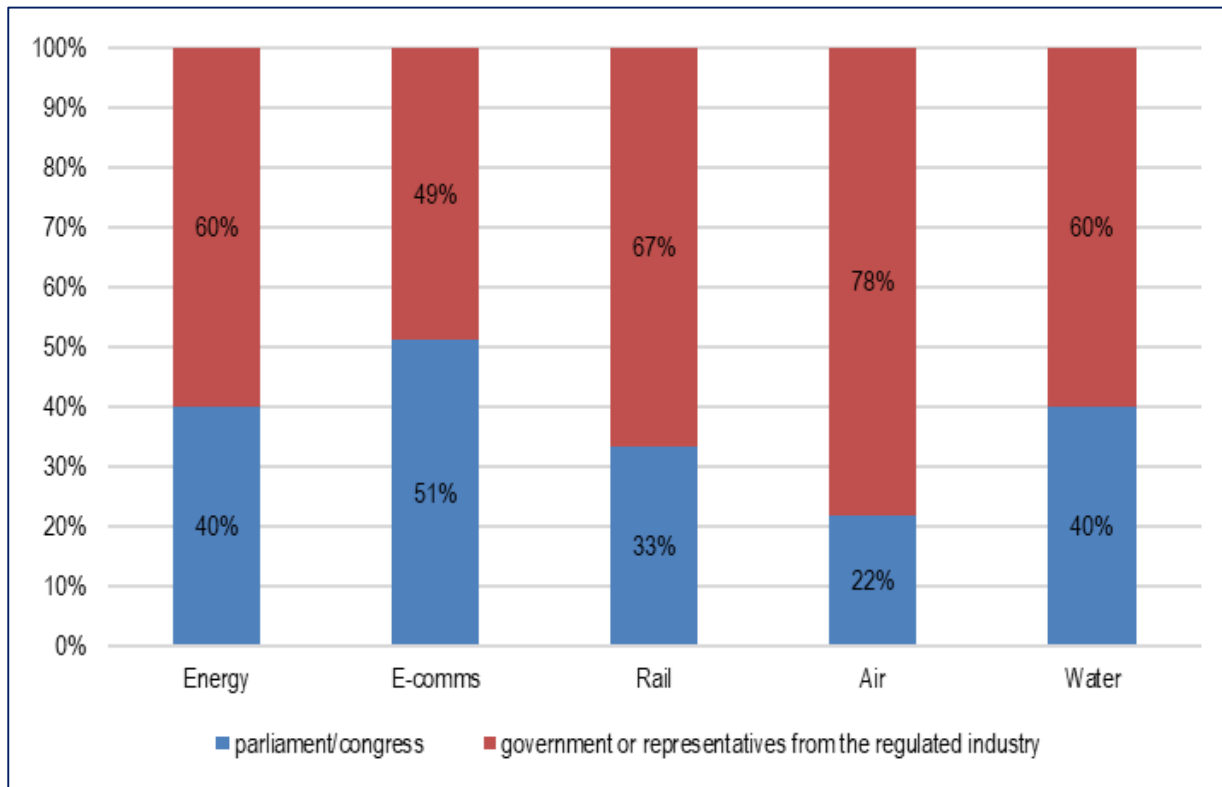


Source: OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, OECD Publishing, Paris.



# Most regulators are accountable to government (the executive)

**Question: To whom is the regulator directly accountable by law or statute?**

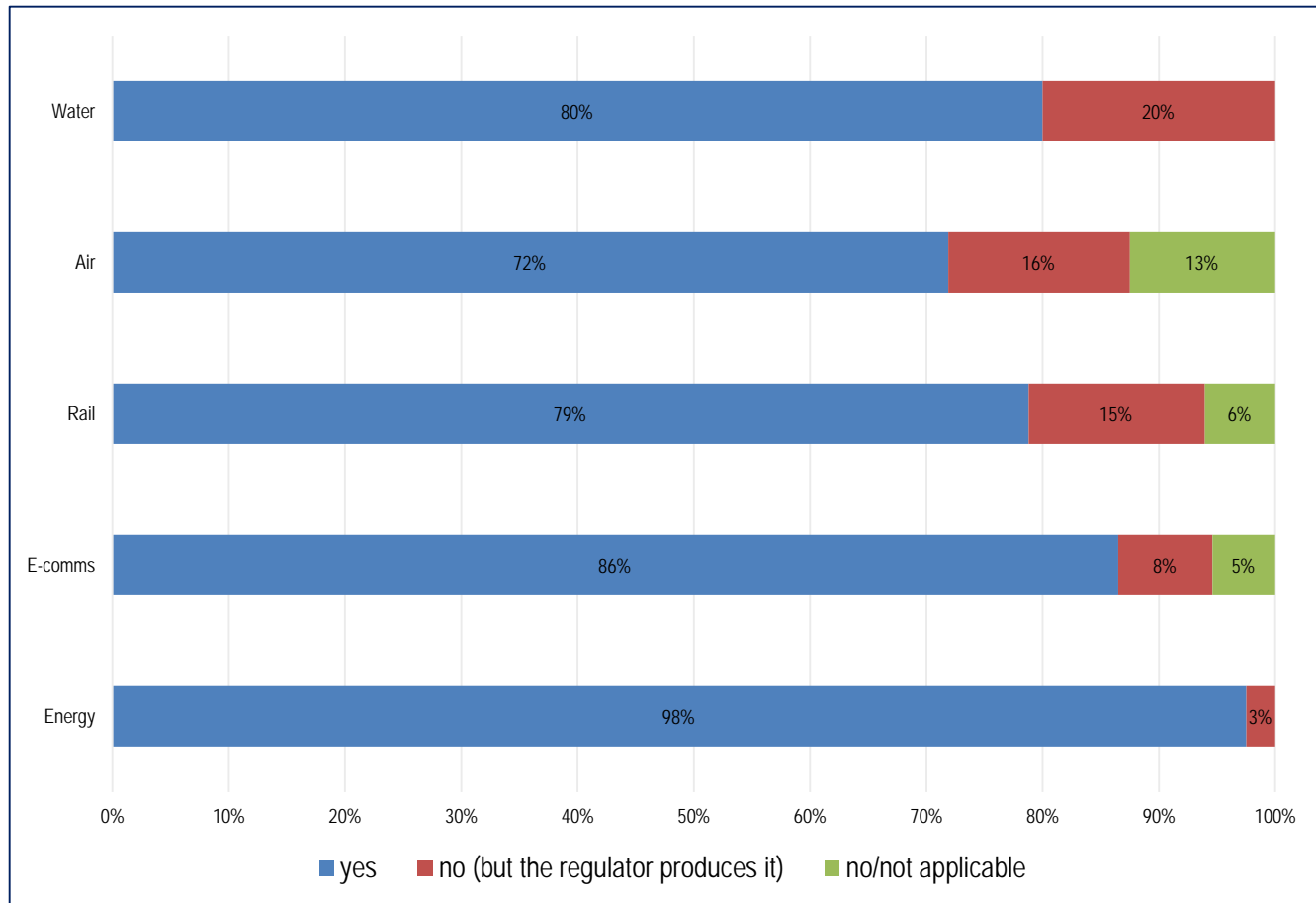






# Regulating means ... reporting

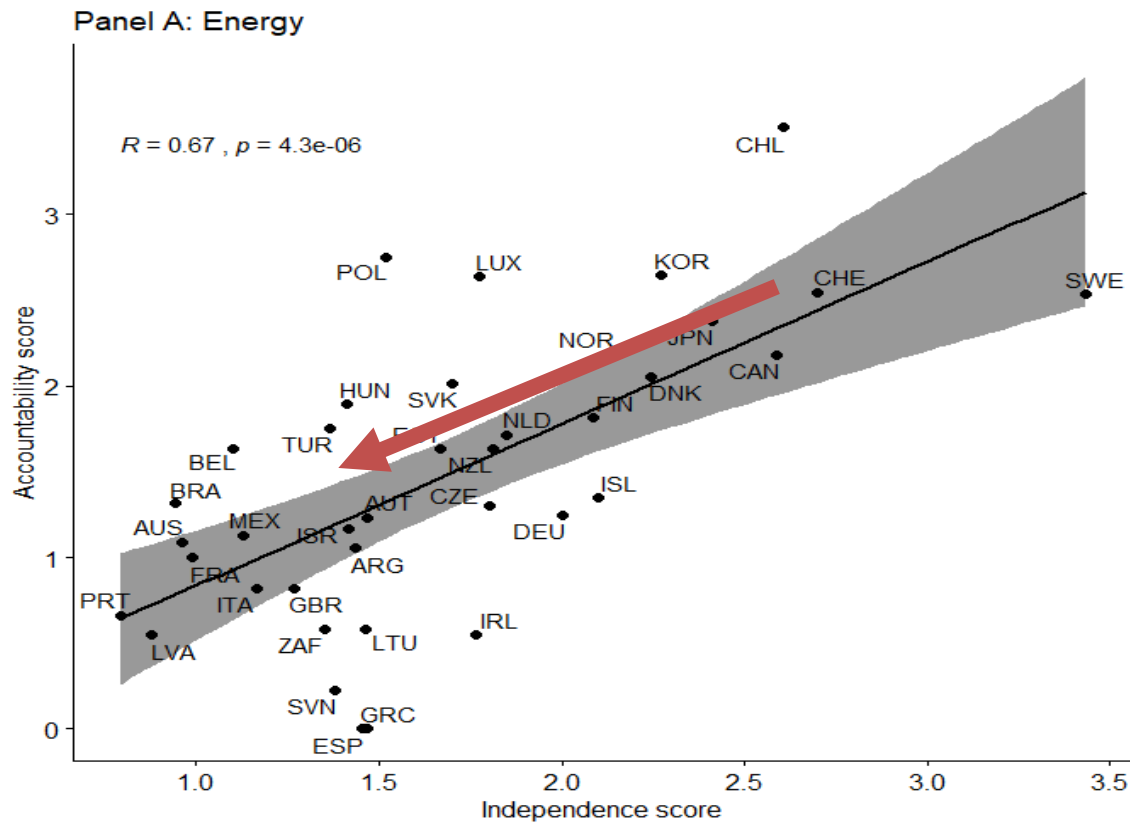
**Question: Is there a legislative requirement for the regulator to produce a report on its activities on a regular basis?**





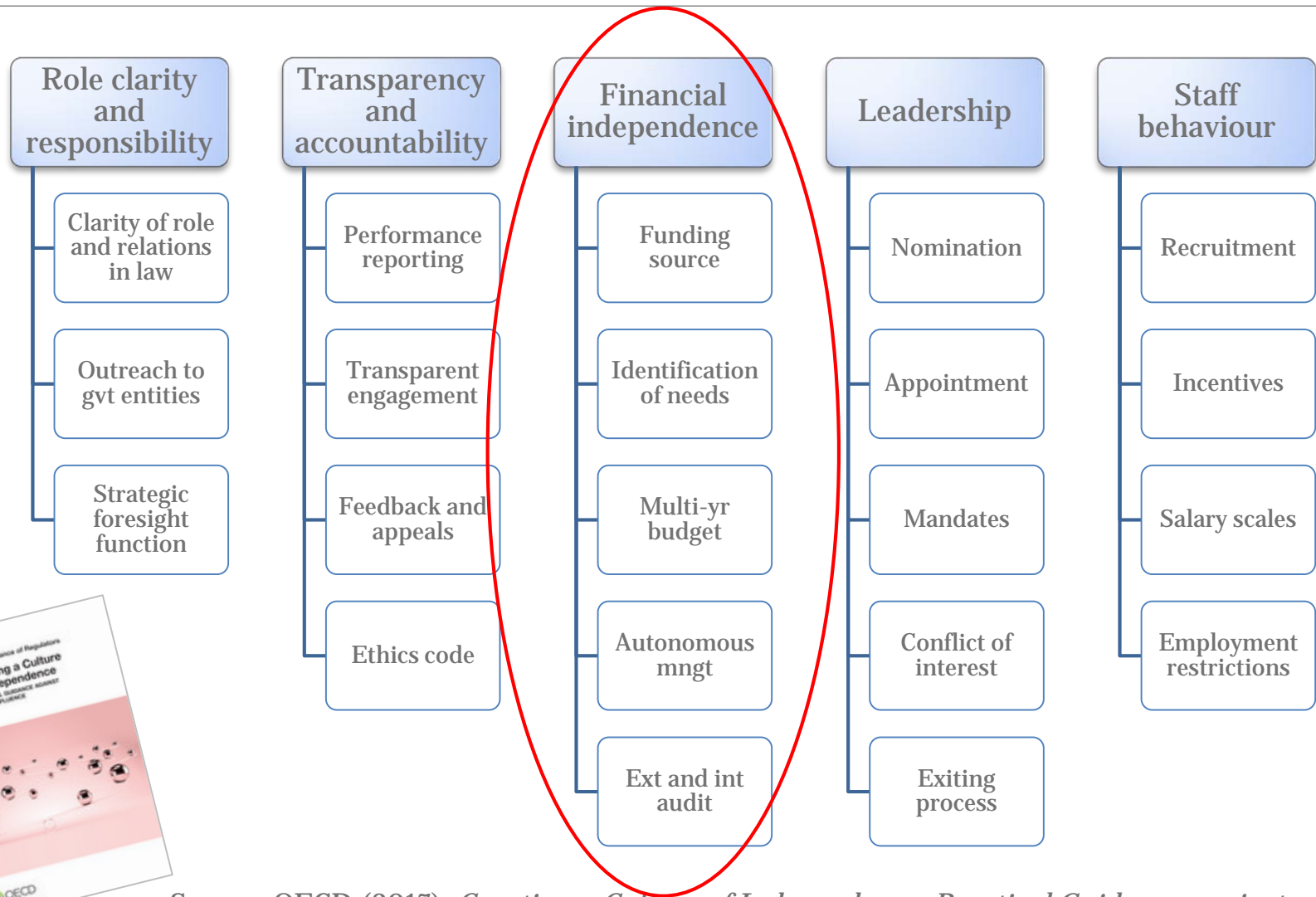
# Greater autonomy is linked to stronger accountability

**Correlations between independence and accountability scores show that greater autonomy is associated with stronger accountability structures**





# Practical guidance by the OECD for creating a culture of independence (2017)

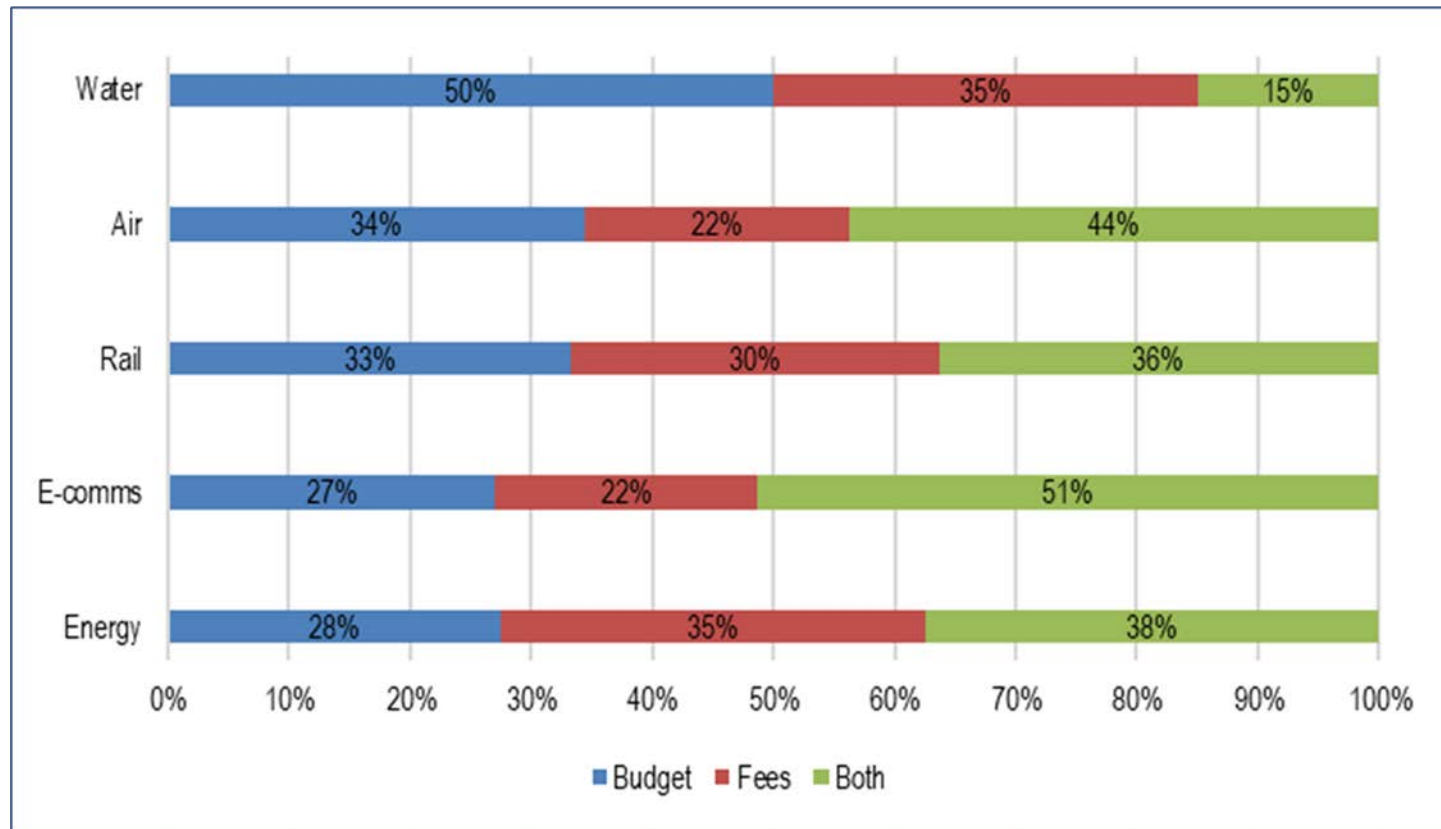


Source: OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, OECD Publishing, Paris.



# Energy and telecoms regulators are least dependent on gvt funding

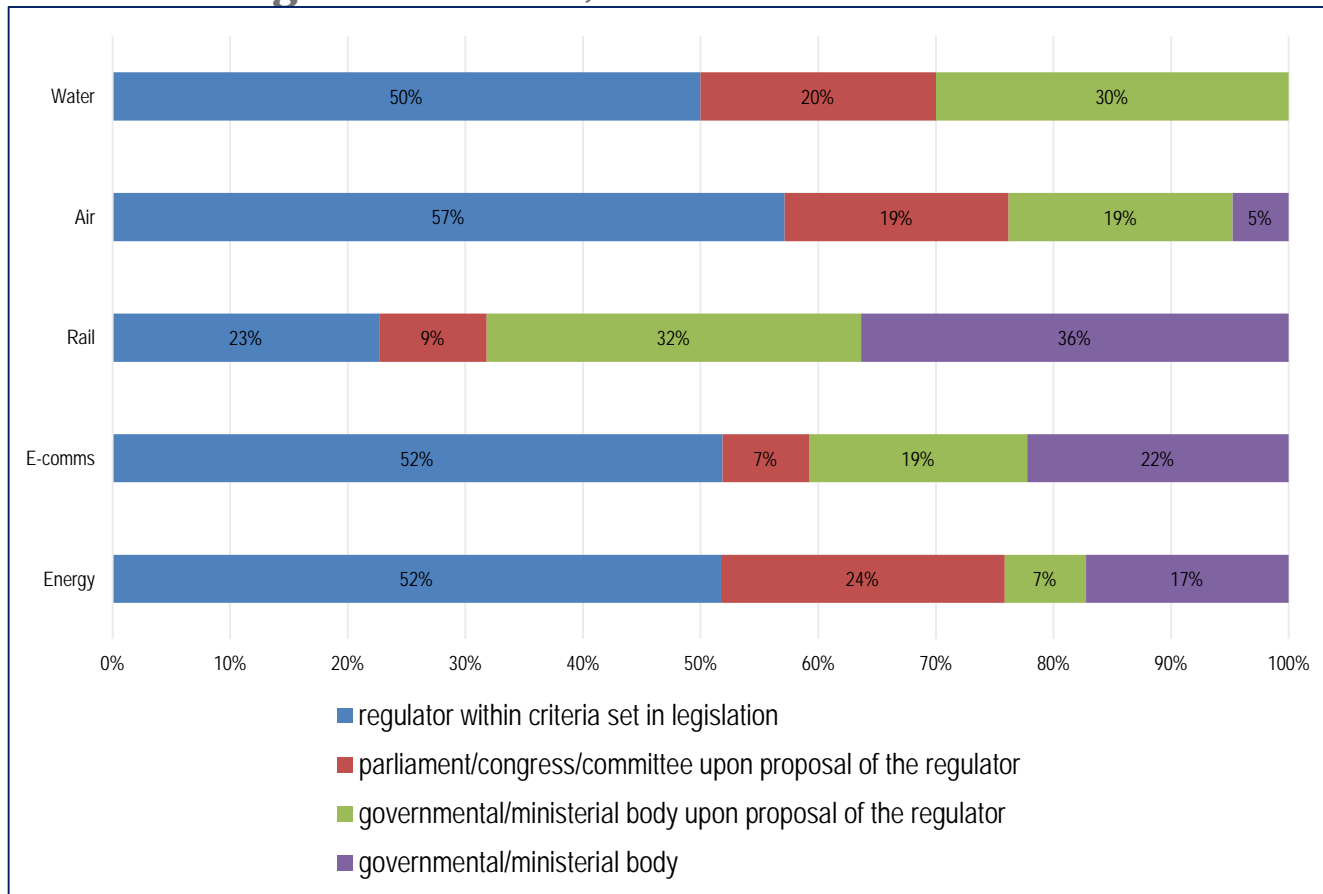
**Question: How is the regulator funded?**





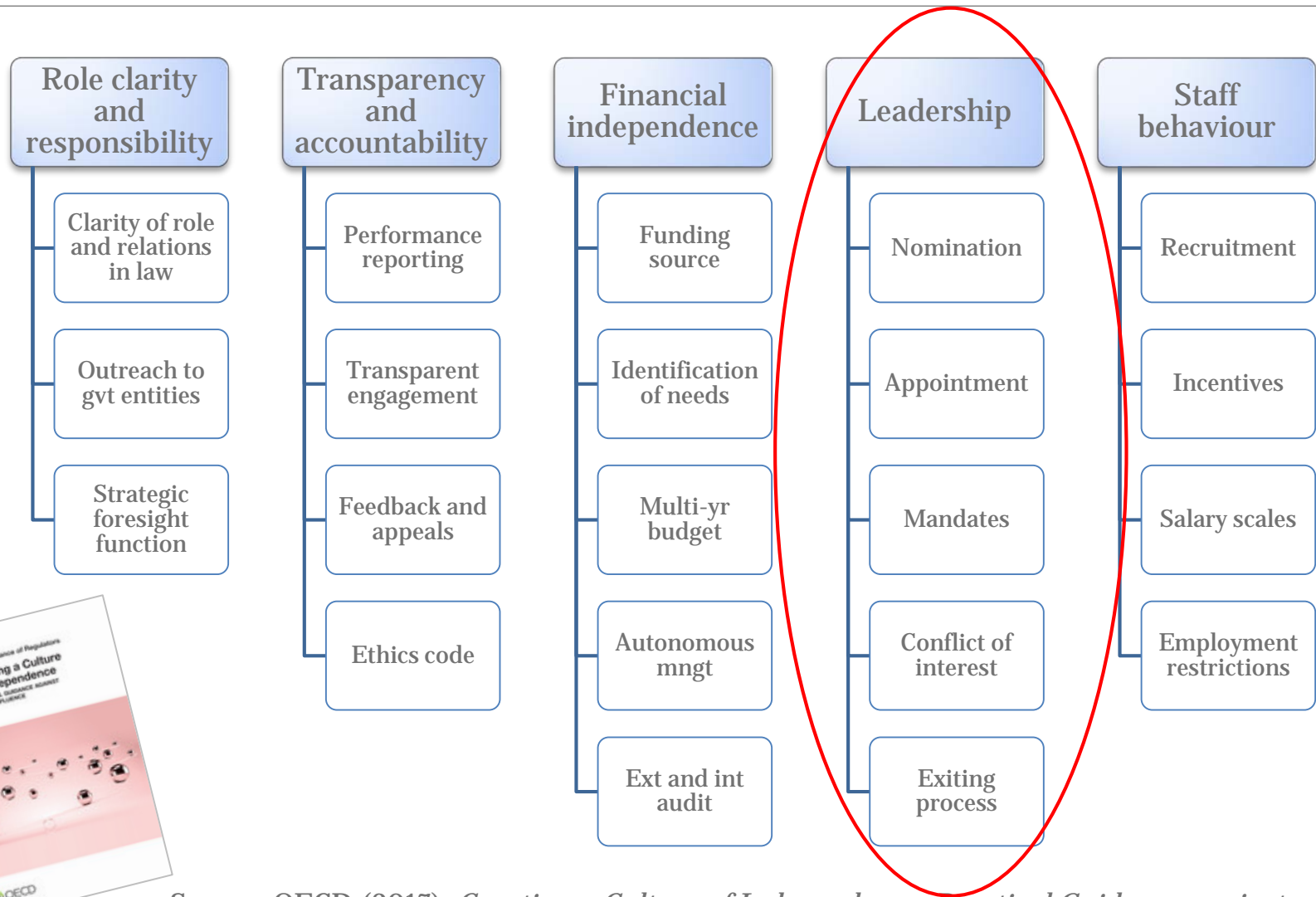
# Level of fees is set by others for half of energy regulators

**Question: If the regulator is financed in total or in part through fees paid by the regulated sector, who sets the level of the fees?**





# Practical guidance by the OECD for creating a culture of independence (2017)

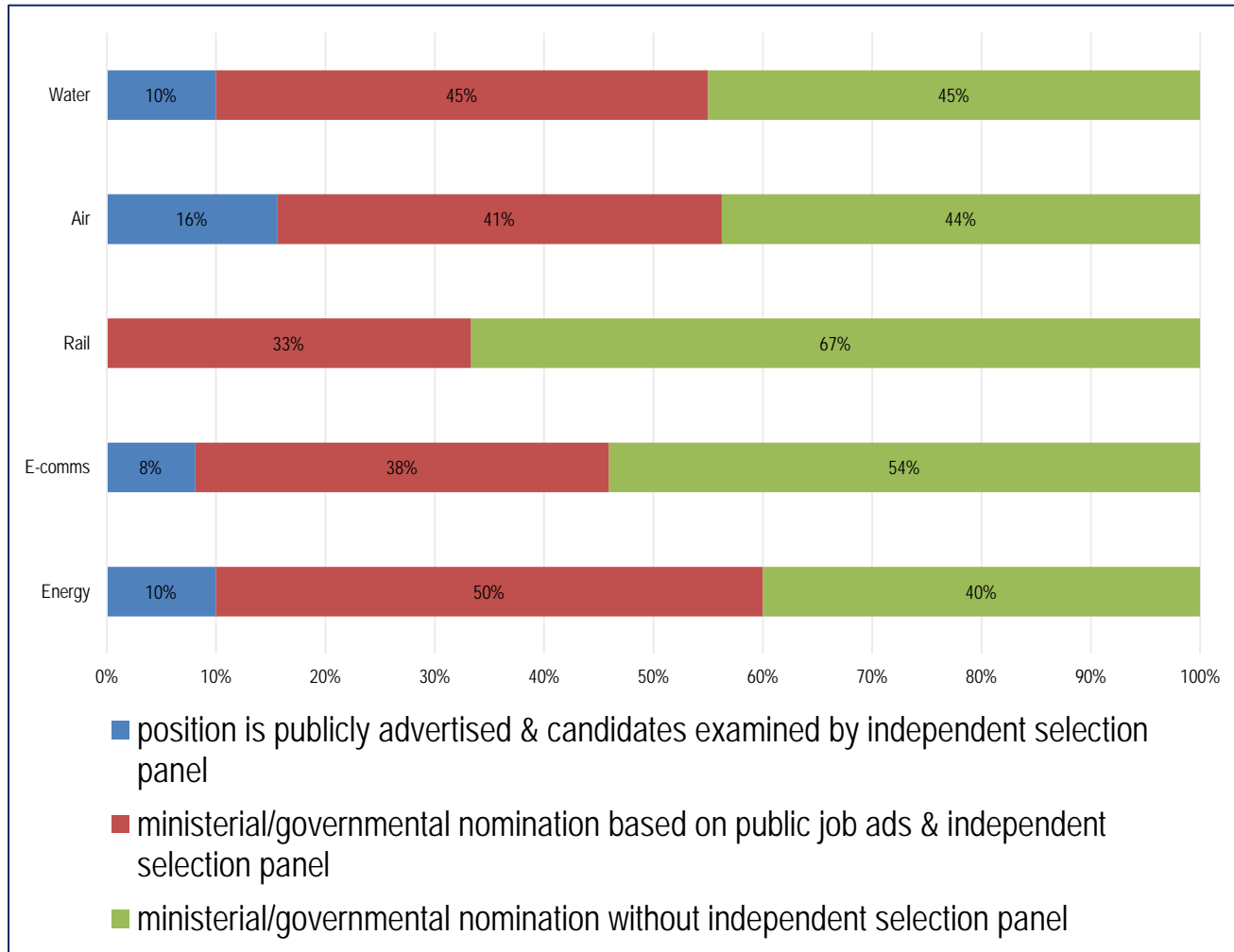


Source: OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, OECD Publishing, Paris.



# Leadership selection is rarely public and independent

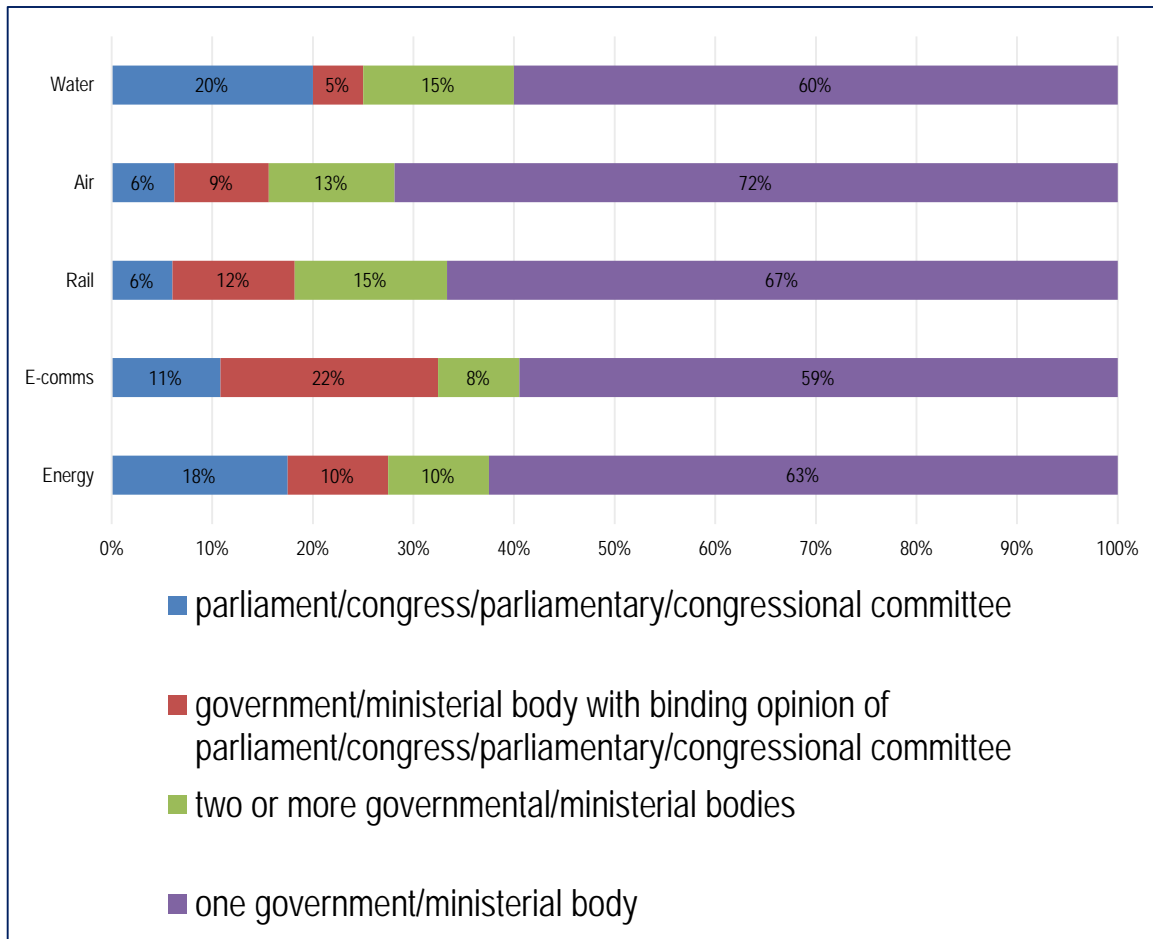
**Question: What is the process for selecting the agency head/board members?**





# In most cases, one body makes final appointment

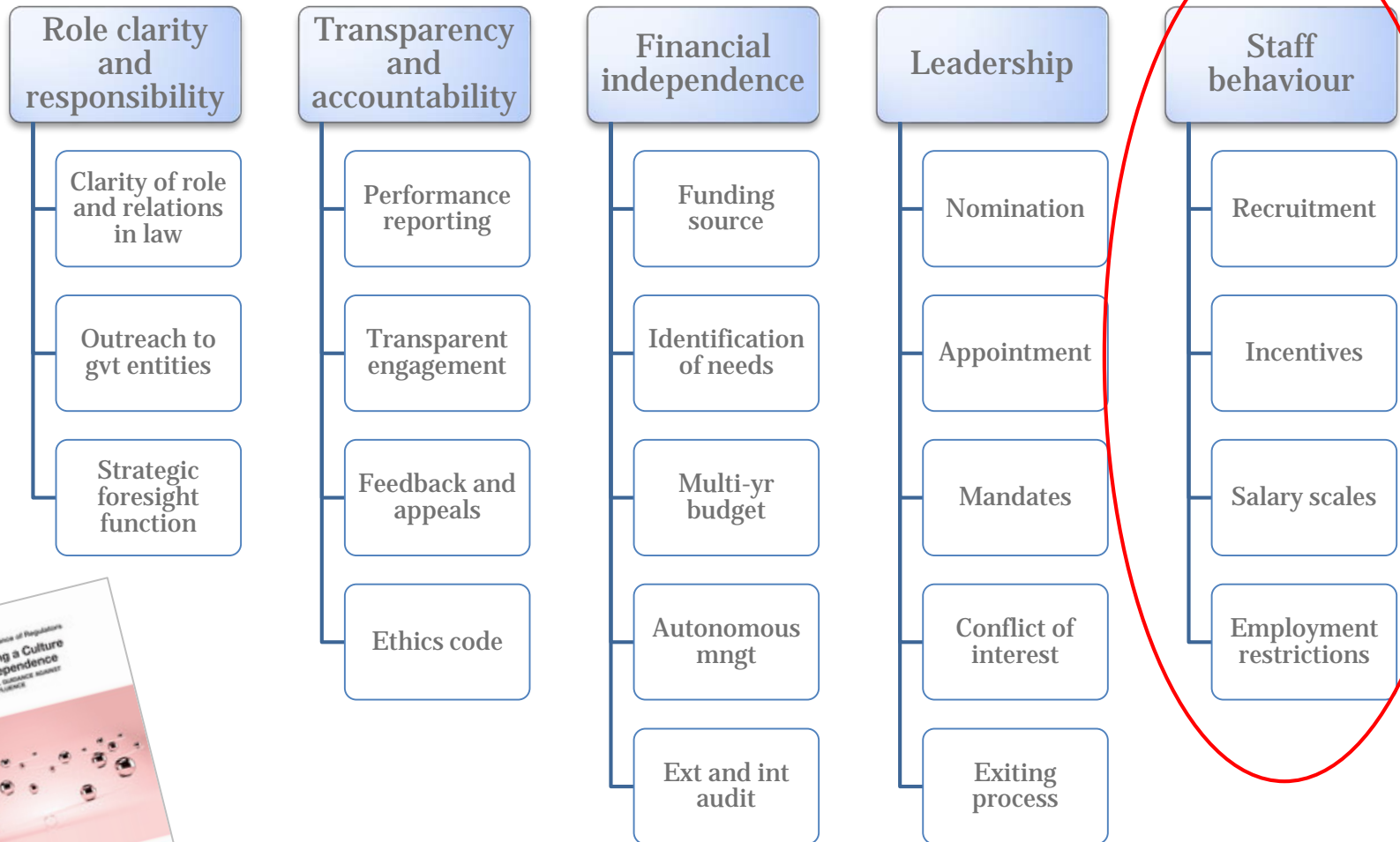
**Question: Which body has the legal authority to make the final appointment of the agency head/board members?**







# Practical guidance by the OECD for creating a culture of independence (2017)

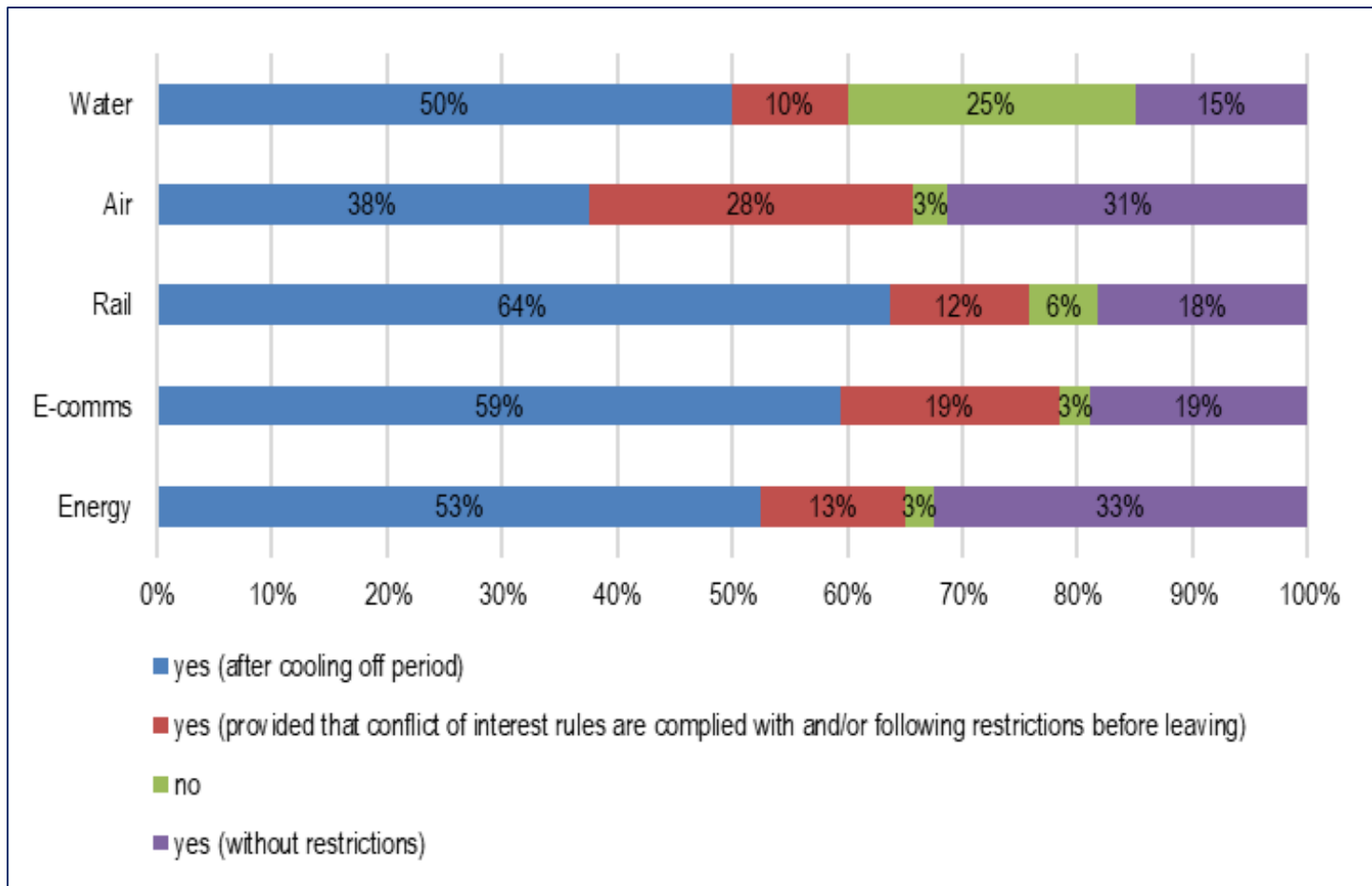


Source: OECD (2017), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, OECD Publishing, Paris.



# Most regulators have employment restrictions in place

**Question: Can the agency head/board members accept jobs in the government related to the sector and/or the sector after their term of office?**





### 3. In-depth reviews



# Helping regulators embed governance into organisational performance: PAFER reviews



2016	<ul style="list-style-type: none"><li>• <b>Colombia:</b> Comisión de Regulación de Comunicaciones (CRC)</li><li>• <b>Latvia:</b> Public Utilities Commission (PUC)</li></ul>
2017	<ul style="list-style-type: none"><li>• <b>Mexico:</b> Agencia de Seguridad, Energía y Medio Ambiente (ASEA); Comisión Nacional de Hidrocarburos (CNH); Comisión Reguladora de Energía (CRE)</li></ul>
2018	<ul style="list-style-type: none"><li>• <b>Ireland:</b> Commission for Regulation of Utilities (CRU)</li></ul>
2019	<ul style="list-style-type: none"><li>• <b>Peru:</b> Organismo Supervisor de la Inversión en Energía y Minería (Osinergmin)</li><li>• <b>Peru:</b> Organismo Supervisor de la Inversión Privada en Telecomunicaciones (OSIPTEL)</li></ul>
En curso	<ul style="list-style-type: none"><li>• <b>United Kingdom (Scotland):</b> Water Industry Commission for Scotland (WICS)</li><li>• <b>Ireland:</b> Environmental Protection Agency (EPA)</li><li>• <b>Peru:</b> Organismo Supervisor de la Inversión en Infraestructura de Transporte de Uso Público (OSITRAN)</li></ul>



Sólida reputación como regulador  
autónomo y técnicamente  
competente



... puede convertirse en un ejemplo  
de madurez institucional en un  
contexto de inestabilidad política

Ha sabido adaptarse a los  
cambios en sus funciones  
durante más de 20 años



...es necesaria la evaluación de sus  
marcos organizacionales y  
objetivos estratégicos

Capaz de abordar emergencias y  
resolver crisis de manera  
competente

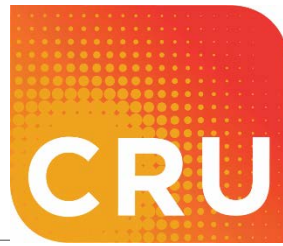


... puede convertirse en una  
institución proactiva con visión para  
los sectores de energía y minería

Pionero en utilizar buenas  
prácticas regulatorias dentro de la  
administración pública peruana



... puede fortalecer sus mecanismos  
de diálogo con los *stakeholders*  
para consolidar la confianza.



An Coimisiún  
um Rialáil Fóntas  
**Commission for  
Regulation of Utilities**

Independent multi-sector regulator with a range of economic, customer and safety functions and duties in increasing number of sectors	↔	Governed by a series of sector-specific laws amended over the years, sometimes leading to unclear understanding of priorities
Five/three year Strategic Plans focus appropriately on policy outcomes	↔	Linkages with reporting or decision-making are unclear
Independent in defining budget and collecting income, autonomous in managing budget, sufficiently resourced	↔	Constrained in human resource management by central government frameworks despite proactive strategies
Systematic and transparent stakeholder consultation	↔	Beyond SE, uptake of good regulatory practices by the CRU can support independent decision-making and accountability



## 4. What's next?



## Way forward

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Continue to exploit  
Governance of  
Regulators data

Promote dialogue  
and learning in  
Network of  
Economic  
Regulators

Invite new  
regulators to join the  
next round of data  
collection

Provide tailored  
support and deepen  
understanding of  
issues via reviews





# Gracias!

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For more information:

- ❖ OECD on regulatory policy: [www.oecd.org/gov/regulatory-policy/](http://www.oecd.org/gov/regulatory-policy/)
- ❖ OECD Network of Economic Regulators:  
[www.oecd.org/gov/regulatory-policy/ner.htm](http://www.oecd.org/gov/regulatory-policy/ner.htm)
- ❖ OECD on behavioural insights: [www.oecd.org/gov/regulatory-policy/behavioural-insights.htm](http://www.oecd.org/gov/regulatory-policy/behavioural-insights.htm)

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