

### 24. Formal consultation

Transparency is one of the central pillars of effective regulation. Businesses need to be able to fully understand the regulatory environment in which they operate, and to have a voice in regulatory decision making. It is a major challenge to governments to ensure that their regulatory processes take into consideration the views of all groups in society (OECD, 2005). Transparency promotes regulatory quality by incorporating feedback about the design and effects of regulation. It increases the likelihood of compliance by building legitimacy in regulatory proposals and may therefore improve the effect of regulation and reduce the cost of enforcement.

Hence, formalised consultation processes are an important feature of regulatory transparency and a key factor in strengthening regulatory management systems in the wake of the financial crisis. The indicators of regulatory management systems examine the extent to which formal consultation processes are built in at key stages of the design of regulatory proposals, and what mechanisms exist for the outcome of that consultation to influence the preparation of draft laws. The most effective means will provide formalised opportunities for citizens and businesses to learn about the potential implications of proposals and to express their views. Routine, structured mechanisms for consultation permit adequate time for the consideration of proposals, whether made in legislation or regulation, and for the submission of views. Consultation will be less effective if it is *ad hoc*, or confined to a select group.

Consultation practices also depend upon standardised and institutionalised approaches to rule making that ensure that the law is accessible to citizens and businesses: using plain language to draft laws, making laws publicly available and establishing appeal mechanisms against regulatory decisions.

In practice, there are many different mechanisms for engaging the public in the development of regulations. Public consultation on new regulation is a routine practice among OECD member countries, even

though formal and rigorous consultation practices are yet to be implemented in a large number of countries. While most OECD member countries consult informally with selected groups, fewer than two-thirds publish public notices and calls for comments. Consultation methods have evolved, taking advantage of new technologies. In particular, the use of the Internet to consult affected parties has increased between 2005 and 2008. Finally, there is considerable variability in the time period that countries offer for consultation on a new regulatory proposal.

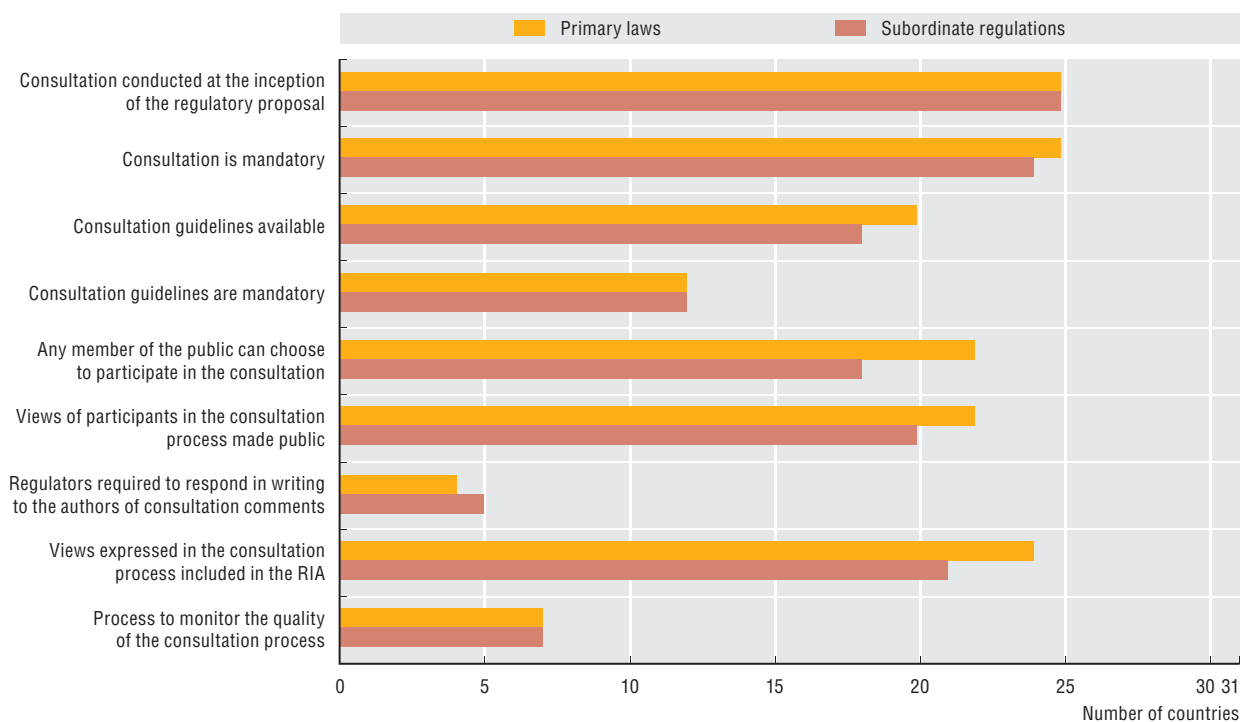
#### Methodology and definitions

The indicators draw upon country responses to the OECD Regulatory Management Systems' Indicators Survey conducted in 1998, 2005 and 2008. Survey respondents were OECD delegates and central government officials. In addition to the 30 OECD member countries, data are presented for the policies of the European Union. Primary laws are those approved by the legislature, while subordinate regulations are those that can be approved by the executive only (that is, by an authority other than the legislature).

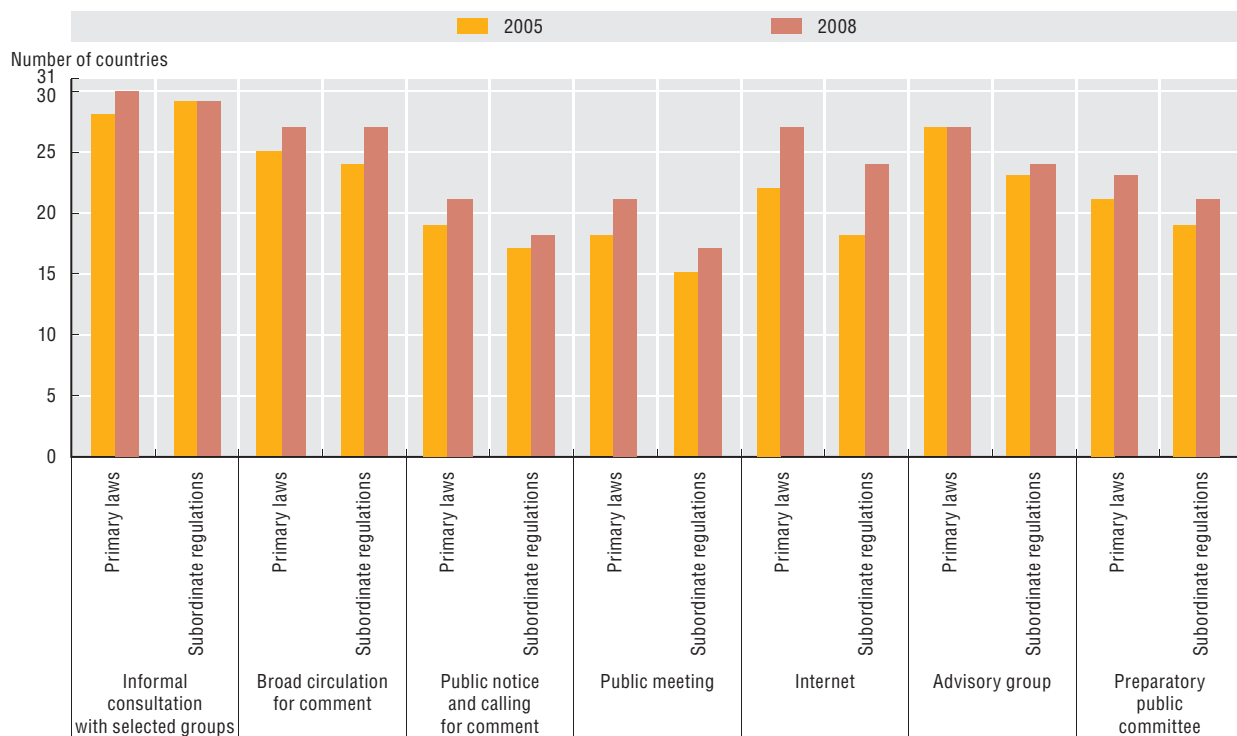
#### Further reading

- OECD (2005), *Taking Stock of Regulatory Reform: A Multi-disciplinary Synthesis*, OECD, Paris.
- OECD (2007), "Indicators of Regulatory Management Systems", OECD Working Papers, No. 4, OECD, Paris.
- OECD (2008), *Measuring Regulatory Quality*, OECD Policy Brief, OECD, Paris, [www.oecd.org/regreform/indicators](http://www.oecd.org/regreform/indicators).

24.1 Characteristics of formal consultation processes used by central governments (2008)

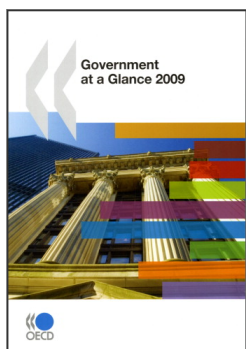


24.2 Forms of public consultation routinely used at the central government level (2005 and 2008)



Source: OECD Regulatory Management Systems' Indicators Survey, [www.oecd.org/regreform/indicators](http://www.oecd.org/regreform/indicators).

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