

RULEMAKING

Introduction

In the 20th century, many governments began to open regulatory processes to public participation and scrutiny. Legislators realized that there is significant value to be gained from enhancing tools for public input and oversight into the law and regulation-making processes, particularly due to their growing complexity. Consequently, a significant number of OGP countries now have requirements that obligate officials to seek input from impacted and/or interested parties. (Forty-two of 71 countries surveyed in 2019 have such regulations [[Falla 2019](#), p. 10].)

This analysis is part of the [Broken Links: Open Data to Advance Accountability and Combat Corruption](#) report, which offers an overview of data frameworks and data availability in OGP countries across eight policy topics using data from the Global Data Barometer.

Key Takeaways

Availability Nearly two-thirds of OGP countries assessed in the Global Data Barometer publish data on rulemaking.

High-Value Information Fewer than half included text of proposed regulations, and less than a quarter of such websites included final regulations, links to public comments, and supporting documentation. A small number of innovators did link regulatory data to legal challenges.

Usability Almost all of the datasets are free to access, although a few charged fees or were only accessible through a third-party paywall. Half were updated recently, and less than a quarter were available for bulk download.

63%

**of OGP countries have
data available online**

In Mexico, congress passed legislation in 2000 that established the Federal Commission for Regulatory Improvement, a federal oversight body tasked with ensuring effective regulations and a transparent rulemaking process. In 2018, the entity's mandate expanded, becoming the National Commission for Regulatory Improvement, and adopting the General Law of Better Regulation. This made it one of the most powerful regulatory-coordinating authorities in the world, with authority over regulatory measures at all levels of government, including state and municipal regulations. The impact of Mexico's regulatory framework is perhaps most clear during the COVID-19 pandemic, as all pandemic-related regulatory changes at all levels of government are published on its website daily. Photo by OGP.



Open
Government
Partnership

Regulators often rely on stakeholders to raise concerns and help evaluate alternatives in many countries. Beyond consulting citizens during the development of laws and regulations, several governments began recognizing the legal rights of citizens to challenge regulatory decisions and actions of officials. These enhancements to public participation can significantly improve the quality of policy decisions, but also implementation decisions and actions to ensure due process as well as fair and equitable enforcement.

The recent rise in digital government now allows for improved public participation in rulemaking processes.¹ In the early 2000s, the governments of countries such as Australia, the United Kingdom, and the United States began posting the text of proposed regulations online for citizens to read and comment on. Regulators also realized the benefit of having open dialogues with stakeholders to discuss the areas of concern and receive their input. Many countries, such as Korea and the Slovak Republic, have strengthened citizen participation through regularized and structured feedback (see *Lessons from Reformers: Slov-Lex Supports Improvements in Deliberation*).

A new area for action has been to make public consultations machine-readable and reusable. Many governments have begun to move systems such as national gazettes or registers (publications containing upcoming regulations and updates to the legal code) from “print-first” into “web-first” documents, and into structured data. This allows interest groups to reuse this data for areas as diverse as soliciting and analyzing public comments, which help improve quality of laws/regulations by avoiding unintended adverse consequences of policies. It also improves transparency about who is trying to influence policy and implementation.

While this is still an area of emerging practice, the effective elements of an open-access state-of-the-art system have become clearer:

- Advance notifications (or links to regulatory agendas)
 - Draft rules
 - Final rules
 - Impacts assessments: regulatory, environmental, and others
 - Public comments
 - Official responses to comments
 - Legal challenges and outcomes in the public record
- A mature and sustainable system would have:
- A strong legal basis
 - Clear legal obligations on officials to ensure the timely and accurate publication of text or links to supporting documentation
 - Common identifiers that allow for the linking of all documents
 - Application programming interfaces (APIs) to allow for reuse and interoperability with other data sources (e.g., courts data)

Policy Justification

The benefits of open government approaches to rulemaking are well-documented. Less explored are the additional benefits of employing an open data approach. This section explores both.

First, it is worth looking at the importance of having transparent, clear rules. Transparency and accountability in [government actions](#) (Gisselquist, 2012) are central to [economic development](#) (Fosu, Bates, & Hoeffler, 2016), and [political stability](#) (Bates et al., 2004).

- **Rule of law:** When citizens have effective access to the laws and regulations that govern their society and also have a role in shaping them, they are more likely to comply with those laws and regulations. [Corruption](#) is less common, and the quality of laws and regulations can significantly improve (Aidt, 2009). Easy and comprehensively searchable public access to an official centralized website of laws and regulations will significantly improve transparency and accountability across all sectors and branches of government, including in judicial decisions.
- **Investment:** In addition, citizen access to the government rulemaking process is central to the creation of a business environment in which investors make long-range plans and investments. A 2009 [study](#) by Aidt (2009) found that [open laws](#) (Diergarten and Krieger, 2015) and [regulations](#)

(Lindstedt & Naurin, 2010) predicted higher levels of [economic growth](#) (Shim & Eom, 2008).

- **Fairness:** Openness in the rulemaking process can enhance fair and equitable implementation and enforcement of laws and regulations, which can improve equality of opportunity and level the playing field in all sectors. This is particularly important in all sectors, especially those where corruption risks can be prevalent; for example, in health care, energy, and transportation. Numerous studies show that increased [transparency](#) of rulemaking processes directly corresponds to increased fairness and competition (Coglianese, Kilmartin, & Mendelson, 2009).
- **Legitimacy:** When citizens have easy access to laws and regulations, and can [influence the rules](#) (Gisselquist, 2012) that govern their society, public institutions tend to be more [politically stable](#) (Fosu, Bates, & Hoeffler, 2006). And if the new regulations are [well-crafted](#) (Fadairro, Williams, & Maggio, 2015) and have [clear benefits](#) (Vallbé and Casellas, 2014) for [society](#) (Molster et al., 2013) and business communities, [transparent rulemaking](#) (Torriti, 2007) achieves [better compliance](#) (Radaelli, 2003) with and support for the scope and application of new laws. Integrity, transparency, and accountability are improved when officials know that arbitrary and selective regulatory decisions and actions can be easily challenged. Undeniably, good governance depends on [stakeholder involvement](#) (King & Stivers, 1998).

GOOD TO KNOW

Key Terms

Regulations are the legally enforceable rules adopted by an executive authority, ministry, or agency to implement laws enacted by the legislative branch of government. Regulatory provisions are legally binding and enforceable against officials, as well as the individuals or companies covered by them. Regulations include subordinate legislation, administrative formalities, decrees, circulars, and directives.

By extension, the **rulemaking** process is defined as the process for initiating, drafting, deliberating, and issuing final regulations that comply with and are squarely based on the underlying laws. This process deals with the enforceable regulatory implementation of laws, rather than with primary laws (passed by the legislative branch of government).

Public consultations are government-led processes where the government invites and considers public comments provided on proposed and draft regulations.

¹ Note: In the Global Data Barometer, the data used in this section is referred to as “Data on Public Consultation.” For ease of use and increased precision, this section will use the term “Rulemaking” to refer to the set of processes to determine administrative law and guidelines.



LESSONS FROM REFORMERS

Slov-Lex Supports Improvement in Deliberation

In 2012, the Slovak Republic committed to creating rules outlining public involvement in the development of selected policies. Soliciting comments on proposed regulations is now mandated by law per the Legislative Rules of the Slovak government. This system is notable for a number of features that governments pursuing this reform might consider.

- **Notification of proposed rules:** During early legislative deliberation phases, each ministry or lawmaking entity has to publish a notification on the Slov-Lex portal, upload a tentative legislative draft, and provide a brief summary of the main objectives of the proposed regulation.
- **Accompanying documentation:** Rulemakers are also required to publish all the supporting documents, such as background research studies, meeting notes, budget assessments, and consultative process timelines.
- **Centralization:** Simultaneously, the same information is made available on the Ministry of the Economy's website.
- **Duration of early consultation:** Early-stage consultations with business communities usually take about four weeks, while consultations through interministerial procedures take no longer than two weeks. Although four weeks is typically the extent of the consultations, urgent cases might call for tighter deadlines.
- **Specialist consultations:** Prior to or in parallel with consultations, ministries often form working groups of issue-specific experts to produce in-depth assessments of drafted legislation.
- **Multiple formats:** Stakeholders may submit feedback either individually or collectively.
- **Reasoned response to major categories of comment:** Whenever 500 or more entities/individuals provide similar feedback, the Ministry of the Economy is obliged to consider the received comments and revise the regulatory draft. Regulators also have to provide a detailed written response as well as a comprehensive justification in cases when comments are not incorporated in updated drafts.

- **Follow-up consultations:** Depending on the initial outcome of the consultative process, the Ministry of the Economy decides whether further consultations should take place.
- **Revisions and feedback:** If further consultations are decided, the Ministry and the Better Regulation Center of the Slovak Business Agency, which aims to improve the business environment in the country, send a revised legislative draft to stakeholders in addition to reposting it on the Slov-Lex portal. The results of further consultative processes are also made public through the portal.

This set of processes has resulted in real changes to proposed legislation. Recently, the Ministry of Energy conducted early consultations on a proposed law on electric vehicle regulation. In parallel with an official consultative process, the Ministry of Energy organized active early-stage engagements with stakeholders. The engagements were carried out through workshops, meetings, and multilevel bilateral dialogues. The draft law underwent significant revisions due to feedback provided by car and battery producers.

Adapted from Cecilia Cabañero-Verzosa and Helen R. Garcia, *People, Politics and Change: Building Communication Capacity for Governance Reform*, World Bank, 2011, <https://openknowledge.worldbank.org/handle/10986/20188>.

Kapitulská Street, Bratislava, Slovak Republic. Photo by Billy Wilson.

GOOD TO KNOW

What Does “Rulemaking Data” Mean in this Report?

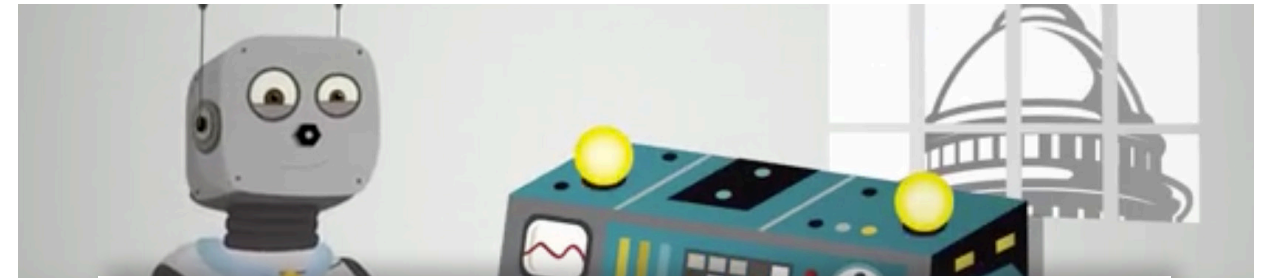
This module covers findings from the Global Data Barometer on the publication of rulemaking data in OGP countries. It includes information on the availability of the following types of data related to rulemaking:

- Proposed regulations
- Public comments generated through public consultations
- Notices of intent and reasoned responses
- Final regulations and justification
- Challenges to regulations and results of challenges

Building on Open Data

An open data approach for regulations means making data available, structured, machine-readable, and interoperable. When this approach is followed, the information about regulations can be more readily reused.

- **Unified and distributed code:** A centralized, complete, free, and searchable database of laws is essential to a well-functioning society, which requires that law is well-known. When rules and laws are centralized and structured, this allows for consistent publication in many different locations. Having all regulations available in data contributes to this larger project.
- **Reduced search costs:** Making regulations (including drafts) and their supporting documents available online increases discoverability of documents. This can reduce search costs, allowing more community or local groups to participate in rulemaking, and reduce arbitrary and selective regulatory actions/decisions by officials. In a number of countries, information is only available through private, third-party search platforms. In many cases, this renders regulations only accessible to wealthy firms and businesses.
- **Proactive notification:** An open data approach will allow organizations to build “push” systems and “alert” systems to notify interested and affected stakeholders, especially at the grassroots or subnational level, when terms of interest may come up, such as an amendment to existing legislation or a particular location. (See *Lessons from Reformers: Sunlight Labs and Creative Reuse of Open Regulatory Data*, featuring the “scout” tool from Sunlight Labs which allowed people to set up regulatory alerts.)
- **Decentralized commenting:** Advanced “write” APIs can allow submission of comments by the public from a variety of websites beyond the official government portals. This can aid mass mobilization for public campaigns and help gauge where there is strongly organized interest.
- **Section-specific commenting:** An open text format can better allow section-by-section (or paragraph-by-paragraph) commenting, reducing labor on the part of the regulatory agency in collating comments.
- **Docket creation:** Perhaps equally important to commenting, an open format would allow for the linking of relevant documents (including drafts, comments, impact assessments, clearances) through machine-readable metadata. This is important because often regulations may have accompanying impact statements, scientific or economic analyses, or legal documents. These are necessary to inform better public input and to ensure that regulatory formation followed due process. By creating dockets or unique identifiers, people may more readily find and discover these linked documents.
- **Comment filtering:** Because online comments would largely be submitted through a standard format, readers could carry out a mass analysis of comments (e.g., separating automated, mass mail, or form letter comments) by contents, keywords, or submitting organization. This may speed up the preparation of subsequent reasoned responses or preparation of legal documents.



LESSONS FROM REFORMERS

Sunlight Labs and Creative Reuse of Open Regulatory Data

In 2016, the Sunlight Foundation, one of the top government watchdog organizations in the United States, closed its doors for good. It did so, leaving a legacy of innovation and ideas that are still worth implementing in the US and beyond. Two tools, in particular, are worth highlighting for readers: Scout and Docket Wrench.

[Scout](#) was an alert-based search engine that scoured federal and state legislative and judicial documents for upcoming bills, rules, and rulings (Sunlight Foundation, 2012). This allows interested stakeholders to ensure that they get timely alerts on issues of interest to them. This could be a topic (such as “school lunches,” a specific law like “Section 40.522”), a locality, or a particular legislator. Scout was essential to a policy victory for the Sunlight Foundation when they set up an alert for changes to Freedom of Information Act and were able to petition, with other organizations, to successfully stop the introduction of new exemptions.

[Docket wrench](#) (Sunlight Foundation, 2013) was an [open-source tool](#) (Sunlight Foundation, n.d.) that allowed people to search, visualize, and download data from all federal regulations. The tool allowed anyone to look at the number of comments and submissions to proposed and current rules. The tools also grouped together comments by how similar the text was. This allows one to see just who is commenting on regulations (such as particular professional associations, industry organizations, or private individuals). The tool can also be used in reverse to look at regulatory participation by particular organizations (which is not required to be disclosed under the US lobbying law).

While the Sunlight Foundation is no longer functional, the tools created showed how powerful tools built on open regulatory data can be. Currently, all US agencies and independent authorities work through [www.regulations.gov](#), which still would potentially allow for most of these functionalities, and, according to the Global Data Barometer featured in this report, leads the world in the accessibility of such data, including data about comments.

Scout from the Sunlight Foundation. Photo from [sunlightfoundation.com](#).

State of Progress Through OGP

Reforming the process of regulation, in general, is very popular in OGP. OGP action plans have featured nearly 400 regulatory governance reform commitments since early 2022. Among these, the most popular area of focus is around enhancing public consultations in regulatory processes. More pertinent to the subject of this report are the 41 commitments that deal directly with releasing open data. Of those, the Independent Reporting Mechanism (IRM) found that 28 commitments had noteworthy early results. A number of these commitments focused on issues of direct relevance to open data and rulemaking and are highlighted in *Lessons from Reformers: Notable Reforms from Early OGP Action Plans*.

More focus is needed on improving technology and citizen engagement in rulemaking. While this remains a popular area of work among OGP members, a more concerted effort could be supported in the partnership to ensure that governments are using approaches that allow for the best use of technology, specifically. Further, more work is needed to develop and implement tools and systems to effectively and efficiently support early citizen engagement in the rulemaking process, strengthen accountability mechanisms, and mainstream open regulatory practices across multiple levels of government, particularly in lower-income countries. These are detailed in the *Beyond Open Data* section.

LESSONS FROM REFORMERS

Notable Reforms from Early OGP Action Plans

Croatia: As part of their [first OGP action plan](#), Croatia (n.d.) established a single interactive Internet system for consultations with the public in procedures of adopting new laws, regulations, and acts. While the law already required formation of working groups with the public on major new legal acts, documentation was carried out on an agency-by-agency basis. With a new standardized format, anyone can now see other peoples' comments and agency responses to individual comments.

Kyrgyz Republic: The first Kyrgyz national action plan sought to [enhance consultation on regulations](#) (Kyrgyz Republic, n.d.). To that end, it built a new "single electronic portal" which provides access to the legal drafts with advanced search possibilities, including by responsible agency, type of legal act, exact date or date range, and current status. In addition, the platform

allows visitors to sign up for notification on drafts with selected features, which allows the public to follow legislative initiatives by a specific body or on specific topics without constantly visiting the platform or government websites. Moreover, the platform allows following the status of drafts and analyzing their history. OGP's IRM [assessed](#) the platform as contributing to significantly improved civic participation (OGP, n.d.).

Italy: A new regulation, "Nuovo regolamento Italia 15 settembre 2017," was signed on September 15, 2017, and entered into force on December 15, 2017. The regulation reformed impact assessments, ex-post evaluations, and stakeholder consultations within the rulemaking process at the central government level (<http://www.normattiva.it/>). Article 16 of the new regulation states that administrations in charge of regulatory proposals must carry out appropriate stakeholder consultations.

Malta: Directive 6, issued through the Office of the Prime Minister and legally binding through the Public Administration Act, obliges the public administration to undergo a consultation process for both legislative and nonlegislative future initiatives. Comments are requested through a unified website (<https://socialdialogue.gov.mt>).

Mexico: According to Article 69(k) of the Federal Law of Administrative Procedure, all drafts must be subject to a public consultation process. The comments are requested through a unified website for all proposed regulations (<http://www.cofemersimr.gob.mx>). A specialized government body tasked with soliciting and receiving comments is the Federal Commission on Regulatory Improvement.

Norway: According to the Instructions for Official Studies and Reports, Article 3-3, proposals for regulations are subject to a public consultation. The comments are requested through a unified website for all proposed regulations (<http://www.regjeringen.no>).

Key Findings from the Global Data Barometer

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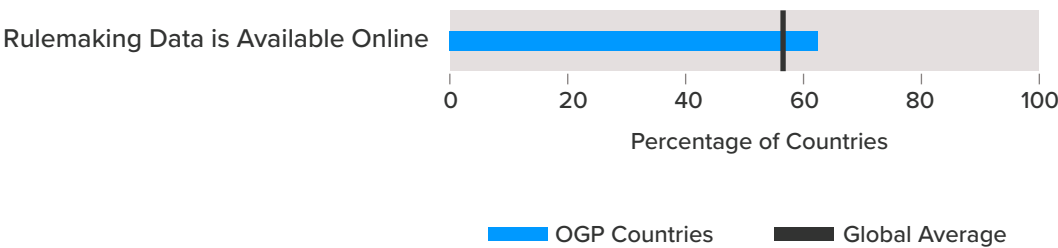
About GDB Data

The Global Data Barometer (GDB) is a global expert survey drawing on primary and secondary data that assesses data availability, governance, capability, and use around the world to help shape data infrastructures that limit risks and harms. Together with regional hubs and thematic partners, GDB researchers collected data on 109 countries, including 67 of the 77 OGP participating countries. The GDB captures data developments between May 1, 2019, and May 1, 2021, and includes 39 primary questions and over 500 sub-questions.

A critical mass lacks any information: One-third of OGP countries assessed by the GDB still do not publish information on consultations for regulations (see Figure 1).

FIGURE 1. Over half of OGP countries publish rulemaking data online

This figure shows the percentage of OGP countries that publish rulemaking data online compared to the global average. The GDB assessed 109 countries, 67 of which are OGP members.



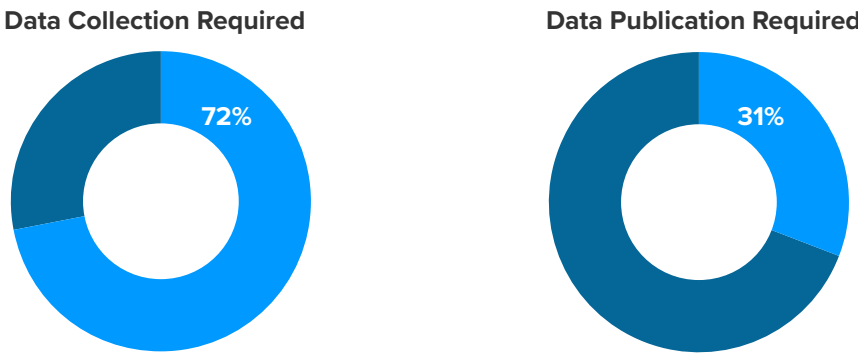
Note: This analysis only considers data that is available as a result of government action. See the About Broken Links section of the full report for details.

Legal Frameworks for Rulemaking Data

Three-quarters of OGP countries have laws in place governing regulatory participation and data disclosure. Very few specifically require structured data, however, limiting usability. Less than half require disclosure of key elements such as advance notice, draft text, comments, responses to comments, or legal challenges.

FIGURE 2. Gaps in legal frameworks governing rulemaking

This figure shows the percentage of OGP countries with collection and disclosure requirements for rulemaking data. The sample includes all 67 OGP countries assessed by the GDB.



Note: This analysis only considers binding laws and policies that exist and are operational. See the About Broken Links section of the full report for details.

Data coverage and design limits usefulness:

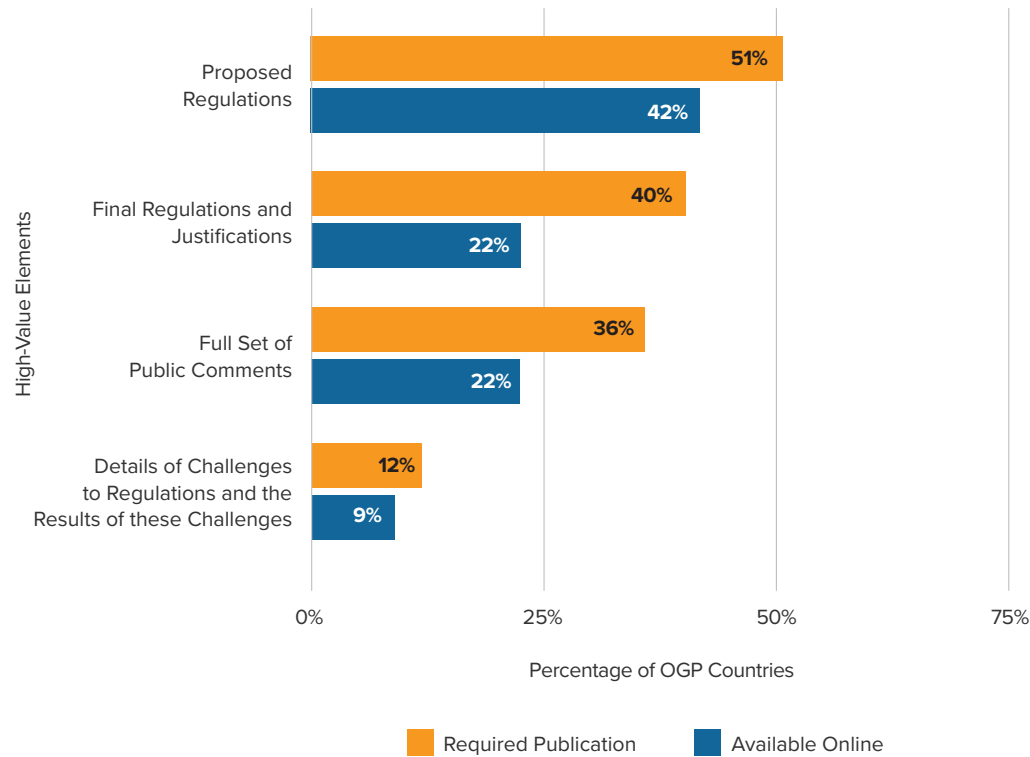
About one-quarter of OGP countries surveyed had structured information on public comments, related documentation, and responses to public input. Such data is necessary for individuals and organizations to understand how and why policy is made (see Figure 3).

Accountability data is further behind:

One-in-twelve countries published judicial and appeals data on existing regulations. Such accountability data is important to understand interpretations and status of a regulation (see Figure 3).

FIGURE 3. Required collection and availability of high-value information is limited

This figure shows the percentage of OGP countries that require publication of key elements of rulemaking data compared to those that have actually published the key elements online. The sample includes all 67 OGP countries assessed by the GDB.



Note: For this analysis, countries with “partial” disclosure are considered cases of “no” disclosure. See the About Broken Links section of the full report for details.

Published information lacks structure and accessibility:

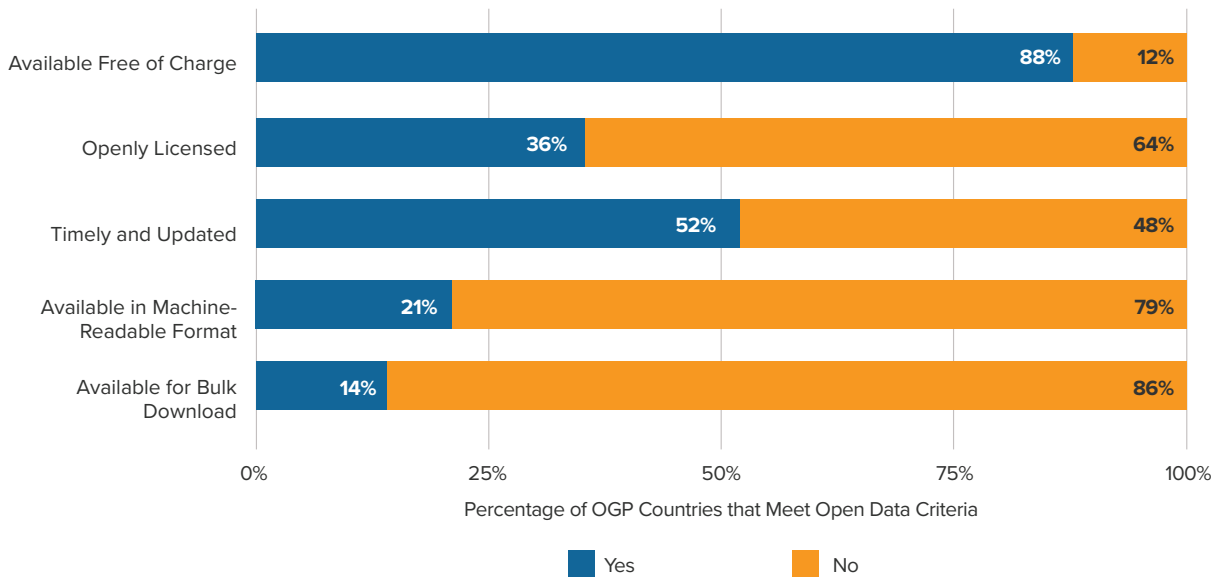
Slightly less than two-thirds of OGP countries release basic information on regulations. By and large, information is not released in a structured format. However, regulatory information is largely released in older formats, such as “national gazettes.” While there are existing data standards for legislative

texts and dockets, adoption does not seem common in regulatory processes (see Figure 4).

Information is largely released after the fact: While many countries have improved their publication of existing regulations, around a half publish *proposed* regulations online (see Figure 4).

FIGURE 4. Rulemaking data lacks usability

This figure shows the percentage of OGP countries whose rulemaking datasets meet open data criteria. The sample includes only the 42 OGP countries that publish rulemaking data online.



Note: For this analysis, countries with “partial” disclosure are considered cases of “no” disclosure. See the About Broken Links section of the full report for details.

Maturity Model for Future Actions

Below is a set of steps—from foundational to advanced—that members across the spectrum of policy implementation can take to improve the collection and disclosure of high-quality rulemaking data. Open data alone, however, is not enough (see the *Beyond Open Data* section for a discussion of other steps that must complement data collection and disclosure).

- **Establish a public gazette of all proposed rules and finalized rules:** At a basic level, there should be no secret law, including administrative law. Yet some countries still do not have a fully available public body of law.
- **Ensure there is a strong legal framework for open administrative rulemaking:** Modern administrative law assumes that executive and independent agencies will need to interpret and enact legislation passed by the parliament. Modernization includes amending legal frameworks to obligate officials to: (1) publish draft and final regulations; (2) create public, documented spaces for consultation for all interested parties; (3) publish all impacts assessment documentation; and (4) create channels to ensure that regulations are prepared within the scope of administrative and other law.
- **Structuring data for remote public comment and reuse of key public documents:** Increasingly, modern regulatory websites allow interested individuals, organizations, and regulated entities to submit comments publicly. In addition, a small number have “read” and “write” APIs that allow for read and write APIs as well as bulk downloading for analysis. This allows for commenting and reading comments from other sites, which may be useful for organizations that are working on submitting multiple comments, for example, from membership organizations. For this set of reforms, governments will need to ensure that there are agreed-upon metadata categories and values for key documents, including comments. In addition, the full text of such documents should be centralized, searchable, and, ideally, structured in a way that allows for differentiation of different types of text.

- **Comment discovery, search, and analysis:** Ideally, especially in more advanced countries, this would allow agencies to analyze where comments are coming from, which comments represented organized “mass-mail campaigns,” and which represented singular viewpoints or expert views. This allows for better influence tracking across commitments.
- **Cross-branch coordination:** In addition, a country can link to court cases and appeals to help build the body of law and interpretation on an existing regulation, providing greater consistency and lowering costs of accessing the law. Some countries may wish to additionally link relevant laws to parliamentary oversight functions. This requires a uniform identification standard for individual commitments.
- **Interoperability with lobbyists and other key governance data:** In some countries, lobbying disclosure rules cover both legislative and executive decision-making. Ideally, such data would allow people to understand who is participating in regulatory processes and which interests they represent, if any (see *Good to Know: Common Identifiers to Link Up Anti-Corruption Data*).
- **Push systems for public participation:** Advanced systems will allow people to subscribe to particular dockets. For example, in the United States, [regulations.gov](https://www.regulations.gov) allows interested parties to only search for major regulations, particular agencies, topic areas, or locations. It is possible that a government would want to develop these systems themselves or allow secondary actors to develop applications on top of data. (See *Lessons from Reformers: Sunlight Labs and Creative Reuse of Open Regulatory Data* for an example of how civil society groups built useful tools on top of open regulatory data.)
- **Targeted outreach to stakeholders:** In addition to pushing out data, agencies may wish to maintain and strengthen a list of interested and affected stakeholders who may be engaged in regulatory processes.

More positive examples can be found in the [extensive research collaboration](#) between the OGP Support Unit and the World Bank (Falla Lopez & Saltane, 2020).

GOOD TO KNOW

Common Identifiers to Link Up Anti-Corruption Data

Data is more likely to advance accountability when it can be combined with other data. In addition to the high-value elements of each dataset, certain elements should be shared across datasets through the employment of “common identifiers.” These may be stored in a third dataset, reducing the need for data cleaning and validation.

Combining rulemaking performance data with lobbying data is particularly important. When designing or improving a particular dataset, decision makers should ensure that datasets rely on common identifiers as much as possible and require validation of those common identifiers in the entry of information.

According to the GDB, no OGP countries use common identifiers for regulations in lobbying registers and public consultation data. This prevents users from tracing the influence of interest groups or organizations within certain rulemaking processes.

Beyond Open Data

A strong system for regulatory governance requires more than open data. It requires strong mandates, a set of online tools that are easily accessible, and institutions with the capacity to maintain the process, data, and systems to promote stronger participation in regulation.

Accessing Laws and Regulations

- **State of play:** OGP members are strongest in this area. Most countries make laws and regulations publicly available, although the quality and searchability of the information is an issue. Keeping legal databases up to date is also a challenge.
- **Recommendations:** Establish and maintain an official, comprehensive, searchable, and free-to-access central website for all existing laws and regulations. Eliminate restrictions on data usage, and ensure regular updates of the information. Ensure disclosure at the local level as well.

Transparency of Rulemaking

- **State of play:** Several countries have made OGP commitments in this area. However, most OGP countries still do not push forward regulatory plans, particularly in the Americas and Africa, where relevant commitments are generally lacking.
- **Recommendations:** Amend relevant laws to obligate officials to publish forward regulatory plans and regulatory drafts on unified portals that enable citizens to provide feedback. Ensure that citizens can follow regulations from development through to adoption.
- **Enforcement:** Ensure full compliance with reporting requirements by creating processes of data auditing, public flagging of suspect data, and enforcement actions for noncompliance and falsification of reporting.

Public Consultations

- **State of play:** Most OGP members have notice-and-comment systems in place (albeit not all legally enforceable), but many do not provide a reasoned response to citizen input, much less through dedicated websites.
- **Recommendations:** Amend or adopt laws that obligate officials to implement timely and effective notice-and-comment procedures, set minimum standards for inviting public input, and establish credible oversight systems. Document public input and provide responses before adoption of final regulations.

Challenging Regulations

- **State of play:** Citizens in many OGP countries cannot challenge the validity of regulations or regulatory actions/decisions by officials based on laws and related regulations to ensure fairness in application and enforcement. In other cases, legal challenges are difficult to enforce. In addition, only two OGP members have made commitments in this area to date.
- **Recommendations:** Adopt legislation that provides the legal basis to challenge regulations if not developed through open processes or if discriminatory. Publish information about the process and enable citizens to also challenge regulations on substantive grounds. Amend relevant laws to permit courts to award equitable remedies (including damages and legal costs) to those who prevail in court cases challenging laws and regulations, as well as inappropriate application or enforcement decisions and actions by regulatory officials.

GUIDANCE AND STANDARDS

OECD 2012 Recommendation on Regulatory Policy and Governance (Principle 2) advises OECD members to “Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation.” The recommendation covers design of regulatory process and the range of documentation that should be shared (such as impact assessment and other supporting analyses). (Full guidance is available [here](#) [OECD, 2012].)

The [Global Regulatory Impact Assessment Guidance Database](#) (World Bank, n.d.) gathers best practices on regulatory impact assessment documents. The Bank also maintains a comprehensive, [multi-year dataset](#) (World Bank, n.d.) on current rulemaking practices.

List of Resources

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