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## **Regulating with the Masses? Mapping the Spread of Participatory Regulation**

Stakeholder participation in regulatory processes has become increasingly common. The literature on citizen, customer and consumer participation in regulation shows a rise in these types of engagement, based primarily on individual case studies. However, we lack a solid empirical base for the discussion of this trend. This paper asks to what extent and why this rise in participation in regulatory policy-making occurs, creating a cross-sector, cross-country map of participatory regulation. The research is based on a quantitative, dictionary-based analysis of regulatory agencies annual reports from 1998 to 2017 (n= 781). The findings show a rise in the use of terms related to participation over time, with the notable exceptions of financial and environmental regulators. These terms are most commonly used in EU level agencies, in Australia and France, while being rarely used in the German and Austrian cases. Our analysis shows that polity level variation is a key driver of how regulators use terms related to participation, and argues that such participation is less common in countries in which stakeholder participation is carried out at the national level through centralised corporatist institutions.

**Key words:** stakeholder participation, citizen participation, regulatory agencies, corporatism, regulatory state, stakeholder engagement

Dr Hanan Haber – King's Business School, KCL

Dr Eva Heims, Department of Politics, University of York

## Introduction

Scholars have increasingly pointed to processes in which citizens and customers affected by regulation are being directly involved in regulatory decision-making (Coglianese, 2006; 2011, Doucet and Littlechild, 2009; Heims and Lodge, 2018; Littlechild, 2008). Such an increase of ‘regulatory participation’ challenges our understanding of how supposedly technocratic regulatory agencies operate, how they decide, who is involved and why. It offers the possibility for insight into both the goals of regulation, the forms it takes, and its legitimacy. While there are theoretical arguments about the merits of participatory forms of governance (for example, Lobel, 2004), and evidence of empirical cases of participation and theoretical mapping exercises of different types of participation (Dean, 2017), we lack insights about the extent regulators have adopted decision-making processes in which stakeholder or citizens participate, let alone understanding *why* regulators or decision-makers move to such models.

This paper studies the extent and variation in the adoption of participation in regulatory decision-making in recent decades. It asks to what extent and why a rise in stakeholder and citizen participation in regulatory policy-making has occurred. To do so, it distinguishes between participation which focuses on engaging organised interests, as opposed to engaging with diffuse societal interests. The paper answers these questions through a quantitative, dictionary-based analysis of annual reports from a variety of regulatory agencies across different types of sectors.

We constructed a dictionary consisting of words and phrases related to these two different kinds of public participation, and then searched for these terms in annual regulatory reports from a variety of contexts. This required collecting annual reports from eleven polities (Australia, the United Kingdom [UK], New Zealand, Ireland, the European Union [EU], Switzerland, Germany, Austria, France, Belgium and Canada), from eight sectors (financial regulation,

electricity, telecommunications, civil aviation, water, (environmental protection, pharmaceuticals and food). The period covered ranges from 1998 to 2017, based on existence and availability of reports.

The results show fairly consistent growth in the use of terms related to participation over time, with notable variation between different polities. The use of these terms is most common in EU level agencies, Australia and France, while being least common in Germany and Austria. Focusing just on terms related to citizens and consumers (rather than stakeholders more generally) shows that regulators in Australia, New Zealand, Ireland and the UK are more likely to refer to this type of participation than regulators in other countries. At the sector level, the use of terms related to citizen and consumer participation does not show consistent variation. However, both financial and environmental regulators share similarly low usage, while telecommunications and food standards regulators use these terms similarly more frequently.

The most pronounced and consistent variance in regulatory participation can be found at the country level. We propose that the degree to which stakeholder interests are institutionalised in policy-making more widely (i.e. the degree of corporatism) influences the extent to which regulatory participation is adopted in a given country: the more institutionalised business and citizen interests are in policy-making, the less pressure there is on regulators to engage directly with organised interests. This proposition is supported by multivariate analysis.

Thus, the paper adds to our understanding of regulatory participation in two crucial ways: by creating a cross-polity and cross-sector map of the spread of participatory regulation, the first contribution of the paper is to our empirical understanding of the extent and nature of citizen and stakeholder participation in regulation. Second, we provide a theoretical understanding of what is driving the spread of this type of participation in regulation at the macro-level by highlighting the importance of national level corporatist institutions in explaining variation in

the extent to which regulatory participation has spread.

### **Why Regulation ‘with the Masses’ is puzzling, and what might explain it**

Regulatory participation is puzzling because it seems to undermine the very cornerstone of regulatory legitimacy. That is, that regulatory agencies are independent of political influence and make their decisions based on clear professional standards and technical expertise. If regulators make decisions involving citizens or other stakeholders in the decision-making process, and especially if these decisions are made on issues with distributive implications, then it becomes unclear why these decisions are being made by regulators in the first place. This opens up a host of empirical questions regarding the extent of this type of participatory regulation, as well as the manner in which it is carried out. How common is participatory regulation? Where is it more or less common across different sectors or countries? Is it more likely in economic or social areas of regulation? How do regulators carry out such participation? What do regulators view as appropriate methods and outcomes of such participation?

Research on stakeholder engagement conducted by regulatory agencies has mostly focused on the rationales and outcomes of participation. Studies of EU agencies, for example, have demonstrated that these regulators use stakeholder participation to informally enhance their clout by spreading information and ideas (Wood, 2018), to get access to information, and to enhance their organisational capacity and reputation (Arras and Braun, 2018). This type of work has yielded insights into organisational level drivers of stakeholder participation. However, we know less about *citizen* participation in regulation, as well as about variation in the extent of regulatory participation in different polities and sectors. We aim to tackle both of these issues, as discussed below.

### ***Distinguishing Stakeholder and Citizen Participation***

The study of the involvement of organised pressure groups is associated with so-called ‘stakeholder’ participation in policy-making and regulatory processes. Notwithstanding the generally positive view on stakeholder engagement by large parts of the academic and practitioner literature (for example, OECD, 2012; Scott, 2000), the risk of undue influence of special interests through stakeholder engagement is widely acknowledged (e.g. OECD, 2014, p. 89ff). This differs to ‘citizen participation’ which aims to represent broad societal interests through, for example, consumer groups or the involvement of citizens acting as individuals. The public participation literature sometimes distinguishes between different types of expertise of ‘lay stakeholder’ and ‘professional stakeholder’ participation in this respect (for example, Meijer et al., 2013), or between unpaid members of the public and paid professionals participating in policy processes (Fung, 2006). In our view, the distinguishing factor of citizen engagement is the explicit emphasis on including diffuse interests in the regulatory process. In short, a focus on citizen, consumer or customer participation, rather than stakeholder participation, is an explicit emphasis on broadening participation beyond special interests (*cf.* Woods, 2013).

Giving citizens, consumers or customers a voice in regulatory processes implicitly acknowledges that technocratic regulators alone may not be able to provide effective or legitimate regulatory processes (*cf.* Fung, 2006, p. 67). This model also does not neatly fit resource exchange models that are commonly used to explain the engagement of organised interests in regulatory processes. In many ways, then, citizen participation is the more interesting type of regulatory participation to study.

There is some research on citizen participation in regulation which provides insights into these

types of processes. A study of customer engagement in UK water regulation by Heims and Lodge (2018), for example, shows that regulators may decide to adopt customer participation in order to solve particular challenges they face: the Scottish water regulator opted for participation in order to break out of an established ‘regulatory game’ with the regulated company. Customers were brought in to the regulatory process to push the regulated water company into further efficiencies. Engagement thus helped the regulator to achieve long-standing aims. Other studies have demonstrated that harnessing the wisdom of the masses for regulatory processes is exceedingly difficult due to significant motivational and cognitive barriers to citizen engagement (Coglianese, 2006). Similarly, in a study of crowdsourcing as part of the UK ‘red tape’ challenge (aimed at reducing regulation), Lodge and Wegrich (2015) show that crowdsourcing did not alter existing regulatory decision-making processes in practice, which continued to be dominated by dynamics within the government executive. We have also seen evidence that even in cases in which regulators seek legitimisation for difficult decisions (energy grid extension in Germany, in this case), they only use insights from public consultation procedures if this is crucial for organisational survival (Fink and Ruffing, 2018).

On the whole, then, studies of individual cases of regulatory participation demonstrate large variability in rationales for adopting participation, the participatory mechanisms used, as well as the outcomes of participation. This literature also highlights the limits of these mechanisms in shaking up the existing regulatory order. Studies of particular instances of regulatory participation tell us little about the extent to which this is now common in different countries and sectors, and whether there are factors beyond the individual regulatory agency that can explain the spread of participatory mechanisms. We propose that by mapping stakeholder *and* citizen participation over time, countries and sectors, and by exploring macro-level explanations for observed trends we will complement existing case studies of regulatory participation.

### ***Exploring Macro-Level Explanations for Regulatory Participation***

Existing studies of regulatory participation provide an important understanding into reasons for adopting participation in individual cases and shed on the motivations of particular agencies to use participatory mechanisms. What the literature on regulatory participation has not focused on is the question whether macro-level factors can help us to understand the adoption of regulatory participation in different contexts. We know from the literature on the spread of regulatory agencies that cross-sectoral diffusion can play a role in the spread of regulatory trends, but that these interact with institutional factors at the country level in complex patterns (Jordana, J., Levi-Faur, D., and Fernández, 2011). Thus, a focus on country-level drivers of the adoption of regulatory participation is a fruitful first step in understanding the complex interaction of polity-, sector and organisational-level drivers of participatory regulation. We suggest that existing institutions and traditions of citizen and stakeholder participation at the country level are likely to be a key driver of variation across countries in this respect: the country context, or the extent to which citizens and stakeholders are involved in policy making more generally, may have an effect on the manner in which these types of interests are engaged with by regulators.

This type of influence is tied to the literature on corporatism, and the extent to which interests are represented and the “institutionalised patterns of policy formation on a continuum from corporatism to pluralism” (Jahn, 2016, p. 47). That is, corporatist arrangements include centralised representation of interests, institutionalised at the national or sector level, while a more pluralist decision-making environment may be characterised by more ad-hoc participation arrangements, such as issue networks, characterised by more fluid participation by interest groups, experts and decision makers (Jordan, 1981).



We might expect that the manner and extent to which regulators will engage with citizens and stakeholders would vary along these lines as well: in more corporatist settings, stakeholders are engaged through centralised negotiations, representing businesses as well as citizens in their role as members in labour unions, workplaces, etc. The existence of these types of institutionalised channels may reduce the demand for and formation of issue-based networks and groups which might otherwise engage with regulators. Conversely, where policy coordination does not occur in a centralised manner, we see engagement of a more ad hoc nature, involving a variety of organs of the state and different types of stakeholder, interest and citizen groups.

We suggest that where stakeholder participation is already institutionalised in other ways, we are less likely to see regulators engaging directly with stakeholders, as these interests are already represented elsewhere, reducing the demand for direct engagement with regulators. Hence, we can expect less political and reputational pressure on regulators to adopt participatory mechanisms. In more pluralistic environments, there are less institutionalised avenues for stakeholders to engage directly in decision-making, and thus more demand by stakeholders and citizens to be involved in decision-making regarding specific regulatory issues. This is likely to result in higher political and reputational pressure on regulators to adopt participatory mechanisms. Several different avenues for how this logic plays out in practice are conceivable and may be at work simultaneously: decision-makers in pluralist countries may mandate regulators to adopt participation due to demand for doing so from stakeholders. Equally, regulators may respond to pressure from stakeholders to include them. As the development and maintenance of reputation is crucial for regulators, they may also try to pre-empt political or public pressure to adopt participatory practices (for example, Carpenter, 2010; Gilad et al., 2015).

Below, we explain our approach to operationalising different kinds of citizen and stakeholder

participation, followed by a discussion of the research design and variables. We then present our findings, which include first a mapping of regulatory participation over time, in different countries and sectors, followed by multivariate analysis that explores the extent to which corporatist institutions are driving the participatory regulation. Lastly, we discuss the findings and conclude.

### **Research design: Studying Regulation ‘for and with the Masses’ empirically**

We map the extent and pattern of the spread of participation in regulation through the use of automated text analysis of annual reports of regulators in different countries and sectors, spanning the years 1998 to 2017 (n=781). We collected annual regulatory reports from eleven advanced economies, representing variation in our proposed independent variable. This means the selected cases range from polities with highly pluralist institutions to countries with corporatist institutions of interest representation, which will allow us to gauge the effect of our theorised explanatory factor. The countries include Australia, Canada, New Zealand, Ireland, the UK, France, Belgium, Germany, Austria, Switzerland, and EU level agencies. This does not mean that the study of regulatory participation in other countries, (notably beyond the OECD) is not of interest. However, we focused on cases in which we were able to qualitatively assess the adequacy of key words (see below) due to the languages spoken by the research team.

The selected regulatory sectors were financial services, energy, telecommunications, aviation, water and pharmaceuticals, food safety and the environment. We included joint regulators (such as joint utilities regulators) in the analysis, but categorised them separately (e.g. “water and energy”). This selection covers many of the key regulated sectors in advanced economies, while also covering wide range of regulatory goals and procedures, ranging from economic

price-setting to scientific risk assessments. Although we expect country level institutions to play a key role in driving differences in patterns of regulatory participation, it is possible that different types of regulatory activity and sectors are more amenable to, or face greater pressures for, participation. For example, social regulators could be under greater pressure to engage citizens due to the sensitive nature of the areas they regulate. Other sectoral differences, such as how concentrated private interests are, may also have an impact on the use of regulatory participation. While we do not theorise and operationalise these differences explicitly due to our focus on country-level drivers of participation, our selection of cases provides for the inclusion of agencies with a variety of approaches, motivations and constraints regarding participation.

Regarding the type of texts chosen for analysis, annual reports were chosen as they represent a broad overview of activities of regulators in a given year. It is likely that significant participation exercises are referred to in regulators' reports. Formal annual reports bear the advantage that regulators are unlikely to provide inaccurate information or information that relies on one particular individual's recollection of the agency's activities (interviews or survey methods are at a greater risk of this problem). Although the formal requirements for annual reports may differ across countries and sectors, we contend that these formal reporting mechanisms still represent the most comparable existing form of data on regulators' activities. Cases of annual reports of regulators that are too dissimilar in formal requirements and reporting traditions were excluded (such as US regulatory reports, which focus largely on financial account-giving). It is likely that small-scale participation exercises may not be listed in annual reports, which means the data bears the risk of underrepresenting the occurrence of participatory processes. Annual reports for regulators from included countries and sectors were all manually checked for selected years to ensure general symmetry in the type and nature of reporting. However, it was not always possible to collect reports for every sector in every

country (an overview of the included regulators and annual reports can be found in online appendix 1).

This study uses a dictionary based approach, which defines a list of key words and then searches for the frequency with which these appear in the text corpus (Albaugh et al., 2013; Laver and Garry, 2000; Lowe et al., 2011; Neuendorf, 2016). The key words (English, German and French) that the reports were searched for can be found in online appendix 2. Key words were first formulated *a priori* based on the authors' expertise about regulators and participation in policy- and regulatory processes. The list was then refined through manual reading of selected reports for one year in each language. In order to distinguish between stakeholder participation and participation related more directly to citizens we divided the list of words into two further sets relating to each of these categories of participation. We specified the search terms using wildcards (e.g. "Engaging with stakeholder\*"), focusing on specific expressions, rather than on general terms (such as 'citizen' or 'consumer'), and used the Quanteda (Benoit et al., 2017) package in R to carry out the analysis, after preparing the texts for analysis by removing numbers and punctuation.

This approach is relatively conservative, focusing on specific, narrowly defined terms, and is thus likely to under report the appearance of terms related to participation, a potential outcome we prefer over the risk of collecting more general or unrelated information. A dictionary-based approach serves as an alternative to expert hand coding. The method is reliable, replicable, and allows for a focus on specific topics within long, multi topic and diverse texts. While this approach is potentially vulnerable to bias in the construction of the dictionary, we aimed to balance this risk by both authors contributing to and refining the list of terms, through the manual reading of reports, and through presenting the dictionary to other researchers.

In an effort to address the questions of the extent to which our dictionary is able to identify

relevant references to participation, we analysed a sample of our dictionary key words in their immediate context within the reports, findings that while not a perfect instrument, the use of the terms specified in our dictionary by regulatory agencies generally refers to the types of citizen and stakeholder participation which are the focus of this paper, and in almost all cases refers to instances of participation carried out or planned by these agencies (see online appendix 3).

Searching for key terms in annual reports bears the potential disadvantage that the measured outcome is the extent to which regulators relate to participation, rather than whether they engage in participatory processes. This issue is mitigated by the fact that annual reports are likely to mainly discuss processes that have actually taken place. Moreover, the extent to which regulators talk about participation is an interesting outcome in its own right as it informs us about the issues regulators think they ought to discuss or have been obliged to discuss.

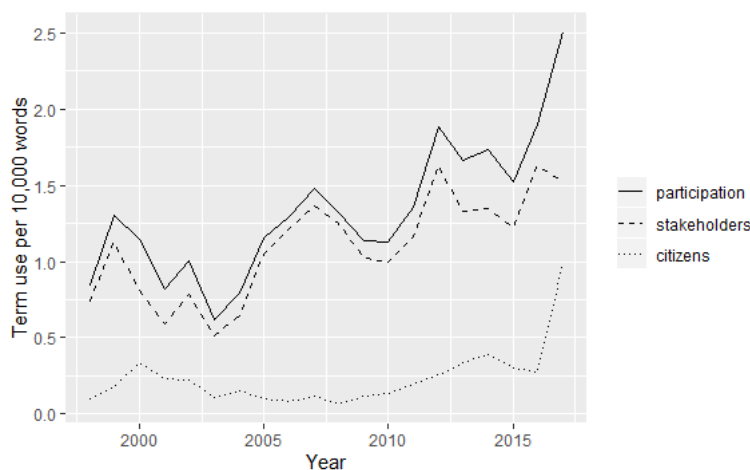
Following from the above, our dependent variables in this study are a count of terms related to participation in regulatory annual reports. We have three such variables: the first is the count of terms relating to both stakeholder and citizen participation (“participation”), and the second and third are the count of terms relating to each type of participation separately (“stakeholders” and “citizens”).

## **Findings**

The results of our analysis show that there has been an upward trend in regulators use of terms related to stakeholder and citizen participation. Between 1998 and 2017, the frequency with which regulatory annual reports mention terms related to participation has more than doubled. Figure 1 shows the trend for the three categories of interest. The word count in this and the

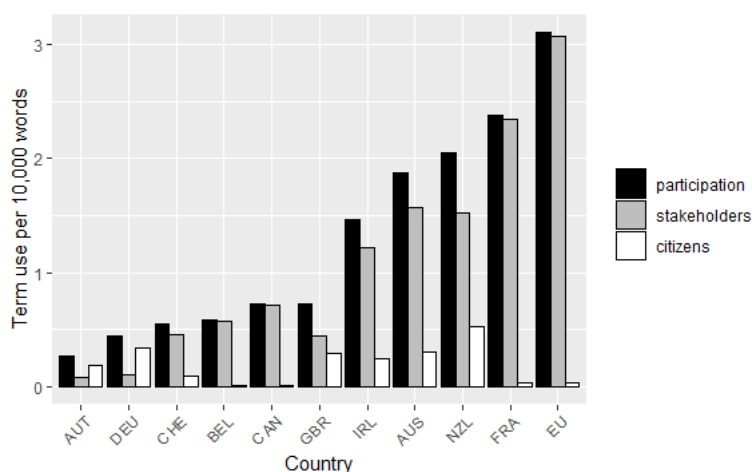
other figures below is normalised per 10,000 words of text for ease of interpretation and comparability between different lengths of reports.

Disaggregating the more general participation category into separate categories for stakeholder and citizen participation shows that most of the discussion of participation is driven by reference to stakeholder participation. However, there has also been a more recent growth in references to citizen, customer and consumer participation, roughly since 2010. As discussed above, involving these groups in decision-making explicitly and in separate exercises to conventional stakeholder engagement exercises presents a more direct challenge to the model of the technocratic regulatory state. However, while on average there is a rise in the use of these terms, there is significant variation at the national level in both the extent to which these terms are used, and the manner in which this is expressed over time. (This can also be seen in figure x.1 in online appendix 4.)



**Figure 1: Terms related to different categories of participation over time, annual regulatory reports**

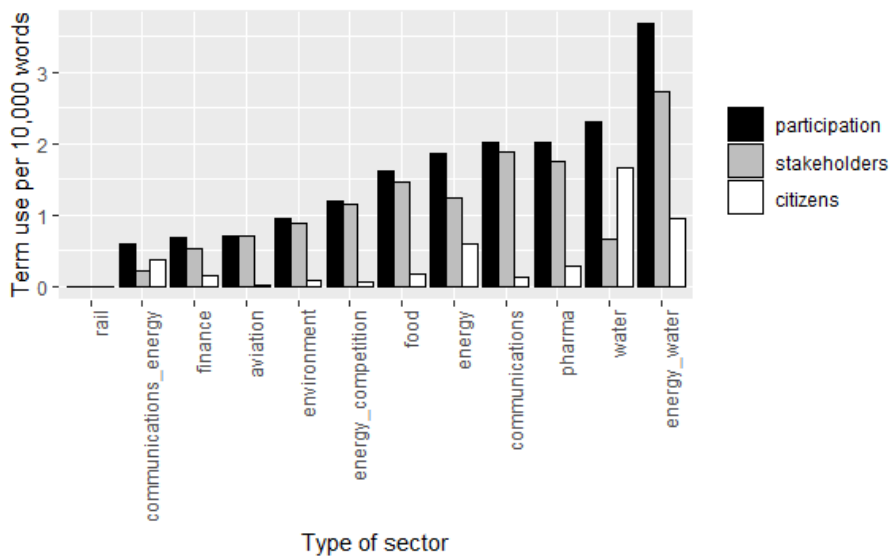
Turning to the country level, we observe very pronounced variation in the extent to which regulators in different countries discuss participation. Regulators at the EU level, France, Australia, and to a lesser extent other English-speaking countries refer to participation more frequently than regulators in Germany and Austria. Indeed, the relative lack of references to participation of German and Austrian regulators was sufficiently surprising that we subjected these results to a manual robustness check by reading a sample of regulators’ annual reports from these countries to ensure that the results were not skewed by the usage of vocabulary by regulators in these countries that falls outside the scope of our key words. Such manual checks did not provide any evidence of overlooked reporting of participation on part of these regulators. These findings show that we have not seen a universal trend towards regulatory participation across advanced democracies.



**Figure 2: Terms related to participation in different polities, annual regulatory reports**

It is also noteworthy that as figure 2 shows, there is variation in the extent to which regulators in different countries refer to citizen, customer and consumer participation (“citizens”), as opposed to stakeholder (“stakeholders”) participation. Among regulators in countries in which the use of terms related to participation is generally higher, regulators in most English-speaking countries are more likely to also refer to terms related to citizen or consumer participation,

when compared to EU level and French regulators.



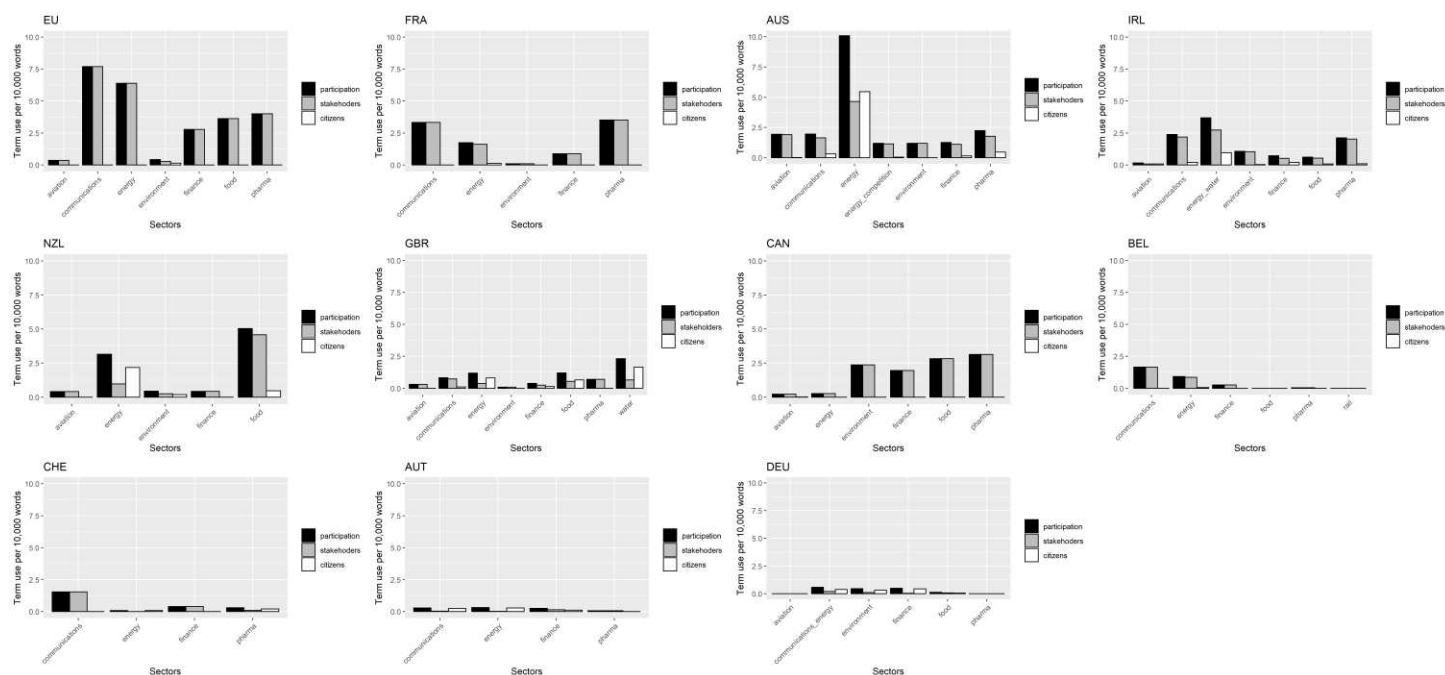
**Figure 3: Mapping cross-sectoral variation in regulatory participation**

Turning to the sector level, we also find variation in the extent to which regulators in different sectors refer to participation. Financial and environmental regulators discuss participation much less than food, energy and water regulators. An energy and water regulator, followed by pharmaceutical regulators lead the way when references to citizen, consumer and customer participation are concerned. On average, regulators in non-economic sectors refer to participation more than those in economic sectors, yet the difference between the two types of sectors is relatively small, and is reversed regarding terms only referring to citizens (see figure x.2 in online appendix 4).

Comparing the findings at the levels of the individual agency, sector and country, the most consistent patterns of variation seem to occur at the national level, rather than that of the individual agency or sector. Comparing the use of terms related to participation across different sectors by country, indicates that the use of participation terms occurs similarly within the different country cases. This is most evident in the cases in which participation terms are used



in most if not all of the sectors surveyed (such as the EU, Australia and Ireland), or nearly not at all, across all sectors within the same national context (Switzerland and particularly Austria and Germany).<sup>1</sup>

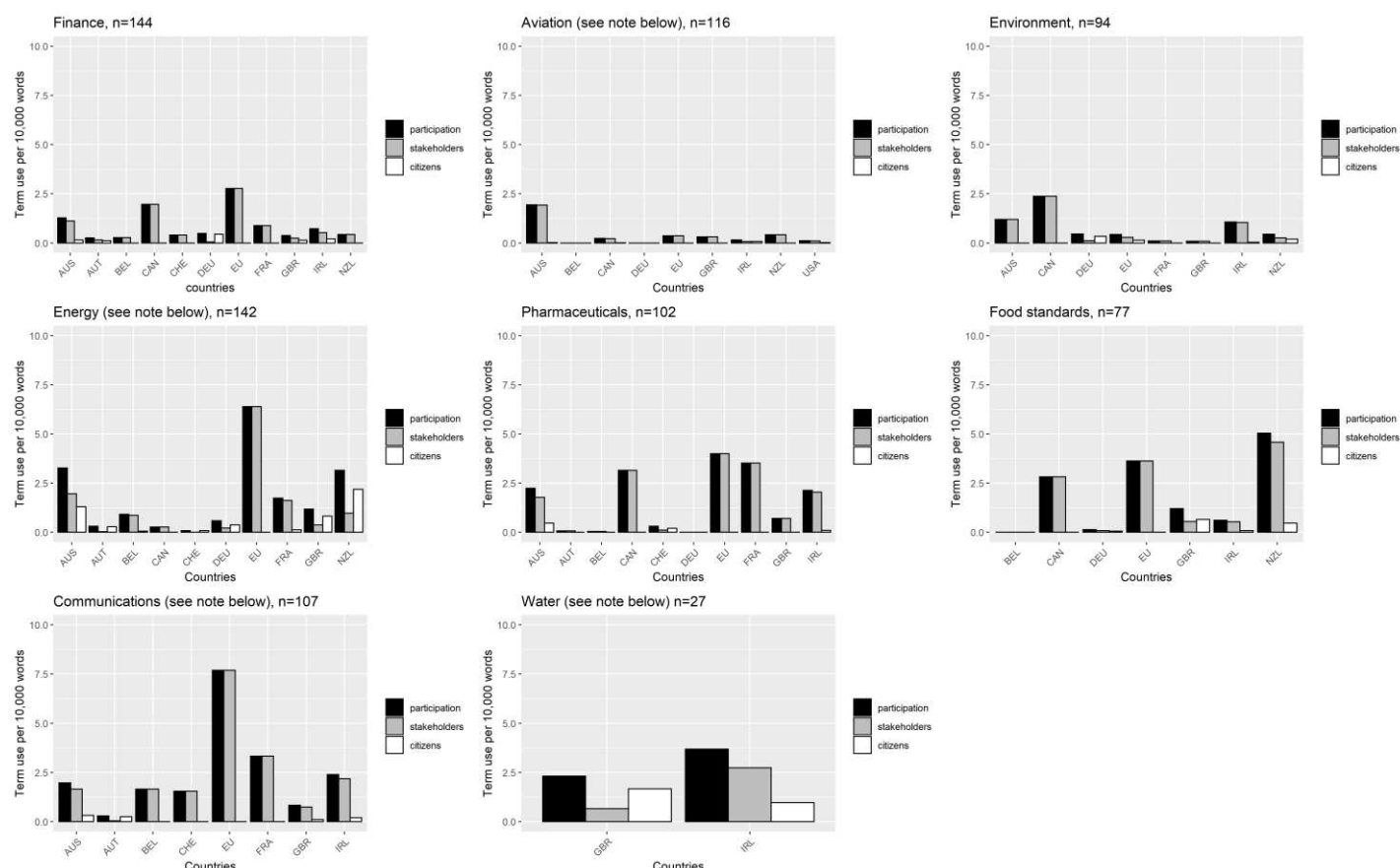


**Figure 5: Terms related to participation by sector in different countries, annual regulatory reports**

This country-specific pattern can be seen when the opposite comparison is made, comparing the use of terms by countries within each individual sector. While the comparison here is not as straight forward, since countries differ in how their regulatory regimes are organised (e.g. some have single purpose regulators while other have a single regulator for several sectors), the picture arising from the comparison is similar. There is little uniformity within sectors, as

<sup>1</sup> While this may still seem like an artefact of the German language dictionary we defined, it should be noted that the Swiss reports were all in English, as the official reports were generally available in English alongside other official languages in this context.

regulators in some countries tend to use terms related to participation, others do not, and there is no uniform pattern within sectors, with the exception of aviation (in which nearly no agency referred to participation), and communications, in which every national agency referred to participation.



Note: Figures in parentheses indicate number of annual reports. Aviation includes the rail regulator in Belgium, Energy includes reports from a combined energy and competition regulator in Australia, the energy and communications regulator in Germany and excludes the Irish energy and water regulator. Communications excludes the German energy and communications regulator. Water includes the Irish water and energy regulator.

**Figure 6: Use of participation terms by sector in different countries, annual regulatory reports**

At the individual agency level, we can look at the agencies which have used terms related to participation most frequently. Thus, 41 of the individual reports, representing roughly 5% of the sample, have used these terms more than five times in 10,000 words. This top 5% of reports using these terms were generated by only fourteen agencies, from seven countries, while eight of these agencies are from only two polities: the EU and Australia (also see Table x.1 in online

appendix 4). Thus, while it is likely that in some cases the use of terms related to participation is a product of agency level drivers or of particular sectoral dynamics, it appears that polity level drivers play a key role in how participatory regulation has spread. This is in line with our theoretical expectation that the degree of institutionalised interest representation has an effect on whether regulators in a given country adopt participatory mechanisms. The next section tests this theoretical proposition against our empirical findings.

## **Analysis and Discussion**

In order to move research on variation in participatory regulation towards explanation beyond individual cases, this section of the paper empirically tests the theoretical proposition that country level factors are important drivers of participatory regulation. It tests the effect of corporatism at the national level on regulatory participation. We use multivariate analysis below in order to test the influence of this type of country level factor against other types of factors at the national, sector and individual agency levels. Thus, at the national level, we test the role of corporatism, based on Jahn's averaged corporatist score (1960's to 2010), comprised of measures of the structure, the function and the scope of corporatists institutions .

We test for membership in the EU, which may affect processes of participation through policy transfer from the EU level, encouraging or requiring agencies in member states towards consultation or engagement with stakeholders or citizens (as highlighted in the extensive literature on Europeanisation, *cf.*, Börzel and Risse, 2003).

We also test for the role of party politics. This is because the literature on the rise of the regulatory state emphasises regulators' independence from political influences, aiming to create credible commitment for stability in markets (Majone, 1997). This necessitates a reliance

on professional knowledge and standards, precluding both party politics and direct public participation from regulatory decision-making. Thus, we might expect that if there is change in the role or scope of participation in regulation, this may be related to pressure by political actors. This might occur, for example, through legal mandates to engage in public consultation on certain issues, or through informal channels of political influence on regulators. In this case, we might expect more such pressures resulting in more participation under the political left, as the left may prioritise participation over adherence to the model of regulatory independence and credible commitment. This expectation is in line with recent research which links partisanship and political priorities to the creation of regulatory agencies by governments (Enns-Jedenastik 2016). In this case, political priorities might be influencing not agency creation, but the type of regulatory activities.

At the sector level, we control for a basic distinction between economic and non-economic sectors (aviation, financial services, energy and telecommunications and water vs. food safety, the environment and pharmaceuticals). This distinction is commonplace (although not uncontested) in the literature on regulation, and the assumption here is that we are less likely to see participation in regulatory domains of an economic nature, which are at the core of the regulatory state and its emphasis on independence from political pressure to safeguard credible commitment.

At the individual agency level, we control for two types of influences. One is direct government control (whether or not the regulatory body is a government department), which also provides a general measure of agency independence. This again relates to the extent of direct political influence, which we may assume would lead to more participation. The second, based on a reputational approach (Carpenter, 2010) aims to measure the extent to which regulatory reform is likely to occur within a given sector. We measure this by counting the number of times the name of an agency has changed within our sample. While an imperfect measure, it captures the

level of threat to organisational survival perceived by a given regulator, based on past experience. More previous regulatory reforms indicate a higher threat to the organisational status quo. We might expect such pressures to encourage or discourage regulators from engaging in participation, as a means of protecting the agency's reputation, either through engaging with stakeholders and the public, or through further appeal to independence and professionalism. (For details on the measurement scales used in the analysis, see online appendix 5.)

Table 5 below depicts three separate models, one for each dependent variable: model 1 is the combined specification of citizen and stakeholder participation, models 2 and 3 use the separate specifications for stakeholders and citizens. The models use a negative binomial model, which is appropriate for overdispersed count data. Our full specification of our main model excludes EU level agencies, for which we lack data in three of our country level independent variables (membership in the EU, the share of the left in government, and a measure of corporatism). We discuss and test the implications of excluding the EU from the analysis in online appendix 6.

As Table 5 shows, in all three models, the use of terms related to participation of different forms has grown over time. Second, as predicted, higher levels of corporatism are significantly correlated with lower levels of use of terms related to participation in all three models. Despite our expectations, the political left in government is negatively related to the use of participation terms, and not consistently significant. Additionally, and again surprisingly, government departments are significantly less likely to use terms related to participation. Other factors, such as the number of times the sector has undergone regulatory reform, and the type of sector (economic or non-economic sector) are not consistently significant.

**Table 5: Use of terms related to stakeholders in annual regulatory reports, 1997-2017, Ten countries**

	<i>Dependent variable:</i>		
	participation	citizens	Stakeholders
	(1)	(2)	(3)
Corporatist	-0.431*** (0.052)	-0.227** (0.106)	-0.523*** (0.060)
Left government	-0.113** (0.050)	-0.196* (0.104)	-0.091 (0.056)
EU membership?	-0.150 (0.106)	-0.550** (0.215)	0.019 (0.120)
Economic sector?	0.172 (0.107)	0.366 (0.226)	0.090 (0.119)
Gov department?	-0.772*** (0.219)	-1.564*** (0.498)	-0.527** (0.242)
Title turnover	0.067 (0.054)	0.137 (0.108)	0.007 (0.061)
Date	0.265*** (0.051)	0.455*** (0.108)	0.228*** (0.058)
Constant	1.149*** (0.117)	-0.380 (0.243)	0.849*** (0.132)
Observations	698	698	698

Log Likelihood	-1,631.035	-719.987	-1,484.726
Theta	0.818*** (0.062)	0.215*** (0.024)	0.649*** (0.052)
Akaike Inf. Crit.	3,280.070	1,457.974	2,987.451

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*Note:*

\*p<0.1; \*\* p<0.05; \*\*\* p<0.01

All models control for Word count

Table 5 provides support to our theoretical proposition that the existing styles and institutions of participation at the national level have an impact on the extent of regulatory participation in a given country. That is, the broader context of civil society and business involvement in government decision-making and the economy more broadly, may be seen as related to the manner in which such groups will engage with regulatory decision-making.

The relationship between the wider decision-making context and the relation between citizens, business and government seems to follow a substitutive logic, rather than a complementary one. While the use of participation in regulatory decision-making might have been seen as a way of adding additional channels of stakeholder and citizen participation to those already in place, it appears to be adding such channels in countries where they are generally less common or institutionalised. This may be a result of politically mandated participation to legitimise regulation, a consequence of informal political pressure on regulatory agencies or the effect of regulators seeking to legitimise their actions publicly. Any of these different mechanisms point towards using participation as legitimisation strategy in pluralist countries.

Our findings indicate that regulators in more pluralist countries may indeed use participation to enhance their legitimacy: we find a positive correlation between high degrees of pluralism and participation in relation to stakeholder *and* citizen participation. Our descriptive findings also demonstrate that it is mostly pluralist countries in which regulators refer to citizen participation. While stakeholder engagement may at least be partially motivated by the need for expertise and information from the regulated industry, citizen participation is unlikely to be motivated by this aim. It is more likely to be introduced to enhance legitimacy of regulatory processes, as envisaged in our hypothesis about the substitutive effect between low degrees of corporatism and regulatory participation. However, our findings also show that in individual



cases administrative traditions beyond corporatism matter: while Germany's regulators are among the agencies that discuss participation the least (in line with Germany's high degree of corporatism), they discuss citizen participation to a similar extent as regulators in some of the pluralist countries. This highlights that in this case Germany's tradition of participation (usually referred to as *Bürgerbeteiligung*) in wider policy-making seems to continue at the regulatory level. Research on the perceived importance of citizen participation in the wider public administration system of countries has shown that at the top public manager level, Germany's administrators perceived citizen participation to be most important, as opposed to engagement with organised interests (Huxley et al., 2016). In this case we do not seem to observe a substitutive logic, but a reinforcing logic: be it through political mandates, or due to prevalent norms of participation, German regulators apparently value citizen participation comparatively more than stakeholder participation. This points to an interesting interaction between institutions of interest representation and administrative traditions in particular country cases that deserve attention in future research.

It is important to note that regulators in countries with higher degrees of pluralism have been found to have regulators with higher levels of formal independence (Guardiancich & Guidi, 2016). This raises the question whether what we are actually observing in our analysis is that more independent regulators, rather than regulators in pluralist countries, are more likely to introduce participation. We control for this by distinguishing government departments from stand-alone agencies, offering a crude measure of agencies independence. We also ran an additional analysis of the effect of independence of regulators using Gilardi's index (2008) of agency independence on a sub-sample of our agencies. This analysis shows that the coefficient for corporatism remains significant and negative in two of our models when independence is controlled for. However, this additional analysis is limited in several respects (see online

appendix 7), highlighting the importance of future research on the effects of agency independence on participatory regulation.

Another important finding arising from our empirical analysis is that there has been a rise in stakeholder participation over time, which points towards a dynamic relationship between the development of the institutions of the regulatory state and institutions of interest representation. The question is what form this relationship takes: how do agencies' attitudes change, if at all, towards issues of participation? Are newly formed agencies more likely to engage in participation than those established earlier? It may be argued that over time, agencies which might have initially followed a strictly independent and professional-oriented decision-making, began incorporating stakeholder and citizen participation in order to meet demand for this type of participation, as a means of problem solving, or a means of managing questions of regulatory legitimacy. On the other hand, we might expect agencies to perpetuate existing norms and practices, following a path dependent logic meaning that established and institutionalised regulatory regimes are less likely to see a rise in the use of participation.

While this question requires further research, we aimed to build on and complement our main analysis above by collecting the founding date of the agencies in our dataset. In cases where there has been turnover or reform within the sector, we used the founding date for the earliest regulator within our sample. The analysis presented in online appendix 8 shows that a later founding date is correlated with more use of terms related to participation. This supports a view in which the more institutionalised the regulatory regime has been in a given sector, the less likely regulators are to use terms related to participation. This may mean that norms of professionalism and independence became institutionalised early on and were then not easily changed as demands for additional participation may have increased, which may help to explain cross-sector variation of regulatory participation. We thus have some evidence that institutions of interest representation are interacting with agency-level, and perhaps even

sector-level norms. If this is the case, it points towards shifting norms of what constitutes legitimate regulatory processes among policy-makers and regulators, which would be interesting to unpack in further research.

## **Conclusions**

This paper aimed to map the comparative growth and development of participation in regulatory decision-making. This mapping exercise is based on a quantitative, dictionary-based analysis of terms related to stakeholder and citizen participation in annual regulatory reports in 11 polities. The paper thus contributes to the literature on citizen and stakeholder participation in regulatory decision-making, by offering a wide scale, comparative view of how this type of participation has grown over recent decades, and how this has varied across national contexts and policy sectors. Moreover, it proposes that country-level institutions of interest representation (i.e. corporatism) may be key in explaining cross-country variation in regulatory participation. This has been overlooked in the literature, which has largely focused on drivers of regulatory participation in individual cases of participation.

The findings show that the use of terms relating to regulatory participation have grown over time. They also demonstrate that variation occurs primarily at the national level (although we also observe some cross-sector variation), and the distinction between agencies which use these types of terms can be shown to correspond to the distinction between more and less corporatist countries. We suggest that this may indicate a substitutive relationship between existing institutions of participation at the national level and participation in regulation. That is, regulatory participation is more likely in less corporatist national settings. This is likely the case because in more pluralist settings stakeholders are not engaged through centralised negotiations, creating pressure for participation in other settings, such as at the regulatory level.

Moreover, where coordination in the market does not occur in a centralised manner, we see engagement of a more ad hoc nature, involving different types of stakeholder, interest and citizen groups.

This hypothesis requires further study, refinement and empirical study. Specifically, we need to be able to distinguish the impact of corporatist institutions from other possible features which generally distinguish corporatist and non-corporatist countries, such as the extent and type of social protection, other aspects of state, society and business coordination, as well as cultural factors, and policy trends that coincide with distinction between pluralist and corporatist countries to a degree, such as the prevalence of the new public management and the degree of independence granted to regulators in different countries.

In this regard, the study of EU agencies may prove useful as a way of disentangling the effects of these different institutions and policies on participation, as some of these factors (such as social protection) are absent in the EU context. EU level agencies lead in our measures of referring to regulatory participation, and the EU level shares a pluralist pattern of interest representation with other non-corporatist countries, which would seem to strengthen our argument. However, it may also be the case that participation at the EU level is being driven by other factors than those in English-speaking countries as the focus on citizen participation in pluralist countries is not matched at the EU level, which focuses more exclusively on stakeholder participation. This could, for example, indicate that EU agencies are motivated mainly by the need for information from industry and expert stakeholders. Future comparative study of regulatory participation at the EU level and pluralist polities could help to unpack these issues.

The current research thus also serves to highlight cases for further in depth (comparative) case studies, which may also be able to better study the specific causal mechanisms at play

(Seawright and Gerring 2008). Our study allows for the identification of extreme cases at the national or sector level, such as the EU, Australian or German contexts, or more typical cases in the middle of the distribution. It also allows for identifying specific points in time which saw a rise or fall in the use of these terms.

Finally, the study contributes to the study of the regulatory state more generally. Demonstrating a growing phenomenon of regulators involving stakeholders and citizens in decision-making, or at the very least a rise in the prominence of the discussion of such participation, offers empirical evidence for change in the regulatory state and a shift away from the model of strictly economic, de-politicised regulation. Thus, the further study of how and why regulators involve consumers, citizens and stakeholders is the study of how the roles and means of regulation are changing, and of the changing nature of the regulatory state itself.

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