

Input for Public consultation on the Commission's Stakeholder Consultation guidelines

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Transparency Register Identification Number: 501222919-71

Friday 26th September, 2014

1. ***Do you think the Stakeholder Consultation Guidelines cover all essential elements of consultation? Should any of these elements receive more attention or be covered more extensively?***

TI-EU believes that, while generally comprehensive, certain aspects of procedural detail must be developed further, and certain rules must be strengthened:

Where targeted consultations/consultations with a limited capacity are conducted by the Commission, TI-EU believes that in addition to ex-ante transparency regarding the selection criteria for stakeholders being consulted (in the form of explanation of how it will ensure a balance of interests represented in the consultation), reasoned explanation for why each of the final stakeholders was selected should be published.

In Step 8 of the consultation process, where the Commission is charged with analysing the responses of consulted stakeholders, record could be made of input that falls outside the strict objectives of the consultation, rather than being automatically discarded. While this would not feed into the direct output of that specific consultation, such separate record could be beneficial in directing future legislative proposals and identifying key issues for further consultation. Room for such 'extra' input would also serve to contextualise stakeholder contributions more accurately and map the most relevant stakeholders for future consultation.

Regarding the consultation period duration for meetings, hearings, conferences or other consultation events, TI-EU believes that the current 20-day informal 'best-practice' notice period should be formalised to avoid ad hoc and less traceable consultation periods. Given that these alternative consultation channels are often set-up to engage the less resourced stakeholders, timings should be clear and fixed so as to ensure that input can be properly prepared.

Additionally, TI-EU views the current practice of recognising a stakeholder as having provided 'individual contributions' if they are not registered in the Transparency Register as ineffective in encouraging transparency in decision-making. All stakeholders wishing to formally input into the legislative process, regardless of whether at preparatory or a later stage, should be required to have

registered on the register. The Commission services responsible for facilitating the consultation should be responsible for ensuring adherence to this rule, and should decline requests to sit on consultation groups from stakeholders who, after being requested, refuse to register.

The Transparency Register could be used systematically in consultations as a 'one-stop shop' for input, thus increasing transparency, linking lobbyist profiles more closely to activity and facilitating more standardised reporting on consultations.

As regards the Commission's practice of accepting anonymity requests from stakeholders wishing to take part in consultations, TI-EU believes that where such a request is duly justified this can be granted. However, granting of anonymity should be accompanied, in addition to an indication of which stakeholder category a stakeholder belongs to, a reasoned explanation for why anonymity was granted. This can be provided in such a way as to outline general reasons for this whilst protecting the legitimate concerns warranting the request in the first place.

For consultations carried out wholly or in part by external parties or contractors, the principle of transparency should be applied to selection procedures and provisions of this nature, such as those existing in public procurement rules, should be fully grounded in the guidelines on stakeholder consultations. Guidelines should be strengthened to ensure the same standards apply to externally led consultations as to internally led consultations.

2. Do you think the guidelines support the identification of the right target audiences? If not, how would you improve them?

While quite comprehensive, the Commission could elaborate on its channels for encouraging engagement from non-organised and civil society interests. This broad goal is mentioned briefly in a list of additional means for identifying stakeholders but should be further developed so as to describe concrete, non-exhaustive steps that Commission staff using the guidelines can refer to. This could be elaborated in a similar fashion to guidelines for consulting SME's as laid out on p.31 of this consultation document (in annex to the guidelines).

3. Participation by stakeholders in open public consultations is often disappointingly low. How can the Commission encourage or enable more stakeholders to take part? How can the Commission better reach and engage underrepresented groups of stakeholders and assist them in replying to complex issues?

With a view to enabling more stakeholders to take part in a consultation process, the Commission could simplify and further streamline the input form for issues on which possible outcomes are already fixed and limited. The Commission should examine harnessing different tools for the same consultation, to reach more disparate audiences and increase accessibility. This could well include making use of a more targeted social media strategy to ensure further reach.

The Commission should also consider producing simple language guides (even making use of audio-visual elements) to explain the purpose of a proposal subject to consultation, and whom it could affect and how, to encourage and elicit respondents to come forward. This would more clearly underline the way in which a consultation directly affects participants, likely encouraging increased participation.

4. Is there a risk of 'over consultation', making it difficult for you as a stakeholder to distinguish between important and less important consultations?

Yes, to some degree. TI-EU suggests that figures or statistics that would better contextualise and illustrate/measure the foreseen impact of changes potentially resulting from the consultation would be useful in allowing stakeholders with limited resources to better align their consultation input expenditure to their overall objectives.

5. Do you see a need to explain the limits of consultations in this guidance document?

Yes: to ensure that Commission staff are aware of these and make use as necessary of different tools, in parallel or as a supplement, and seek to gather additional expertise if need be. Consultations only go so far. They also need to be held transparently to enable (potential) respondents to see how their contributions are handled and taken into account by the Commission, and to be, ultimately, meaningful.

6. Do you think the guidelines provide enough guidance on how to analyse the results and assess the representativeness of respondents and how to provide feedback to stakeholders participating in a consultation? If not, how could this process be improved?

TI-EU sees the risk of duplication in the current process for mapping stakeholders where national organisations taking part in a stakeholder consultation may also be represented by an umbrella group at EU level. As such, their views would be presented twice during consultation, thus skewing the representativeness of a certain perspective. Active checks should be undertaken by the Commission in this regard. Alternatively, respondents can be asked to indicate if they have also made a joint contribution in parallel to a single contribution, or if an umbrella organisation of which they are part has (to their knowledge) also made a contribution.

The process could also benefit from a more standardised format for reporting on consultations across DG's. This would help in increasing transparency and could be complemented by the use of infographic tools to demonstrate an overview of respondents profile e.g. distribution by stakeholder category, member state, etc. Open data in this regard would aid in constructing a clearer picture of which actors are most frequently involved in consultation processes.

Furthermore, the roadmap for consultation should at least provide information on names of steering group participants and dates of relevant inter-service consultations.

7. Do you agree with the presentation of the different consultation steps (1-10)? Or, do you see additional steps?

TI-EU suggests that further detail on how feedback from consultation evaluations could be used, should be developed.

8. Do you think these consultation "tools" are adequate or do you see other tools which should be referred to in the guidelines?

N/A

9. Do you have any other comments or suggestions, which could help make these Guidelines as comprehensive and clear as possible?

N/A