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Public stakeholder consultations

Consultations should not be done *pro forma* on predetermined outcomes. Political decisions, in particular decisions on the preferred policy option, should be based on all evidence available, including the views of stakeholders. Roadmaps and inception impact assessments should therefore be as detailed as possible, so meaningful input can be provided early in the process.

Over the past years, significant efforts have been made to improve participation and provide stakeholders with more and better opportunities to contribute to EU policy-making. Worthy of mention is the recent revision of the Better Regulation Guidelines and Toolbox as regards public consultations, and the work of the REFIT Platform on this issue. Business also appreciates the new “Contribute to law-making” website¹ that now bundles all consultation opportunities in one single site.

Notwithstanding these efforts, the way the European Commission consults stakeholders and uses feedback in the drafting and revision of legislation requires improvement. When preparing consultation strategies, Commission services continue to apply the consultation guidelines and tools incoherently and inconsistently; questionnaires are often long and complex or ‘steer’ the answers towards a certain outcome; and uncertainty remains among stakeholders as to whether, or which extent, the feedback provided is taken up in both the impact assessment and the final proposal.

Finally, it is important to emphasise the need to respect the specific nature of social partner consultations, as enshrined in article 154 and 155 TFEU. Given social partners’ specific, designated role at EU level and in the Member States on social issues, the specific consultation of social partners cannot be replaced by a more general public consultation.

Recommendations

In view of the above, BusinessEurope calls upon the European Commission and other institutions engaged in public stakeholder consultations to improve and further develop how stakeholders are consulted and how their feedback is used. BusinessEurope welcomes the recent opinion of the REFIT-platform on stakeholder consultations² and proposes the Commission pays particular attention to the following aspects:

¹ https://ec.europa.eu/info/law/contribute-law-making_en

² Refit Platform Opinion on the submissions XXII.4.a by the DIHK and XXII.4.b by a citizen on stakeholder consultation mechanisms, Date of adoption 07/06/2016:
https://ec.europa.eu/info/sites/info/files/xxii4ab_on_stakeholder_consultation_mechanisms.pdf



- Increase awareness in the Commission services of better regulation principles and practices, for example by regular mandatory training.
- Improve the design of the questionnaires: questionnaires should not be too long, allow for open answers or comments and not use prejudiced questions; consultation forms should be provided in an editable format; questions should be simple and clear; uploading position papers should always be possible as an additional feature; and it should be possible to answer all the questions in the questionnaire irrespective of answers provided and the nature of stakeholders.
- Ensure that the design of the consultations supports evidence collection for the impact assessments and extend the mandate of the Regulatory Scrutiny Board (RSB) to assess the link between the consultations and impact assessments.
- Make more frequent use of targeted consultations and divide consultations on complex issues in expert interviews and interviews for the general public.
- Ensure sufficient time to respond, and never carry out consultations over holiday periods (in particular July-August, second half of December). For “feedback” consultations and consultations on draft delegated and implementing acts, the four-week consultation time should be extended; for the latter, there should be sufficient time for the Commission to consider changes to the draft prior to the vote in the Committee
- Weigh the received feedback according to its representativeness and explain in greater detail how consultation feedback has been taken up and used in the explanatory memorandum.