RESULT OF THE COP STAKEHOLDERS SURVEY

EXECUTIVE SUMMARY

The Community of Practice for better self- and co-regulation (the CoP) was set up in 2013 by the Directorate General for Communications Networks, Content and Technology. In order to take stock of experiences with the pilot phase, a survey was carried out among involved stakeholders. Structured interviews took place with the members of the Steering Committee and the speakers at one of the CoP plenaries. Focus group meetings were held with DG CONNECT, DEVCO, ENER, GROW, JUST, MOVE and DG SANTE. All those having taken part in one of the plenaries and/or joined the web-based platform were invited to answer the online survey. The main findings of this survey are the following:

➤ **The CoP and its objectives are still relevant**

After the integration of the Principles for better self- and co-regulation in the Better Regulation (BR) package, self- and co-regulation (SRCR) best practices still need to be explored and deployed. The CoP’s original objectives, i.e. to develop a culture of better SRCR, to support capacity building and to experience, improve and promote the Principles are still relevant. Moreover, action is still required at EU level in the light of the BR agenda and the development of an EU approach towards private regulation.

➤ **The impact of the CoP is recognized and its work should be pursued**

The CoP is perceived as impactful by the pool of respondents, both inside and outside the Commission. If the design of the Principles and their integration in the BR package is quoted as a major achievement, other successes were the establishment of the CoP as such, as it indeed contributed to the achievements of the objectives mentioned above. Furthermore, it has placed SRCR discussions on the EU agenda and demonstrating SRCR’s value as a complementary mean of regulation. The CoP is also perceived as making a difference in the EU regulatory landscape by bringing a “fresh wind” i.e. changing mind-sets and serving as a trigger for forward-orientated discussions. It places the EC in a leadership position at EU level on an inclusive regulatory approach and responds to the knowledge vacuum around SRCR. It also clearly contributes to the Better Regulation agenda. According to the pool of respondents, the CoP should be continued and, to use the expression of one of the respondent, "become the SRCR champion within the Commission, the place to keep the flame alive."
The way forward

An overwhelming majority pointed to the fact that the CoP must be pursued. However, they suggested the following improvements in order for the CoP to reach its full potential:

✓ The CoP positioning
SRCR impacts a broader area than the digital one and now the CoP needs to spread its work across the whole Commission and beyond. The Principles should be clearly embedded, promoted and used across DGs and across different sectors. Several respondents recommended a more central location for the CoP. The Secretariat-General was mentioned as the best place to host the CoP in the future, notably in view of the fact that it owns the Better Regulation file.

✓ EC commitment is called for
Future relevance will depend on EC commitment. Moreover, a clarification on how the CoP’s output is feeding the EC’s work is needed. The CoP “membership” should be better defined and a work program should be established. Discussions should go deeper on specific issues before any decision is taken under the “CoP’s label”.

✓ Membership diversification must be enhanced
The engagement of more diverse stakeholders notably within civil society, Member States and currently underrepresented sectors is crucial.

✓ The format is working but could be improved
The current format, i.e. plenary meetings supported by an online platform, is appropriate for the majority of respondents. However, specific working groups would be welcome, as certain issues deserve more in depth discussions. The online platform is useful as a repository of CoP and SRCR related information, while interaction is preferred live.
1. INTRODUCTION

1.1. Background

The Community of Practice for better self- and co-regulation (the CoP) was set up in 2013 by the Directorate General for Communications Networks, Content and Technology. It followed a publication of the Principles for better self- and co-regulation\(^1\) in February 2013, which stemmed from a public consultation\(^2\) in the summer 2012 on a “Code for Effective Open Voluntarism”\(^3\). Held in a two-pager, they cover the two subsequent phases of conception and implementation, stem from evidence-based good practice and offer a benchmark for effective SRCR.

### CONCEPTION

- **PARTICIPANTS** - As many as possible potential useful actors should be represented.
- **OPENNESS** - Envisaged actions should be prepared openly and involve all interested parties.
- **GOOD FAITH** - Different capabilities of participants should be taken into account, activities outside the action’s scope should be coherent with the aim of the action and participants are expected to commit real effort to success.
- **OBJECTIVES** – Must be set out clearly and unambiguously and include targets as well as indicators for evaluation purposes.
- **LEGAL COMPLIANCE** – Actions must be designed in compliance with applicable law and fundamental rights as enshrined in EU and national law.

### IMPLEMENTATION

- **ITERATIVE IMPROVEMENTS** - A prompt start, with accountability and a process of "learning by doing", with sustained interaction between all participants.
- **MONITORING** – Conducted in a way that is sufficiently open and autonomous to command respect from all interested parties.
- **EVALUATION** – To allow participants to assess whether the action may be concluded, improved or replaced.
- **RESOLVING DISPUTES** – By ensuring they receive timely attention. Non compliance should be subject to a graduated scale of sanctions.
- **FINANCING** - Participants will provide the means necessary to fulfil the commitments, and participation of civil society organisations may be supported by public funders or others.

The pilot Community of Practice has worked through 6 plenary meetings\(^4\) held semi-annually, supported by an online platform\(^5\) set up in July 2013. The aim has been to gather stakeholders wishing to promote, test and improve the Principles for better self- and co-regulation, share their experience about better SRCR actions, or simply to contribute on a more general level to this collective effort. The CoP was chaired by Robert Madelin, then

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\(^3\) The Renewed EU strategy 2011-14 for Corporate Social Responsibility, included an action (n° 5) aimed at developing a code of good practice for self- and co-regulation exercises, to make these voluntary actions more effective. This led to the public consultation.


Director General of DG Connect. The chairmanship is now ensured by David Ringrose, Acting Director in DG CONNECT.

Since 19 May 2015, the Principles have been enshrined in the Better Regulation (BR) Package. It is acknowledged that SRCR, both as option at impact assessment (IA) stage and as complementary to regulatory actions at implementation stage, are to be envisaged and practiced according to the Principles for better self- and co-regulation. This gives traction to the Principles and positions the CoP as a potential center of expertise for better SRCR in the BR architecture and governance.

In view of these developments and at the request of the Secretariat-General, a survey of the outcome of the pilot phase has taken place in April-May and is reported below.

1.2. Sources of information

This survey combined different means and inputs: an open online survey, semi-structured interviews with key members of the CoP, focus groups with EC colleagues, and facts and figures.

- **Online survey**
  People who registered as participants to at least one of the CoP plenary meetings and/or on the CoP online platform have been asked to take part in a survey developed on the EUSurvey tool, with the open security setting. The link to the survey was sent to stakeholders via email. Next to this, a forum post was open and a news item posted on the CoP online platform, both with the link to the survey.

- **Semi-structured interviews**
  The interviews were conducted with a selection of CoP members who have played a specific role since its inception (members of steering committee, speakers, active stakeholders, etc.). Two sets of questions (mixing the online survey and targeted, open questions) guided the interviews, which were conducted either face-to-face, or by phone.

- **Focus groups**
  Focus group meetings were held with the different DGs having been engaged with the pilot CoP. They were: DG CONNECT, DG DEVCO, DG ENER, DG GROW, DG JUST, DG MOVE, DG SANTE.

- **Facts and figures**
  The last source of information was the facts and figures about the CoP, its outputs and contribution to the SRCR policy landscape, and figures related to the online platform.

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7 i.e. it could be accessed by those knowing the survey’s URL.
1.3. Pool of respondents

The survey was aimed at those who registered as participants to at least one of the CoP plenary meetings and/or on the CoP online platform. The survey questions were answered by 33 respondents, including members of the Steering Committee, speakers and stakeholders responding either on behalf of an organization or as citizens.

The members of the Steering Committee, the Chair and 10 people who acted as speakers in at least one of the six plenaries also took part in semi-structured interviews.

In addition, 23 EC officials involved in SSCR or multi-stakeholders’ initiatives took part in this survey by joining the Focus Group sessions.

Within participants, the sector’s repartition is as follows:

Regarding the business respondents, represented sectors included advertising, ICT, e-commerce, data protection, broadcasting, publishing, printers, consumer goods, cosmetics, spirits and franchising. Members of civil society organizations and non-governmental organization that took part in the survey operate in public health, alcohol prevention, responsible innovation and consumer rights.

The majority of respondents to the online survey were involved in a self- and co-regulatory (SSCR) initiative. The examples of involvement include:

- Being part of a self-regulation organization (e.g. the European Advertising Standards Alliance).
- Being part of a regulation organization at national level.
- Being part of a drafting team of a code of conduct, code of practice, a memorandum of understanding or joint practices.

Additionally, some of the respondents were not involved in SSCR initiatives, but are engaged in a research in a University on the topics related to SSCR.

As far as engagement with the CoP is concerned, 89% of those surveyed participated in at least one plenary meeting, whereas 67% is registered on the online platform.

Their main reasons to engage with the CoP are described in the table below.
2. MAIN FINDINGS

2.1 Relevance and EU added value

2.1.1 The CoP’s original objectives remain relevant in the current EU context

In the light of the recent adoption of the BR package and the integration of the principles within it, an overwhelming majority of respondents stated that the CoP’s original objective remained relevant.

Those objectives are:

1) Develop a culture of better self- and co-regulation;
2) Support capacity building in the use of the Principles;
3) Experience, improve and promote the Principles: SRCR practice must continue to be explored and deployed.

![Relevance of the original objectives of the CoP](image-url)
2.1.2 Action at EU level is still needed

The CoP plenary meetings have unveiled that SRCR practice is unevenly spread across the EU with a number of Member States or sectors having undervalued or not being familiar with SRCR while others being much more conducive. At the EU level, SRCR is still often seen as an “exception in EU policy and law making” and is not yet approached in a coherent manner. Participants to the survey stated the need to articulate a consistent architecture and promote effective SRCR practices both at national and EU level.

The CoP is perceived as responding to the “knowledge vacuum” around SRCR, by setting common rules for soft regulation, and informing how those efforts are taking place and how SRCR may be brought to everyday life.

It also spreads awareness of the complementarity of SRCR to hard law, to be considered in the light of the EC’s Better Regulation agenda and the potential concrete use of the Principles in specific cases. By doing so it will increase stakeholders’ confidence in the possibilities to implement European Community regulation through SRCR as well as the conditions under which the European Commission should consider it.

In addition, EU action will also be increasingly relevant due to the ability of SRCR to react faster and more efficiently than hard law to certain rapid market evolutions flowing from new technologies and globalization. Since more and more areas (e.g. DSM, the REFIT of the consumer acquis, etc.) are susceptible to go down the SRCR path, enhancing better SRCR practices through the awareness and application of the Principles remains of crucial importance at EU level. Finally, many praised the need for a stability of the Principles but if any adjustment were needed, the EU level would also be the appropriate one.

2.2 Effectiveness and coherence

The three original objectives mentioned above remain relevant but the CoP is unanimously recognized as having contributed concretely and effectively in progressing towards their achievements.

The CoP’s impact was measured by asking interviewees what the CoP’s main achievements were and if any failure could be identified.

2.2.1 Achievements

✓ The CoP has made a difference in the EU regulatory landscape

88% of those surveyed stated that the CoP and its Principles make a difference in the EU policy and regulatory landscape. The CoP is overwhelmingly recognized as a useful, successful and worthwhile EC initiative. The following additional comments were made during the interviews:

The loudest voice at EU level

The CoP helped enshrining SRCR related issues on the EU agenda and placed the EC in a leadership position at EU level on an inclusive regulatory approach. It is now perceived as the loudest voice, within the EU institutions on SRCR setting common rules for soft regulation and informing how those efforts are taking place and how SRCR may be brought to everyday life.
Robust Principles now enshrined in the Better Regulation package

The definition and formal recognition of the Principles in the BR package is considered as a major step forward; it is “very useful to have them in the pallet of available options”. The Principles are relevant, comprehensive and constitute a robust benchmark, a concrete “check list behavior” against which one can measure current SRCR processes. Focus groups also mentioned that the Principles allow mitigating the risks associated with a SRCR endeavor: studies undertaken by EC services on the effectiveness of SRCR processes demonstrated that an initiative often fails when there is a breach of one or more of the Principles.

A non-threatening environment

The CoP was also recognized as effectively spreading the SRCR culture and promoting a multi-stakeholder approach to policy. The CoP has built an efficient stakeholders platform for exchanging best practices, mutual learning and conversation about enhancing better SRCR. It has given a wider perspective of the purposes and ways in which SRCR can efficiently work. The creation of this new “non-threatening” environment to confront ideas on SRCR was also praised as an important achievement. The CoP plenary meetings are favoring knowledge-sharing opportunities not only for stakeholders but also within the Commission by increasing awareness that the various services are facing the same issues and may find some inspiration from other DGs/people’s experiences.

A “fresh wind”

The CoP is quoted as having created a new climate for regulatory framework by bringing a “fresh wind”, changing mindsets and serving as a trigger for forward-orientated discussions. It led the CoP members to go beyond their a priori and to acquire a more nuanced opinion: participants heard about “resistance to SRCR not only from civil society representatives but also from business” and the challenges to take the discussion further. It also demonstrated the importance of a continued attention to SRCR processes both at the very beginning by being open and inclusive and during the whole implementation system.

- The EESC database update

The CoP also allowed to update the content of the EESC database on SRCR initiatives at EU level, which was done in close collaboration with the Secretariat-General and the EESC, by contacting all concerned DGs and asking them to check the content relevance of the various SRCR initiatives mentioned under their remit.

- Dissemination activities by CoP members

A large majority of participants stated that they are now acting as multipliers, with 91% of the respondents of the online survey answering that they mentioned or disseminated information on the Principles and/or the CoP by spreading information:
- to their own members, network, executive board etc.;
- during conferences;
- through academic work and opinions;
- through organization or personal websites and newsletters.

2.2.2 Shortcomings

Regarding effectiveness, during the survey, interviewees pointed to the following shortcomings:
The current *positioning* of the CoP within DG Connect and the CoP platform in the DSM website is confusing for external people. SIRC is broader and the CoP’s work should be more spread across Commission policy areas.

Although some efforts have been made, the *CoP membership* is not diverse enough notably regarding civil Society and NGOs representatives, Member States and various business/industry sectors which are currently underrepresented.

There is a lack of clarity of how the CoP is concretely feeding the European Commission’s work. A *work program* with clear goals is missing so is a precise explanation of what the CoP’s membership entails.

The *visibility* of the CoP’s work and results is not wide enough both inside and outside the Commission.

There are not enough references yet to the *Principles in new legislation* proposed by the EC and it remains to be seen how the Principles can get implemented.

There is *neither a consolidated knowledge* nor a consistent approach within the Commission DGs of the various SIRC processes. These processes are designated under various names, such as code of conduct, pledge, MoU, which may prevent the consciousness that lessons can be shared and learn from each other.

### 2.3 Efficiency

#### 2.3.1 The current CoP “format” is working but could be improved

67% of the respondents believe that current CoP format, i.e. plenary meetings supported by an online platform, works. The plenary meetings are of more value than the online platform notably regarding stakeholders’ engagement and interactivity.

The web-platform is however considered as very useful as a news and repository tool gathering all relevant information on plenary meetings and SIRC related issues.

For the 12% of participants who disagreed, the following comments were added:

- More feedback is needed in between the plenary meeting and some “working groups” working on specific work streams and specific EU proposals would be useful in addition to the plenary meetings.
- More in-depth discussions could also be done either in the working groups or by the Steering Committee.
- CoP representatives should intervene also in other fora: for example, during other European Commission events on entrepreneurship, etc. The CoP would participate in the organization of a panel or session, so as to ensure that SIRC is part of the discussion in other files.

#### 2.3.2 The Plenaries

So far, there have been 6 plenaries organized.

On average, on the plenary there were 154 participants registered.
76% believed that the current frequency of 2 plenaries a year is the most appropriate whereas 15% called for more frequent meetings of 3 to 4 times per year. Some interviewees recommended working groups meetings between plenaries.

The survey also assessed the elements of the CoP plenary meetings. On average, the relevance of the programs’ content and the networking opportunities were rated as good. So was the quality and diversity of participants even if some of the respondents called for more diversity and a wider engagement from more sectors and DGs (e.g. DG ENV, DG JUST, SMEs, ISO organizations, civil society and representatives of the Member States). They also suggested that there is a need for more participation from the general audience during the plenaries.

Concerning the type of discussions respondents were interested in, 85% pointed towards practical case studies, whereas 79% chose general policy related issues. Some other highlighted topics included strategic discussion, assessment of existing initiatives, practical case studies at national level, the relationship between practical cases and general policy related and the discussion on the “standard clause”.

The following suggestions were provided:
- Having a *fil conducteur* in plenary meetings.
- Amend the concept of the plenary, with more liveliness in the way people present their initiatives such as for example a poster exhibition as in scientific conferences.
- Enhance active stakeholder’s participation with participatory techniques, during the meetings.

### 2.3.3 The Online platform

Overall, there are 183 registered members on the online platform. As for the content, 44 news items, 157 library items, 36 discussions and 65 SSCR initiatives were posted on the online platform.

When asked about their use of the online platform, 67% indicated that they use it to find information on the plenary meetings and 55% to find information on SSCR-related news, events, initiatives or publications. Only 24% post their own content, 12% launch discussions with other stakeholders on specific issues, while 6% contributed to discussions with other stakeholders.
The relevance of the content posted and the easiness to find the information they are looking for were praised by the pool of respondents. The interviewees stressed that the role of the platform in providing information on plenary meetings and SRCR related issues should be pursued. On the other hand, they did not consider the platform as a tool favouring interaction claiming that there is “no substitute in building trust to face-to-face contacts and, that, for this purpose the meetings were largely preferred than the platform.

It was also suggested that the platform should be taken away from the CNECT website (DSM) as the SRCR issues are broader than “digital”.

Next to the current items (news, events, initiatives, publications), they suggested that the following items could be added to the CoP platform:

- Evaluation elements of the effectiveness of existing SRCR initiatives.
- Other alternative approaches to traditional regulation such as ADR mechanisms.
- More information about CoP members and their objectives in engaging in the CoP, as well as links to their related activities.
- “Better Regulation” related news.
- Information on self-regulatory organizations.
- Information on dispute resolution that could be used by others.
- Videos.

Finally, since April 2015, a dedicated Twitter account CoP for Self&CoReg ⁸ has been created.

2.3.4 Steering Committee

Half of the members of the Steering Committees deemed the length and frequency of the Steering Committee meetings appropriate. The other half said the frequency could be higher, with additional SC meetings between the sessions or the plenaries, teleconferences or a dinner for the SC members. Other suggestions included organizing a meeting before the plenary, instead of after.

The SC members also provided the following comments:

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⁸ https://twitter.com/selfcoregeu
- The Steering Committee is mandatory to guide the CoP. The existence of the SC improved the quality of the journey.
- It is an excellent and useful forum with constructive discussions and network of practitioners and stakeholders.
- SC offers various points of view, ranging from pure academic to day to day business, and thus offers a link of academics and practice. Diversity is key and should be maintained (i.e. having civil society, consumer organization representatives, etc. in is crucial).
- Offers networking and possibility to learn from each other and provide ideas for research.

The Steering Committee could be given a more structured role on the basis of a structured agenda received before the plenary and its members should be encouraged to have a more active involvement during the plenary to nurture and launch debates from the floor.

A majority of the Steering Committee members (82%) said that they would apply for a renewal of the membership to the Steering Committee. 82% also suggested an individual or an organization as a possible member of the renewed Steering Committee. The suggestions included:

- Another business representative from another business area to enrich discussions.
- Enlarge it to public authorities, engaged in these questions, e.g. members of national Parliaments or representatives of national administrations.
- Other CSO representatives.
- The Italian Association for Industrial Research.
- Representatives from the retail sector.
- Regulatory Policy Committee UK member.
- Business Europe.
- Eurochambres.
- The European Parliament.
- Freiwillige Selbstkontrolle Multimedia member.

3. THE FUTURE

3.1 Should the CoP continue? YES for all interviewees

During the interviews, when asked about the need to pursue the CoP’s work and the most likely consequences of stopping the CoP, interviewees stressed the following:

✔ The CoP is “incredibly promising”, it has been good so far and should be pursued. The 21st century will be one of sharing and with changing paradigms, the only way to accompany the new economy is to develop new, quick instruments, among which SRCR.

✔ Stopping the CoP now would be “a pity” and “inconsistent in the light of the whole Better Regulation effort that is currently being made”. One of EU added value is the creation and curation of European wide spaces, where schools of expertise can come together. The CoP is one such example, and it’s only just started. Stopping it now would be a disappointment for those who engaged and believed in the
Principles. The Principles and SPCR as such would get less attention which would be a lost opportunity for the coordination and development of approaches both at EU level and by Member States. We would also lose the “agility needed regarding new developments for Europe and benefits of citizens”.

✓ A place is needed where the flame is kept alive as a step further is now needed to translate the approach into real behaviors and ensure the Principles are implemented. The COP should become the “center of excellence” for better SPCR and the reference point in the European Commission. It should remain a constructive voice on the BR agenda, offering guidance towards improving SPCR effectiveness in a variety of sectors, and ultimately increasing trust both of policymakers and stakeholders.

3.2 How can it reach its full potential?

The COP should enhance its effectiveness in implementing the Principles with more practical work and tangible results. It should also gain more visibility within EU institutions, Member States and stakeholders. To do so the following recommendations were made by interviewees:

- **Repositioning the CoP**
  According to interviewees, the link to Better Regulation should be further strengthened, so is the need to stimulate awareness and cooperation across the DGs. To do so, the CoP should be re-positioned within a more integrated, and central location in the Commission. Launching it within DG CONNECT was seen as “an excellent start” but it has now to become more horizontal. The Secretariat General was mentioned as being a more appropriate place as owner of the BR package and to favor awareness and dissemination of the Principles within the DGs and across sectors.

- **EC commitment is key**
  According to the pool of respondents, the CoP’s future relevance will be “conditional on it being taken seriously by the EC and on the degree of political commitment to it within the Commission”.

The pool of respondents also insists on the need to clarify how the CoP’s work is concretely feeding the EC’s work. It was suggested to establish an annual work program with clearly defined goals. The need to clarify what the CoP’s membership entails has also been expressed.

The CoP should also be the place where it is seen how the EC is working according to its own Principles. Focus Group participants added that within the Commission, the CoP’s objective should be to mainstream effective SPCR within the services. The knowledge spreading should also be targeted towards management and middle management. A helpdesk possessing specialist knowledge on SPCR and the CoP could be set up and training course could be organised. In the DGs, it was suggested that this role could be played by the Impact Assessment / Better Regulation Unit.
• **Membership diversification must be enhanced**

A wider and more diverse membership has been mentioned by a majority of interviewees as crucial for the CoP’s future, stressing that more efforts need to be done to increase the participation of civil society (e.g. CSOs, NGOs, consumer organisations, etc.) and to involve sectors that are under-represented. A greater attention should be given to organizations who are distrustful or reluctant towards SRCR and some workshops could be organize with them. It is also important to encourage national governments, the other EU institutions (in particular the EP) and a wider group of sectors to engage within the CoP discussions.

Nicole Dewandre

Annex 1: Online survey questions – aggregated data
Annex 2: CoP platform data
Annex 3: Plenary data
Annex 4: Examples of dissemination activities by CoP members

All Annexes are available online in the CoP Library: