Results of the Public Consultation on the Commission's Draft Stakeholder Consultation Guidelines

Summary Report

Disclaimer:
This document should be regarded solely as a summary of the contributions made by stakeholders to the public consultation on the Commission's Stakeholder Consultation Guidelines. It cannot in any circumstances be regarded as the official position of the Commission or its services.
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1 Introduction

Stakeholder consultation is a key tool for informed policy making and helps to ensure that the formulation of EU actions is transparent, well targeted and coherent. The Commission consults widely at each stage of the policy cycle, respecting the principles of openness and transparency and following minimum standards, which are generally acknowledged as appropriate and responding to international best practice. Over the last five years, stakeholders' views were sought through more than 500 open consultations published on the ‘Your Voice in Europe’ website.

The European Commission has launched preparations for (internal) guidelines on stakeholder consultations carried out in policy preparation and in the context of evaluations and impact assessments. It launched an open public online consultation on its draft guidelines, which was held from 30 June 2014 to 30 September 2014. This document summarizes the contributions received in the context of this consultation.

2 Responses to the Public Consultation

In total 120 contributions were received, representing a diverse group of stakeholders with a particular interest in the Commission's stakeholder consultation practice. Replies were received from the following groups:

- Registered organisations\(^1\) (76)
- Public authorities (15)
- Non-registered organisations/companies (10)
- Member States (9)
- Others (5)
- Registered companies (4)
- Citizens (1).

Slightly more than half of these contributions were received by email and most of the remaining by using the online questionnaire on the consultation website; very few were received by post. In terms of language the replies received were distributed in the following way:

- English (84),
- German (20),
- French (7),
- Swedish (2),
- Bulgarian, Dutch, Estonian, Finnish, Italian, Lithuanian and Spanish (1).

\(^1\) Registration refers to the EU Transparency Register http://ec.europa.eu/transparencyregister/public/homePage.do?redir=false&locale=en
Figure 1: Respondents by Stakeholder Category

- Registered organisations: 76
- Registered companies: 4
- Member States: 10
- Public Authorities: 14
- Others: 5
- Non-registered organisations/companies: 10
- Citizens: 1

Figure 2: Replies per Language

- EN: 84
- DE: 20
- FR: 7
- ES: 1
- IT: 2
- NL: 1
- SE: 1
- SK: 1
3 Key Points Raised

The great majority of contributors from all categories of respondents gave a positive reply confirming that the guidelines cover the essential elements of the consultation process. Some further aspects were highlighted such as the treatment of special stakeholder groups, the major importance of the timing and quality assurance of the consultation process. Comments from a great majority of stakeholders referred to the accessibility of and the language regime for consultations (e.g. easy understandable documents, availability of documents in as many EU languages as possible etc.).

The identification of the right target audience and the increase of the participation rate received mixed replies. Ensuring representativeness of stakeholders, by paying attention to the mapping of certain (sometimes underrepresented) stakeholder groups (e.g. SME’s, trade unions, regional authorities, national parliaments etc.), was considered as very important. A majority of replies stressed that avoiding bias to certain groups and overly high burden for respondents are further important aspects.

A larger majority stated that no risk of over-consultation exists. Nearly all contributors stated that the limits of consultation should be explained in the guidelines and that the consultation steps and the consultation tools, as presented in the draft guidelines, are adequate.

Slightly more than half of the contributors thought that the guidelines provide enough guidance on analysis. However, many additional issues and suggestions were raised and mentioned in this context. A great majority asked for better feedback on how the replies were taken into account and for explaining the reasons in case they were not. In this context, a majority of contributors stressed the importance of avoiding any bias in the analysis and of giving special consideration to the weighing of replies.
4 Replies to the Questions

4.1 Question 1 – Essential elements of consultation

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?

The great majority of contributors from all categories gave a positive reply confirming that the guidelines cover the essential elements of the consultation process. Some further have been raised and covered areas as to the treatment of special stakeholder groups (e.g. SME’s, social partners, churches etc.), major importance of the timing and timeframe of the consultation (e.g. early announcement of consultations, minimum 12 weeks consultation period etc.). Comments from a great majority of stakeholders referred to the accessibility of and the language regime for consultations (e.g. easy understandable documents, availability document in all/several EU languages etc.).

Suggestions to improve the consultation process

Strengthen Evidence-based Policy Making

- Continue to improve evidence-based policy making as strong factual foundations are essential for smart regulation, disconnect the evidence gathering processes from the ‘political imperative’ that is driving policy proposals: Consultations should provide evidence-based approach to legislation that minimizes political influence over proposals.
- Add a clear statement on the role of consultation in evidence based policy-making – principle of integrity: listen to those consulted before decisions are taken to retain credibility and to encourage useful responses, potential outcome of consultation should lead to redefined problem definition in the impact assessment.

Clarify scope and Coverage

- Establish clear criteria for which type of initiatives stakeholders are consulted: Stakeholder consultation (pro-active and targeted) should take place on all proposals for directives, regulations, implementing and delegated acts and ex-post evaluations.

2 The replies to the individual nine questions asked in the consultation questionnaire have been clustered in this summary report according to topics. This means that some topics and/or replies might have been moved in this summary report to a different section/question. This was done to allow for a better overview on recurring topics which are covered in different parts of this summary report.
- Consult on draft delegated and implementing acts with impacts on enterprises and SMEs (not only those for which an impact assessment is planned) and citizens.
- Improve the quality of legal drafting by publishing legislation in draft for technical comments.
- Tailor consultation work – not only public consultation
- Place more emphasis on public/citizens' dimension and conduct more dialogue with Member States, inform them as early as possible about consultations.
- Ensure that the interests of all stakeholders are involved in the consultation (presently often an abstract consumer interest predominates).

**Improve Planning**

- Set out a strategy – to organise all aspects, including communication, to reach out as much as possible to interested parties.
- The consultation strategy might require a project group to draw up a project plan outlining a 'consultation mandate and constructing a transparent process for options development.
- Show more clearly the very important relationship between consultation and impact assessment (best to carry out a proportionate impact assessment for all proposals other than those proposing technical and/or drafting changes. Similarly, the same proportionality principle should be applied to consultations).

**Apply Guidelines more broadly**

- Make Consultation Standards mandatory.
  The consultation standards should be made mandatory or incorporate the 'Minimum standards for consultation' in the guidelines and establish objective criteria how to apply them.
- The Commission’s consultation guidelines could also be used as a reference by Member States, independent authorities and agencies.
- The Guidelines should consider coordination between the Commission and Regulatory Agencies; the Guidelines need to be interpreted in a flexible way when assessing if Agencies are in line with it.

**Staging / timing of consultation within the legislative process:**

- Highlight the process in its entirety: Draft in addition to the guidelines a concise operational plan for Commission officials, which guides them through the different steps of the consultation procedure, including a practical overview of the steps and choices to be made and concrete rules, e.g. indicating concrete minimum actions and setting time slots for the different consultative steps.
- Consultation should be used throughout the EU legislative cycle and not just at the drafting stage of Commission proposals: Where the Council or European Parliament makes substantial amendments to Commission proposals, a further assessment of the impact of those amendments should be carried out, during which further stakeholder
consultation should take place.

- For important dossiers, two consultations should be made: The first at the stage of deciding whether an initiative will be pursued at all (problem definition, subsidiarity, analysis, policy options), and the second at a later stage, about the form and concrete content (incl. estimated impacts of policy options) of an initiative.

- Stakeholders should be able to provide input on draft/provisional version of impact assessments as well as draft legislative proposals (including delegated/implemented acts), engage with local & central government ahead of launching any Impact Assessment.

Suggestions to improve Guidelines:

- Use of examples throughout the guidelines: Include examples of 'best practise' and "bad practice" in the guidelines, for each of the consultation steps, so as to offer further practical advice.

- Use DG SANCO’s Code of Good Practice for Consultation of Stakeholders as a model.

Suggestions to improve Commission Working Methods on Consultation

- Ensure consistent application of the guidelines across the Commission and increase uniformity/consistency in which different Directorates General carry out consultations to facilitate engagement; Produce an annual summary of compliance with key points in the Guidelines.

- Appropriate quality controls should be placed on the process, guidelines should define quality standards expected at each stage, Directorates-General should establish internal quality-control mechanisms, deploy IT consultation management tools to support and monitor the consultation.

- Improve consultation capacity building through training of Commission staff involved in stakeholder consultation: regular skills development and training activities necessary.

- Include more robust quality controls for outsourced consultations.

- Consultation documents should be cleared through a 'gateway' to maintain quality. Concrete suggestions:
  - signing off at key stages in real time (deploy an independent body to do so),
  - inter-Service Consultation,
  - establish compliance assessment.

- Establish transparent process for handling complaints about the consultation process.

- Do regular overall assessments of consultations so as to assess what works, what doesn't and share the learning within the Commission (e.g. analysis of the channels used so as to gauge trends, quality, effectiveness and whether the channel mix should be altered according to digital literacy). Hold 'post-project reviews' on the consultation strategy, process and its impact. Close all consultations with an open question evaluating the consultation to gather feedback: A self-assessment bears the risk of lacking objectivity. An
internal scoreboard on consultations could help to continuously improve the process.

4.2 Question 2 – Stakeholder mapping

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

Positive and negative replies are split in-between the identification of the right target audience. Ensuring representativeness of stakeholder by paying attention to the mapping of certain (sometimes underrepresented) stakeholder groups (e.g. SME's, trade unions, regional authorities, national parliaments etc.) was considered as very important. A majority of replies stated that avoiding bias to certain groups overly high burden for respondents are further important aspects.

Suggestions to improve stakeholder mapping

Digital stakeholder mapping:
- Stakeholder maps to be supported by databases: Set-up EU-wide stakeholder database/ Commission central stakeholder database that can be supplemented by interested parties self-identifying themselves, including representative organisations at national level. Build on stakeholder portals and other web tools that allow interested persons or organisations to identify themselves and volunteer to participate.
- Integrated databases with representative organisations at national level should be made available to the Commission.
- Use social media to identify the target group (seeing who is involved/interacting in communication networks relevant to a certain policy area).

Methodological aspects of stakeholder mapping:
- Potential respondents need to be aware of any impact of proposals on them.
- Use CLEAR model:
  Can do (have resources and knowledge)
  Linked to (have a sense of attachment)
  Enabled (are provided with opportunity to participate)
  Asked to (mobilised)
  Responded to (see evidence that views have been considered)
- Better identify the real targets of a consultation. Need to more clearly identify the actors of the sector addressed; no pre-selection of audiences should take place (vulnerable to manipulation, detrimental to transparency), include checks to ensure that appropriate
groups of stakeholders will be targeted and provisions requiring the validation of the identified stakeholders

- Prioritisation of target groups: Selection of target audience should reflect the complexity of the consultation topic: For highly abstract and legal questions impacting SMEs, direct consultation of SMEs does not make sense and should be replaced by consulting SME organisations, engage the reasonably well-informed citizen with the questions they would ask;

- Guidelines should reflect that categorisation of stakeholder/interest groups and represented interests are not static: Same stakeholder may represent more than one interest – all stakeholders important for the concrete case should always be consulted, not always the same groups, develop new stakeholder categories, e.g. social enterprises, innovative structures, industry clusters etc., allow for adjustments and flexibility or expansion to cater for all needs;

- Establish a consistent methodology across Commission DGs for tracking and classifying consultation submissions (transparency + accountability);

- Guidelines should include guidance on analysing the conflicts of interest (e.g. employer – employee) between stakeholder groups as a way of identifying groups to be targeted;

- Professional stakeholder mapping requires expert facilitators with well-informed domain specialists and a pre-defined process;

- External experts involved in preparatory work for consultations act in their capacity as experts and not as representatives of enterprises or interests;

- Consultation procedures should ensure that equality aspects are taken into account.

**Categories of stakeholders which should be given special attention:**

- European Economic and Social Committee (EESC) and the Committee of the Regions (CoR): Consultation should be mandatory.

- Member States, National Parliaments.

- Regional authorities and their European organisations: Where proposals have to be implemented by local and regional authorities, these authorities should always be included as target audiences.

- Municipalities: stakeholder mapping must take into account the specific administrative structures of Member States and the special role of municipalities as partners in the legislative process embedded in the Treaty of Lisbon and should become a separate stakeholder category: Communities, cities and regions and their EU representations are not obliged to register in the Transparency register. These groups should nevertheless be included in the mailing lists for transmission of information about consultation. Their contributions should not be made public separately. Concern about possible impact of changes to the Inter-Institutional Agreement on the Transparency register, potentially resulting in local governments having to join the same registry as private lobbyists.

- Industry/business: More attention should be given to consultations addressed to or involving SMEs and microenterprises.

- Social partners, churches, trade unions, journalists etc.
Use multipliers to identify stakeholders:

- Offer the selected target audiences the possibility of proposing new target groups for consultation who could contribute to the quality and comprehensiveness of the debate;
- Use national information channels to help with stakeholder mapping, EU representations in Member States can also help with identifying relevant stakeholders from that Member State;
- For the local and regional level, consulting only the CoR or municipal networks comprising only a few cities like Eurocities is not sufficient. In parallel, the municipal umbrella organisations in Member States comprising all municipal authorities and CEMR must be consulted, to reach infinitely more municipalities and citizens.

4.3 Question 3 – Reach and engage

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?

High importance was given to a better advertisement and dissemination of consultation. Suggestions for improvements were submitted by all stakeholder categories.

Suggestions to encourage participation

Approaching stakeholders

- Credibility and long-term, well-nourished relationships are essential to build the necessary confidence: stakeholders need to know that they have a genuine influence; giving feedback increases motivation to participate in future consultations.
- Offer incentive to take part by making sure and conveying to stakeholders that their concerns are really taken into consideration.

Deal with limited resources

- Stakeholders need to be able to identify quickly and at minimum effort if the content of a consultation affects them or not (e.g. cover note of consultation should clearly indicate problem definition, possible options and impacts on the different parties, provide for a succinct consultation brief in as many languages as possible, keyword tags, improve websites/notification system by providing information on the content and the key affected groups facing the costs and those benefiting of the proposal), better identify the relevance of consultations for certain stakeholders.
- Where applicable, individual consultations could be classified not only in terms of policy area but also by categories relating to the ‘life events’ of stakeholders (e.g. setting up a...
company, travelling, etc.).

- Focus should not be on receiving as many answers as possible but on the quality of input and the range of expertise.
- Minimum standards are needed to ensure that relevant stakeholders are aware of targeted consultations and that they will be affected by a proposal.
- Stakeholders are often more focused on, or have to give priority to national rather than to European policy making.

**Advertising/marketing/targeting**

- Publish consultations appropriately (the idea for an initiative, the impact assessment and any amendments), advertise and disseminate information actively, enhance marketing of possibilities for stakeholders to be notified about consultations (e.g. notification system for regional authorities that cannot register in the transparency register).
- Make use of media and social media, the role of journalists in the consultation process could be included in the guidelines.
- To ensure qualitative rather than quantitative participation, the Commission should identify the most important stakeholders and invite them individually to answer the consultation.
- Identify key stakeholders who can distribute further among their networks.
- Establish national contact points for EU public consultations, e.g. at a public authority at regional level which disseminates information and ensures that the region contributes; use national information channels to spread information; involve local government or non-governmental bodies or organisations in promoting consultations; in addition inform Commission Representations in the Member States and Permanent Representations in Brussels.

**Strengthen "Your voice in Europe":**

- Promote the website more actively.
- Facilitate a grouping by thematic area on the 'Your Voice in Europe' website.
- Targeted consultations should be announced in advance including the consultation date (meeting, deadline for replies), topic, supporting documents and the categories of invited / contacted stakeholder groups. This would enable oversight and planning.

**Methodology of outreach to stakeholders:**

- Data collection should start with researching already existing data from the national statistical offices of MS, data collection through consultation should only be the second step, output of consultation to be seen in conjunction with other forms of evidence, use also other possibilities for data gathering outside consultation (e.g. Eurobarometer surveys etc.).
- Key stakeholders should be involved in the pre-consultation dialogues that should help developing the [options] consultation;
- Involve stakeholders continuously during the process of creating and assessing legislation rather than on ad hoc basis; inform stakeholders on different steps by e-mail.
- Practical workshops to support interested parties in their efforts to reply (e.g. for complex consultations).
- Set up structured dialogue with EU umbrella organisations representing local authorities.
- Direct communication with organizations' representatives and one-to-one meetings with Commissioners.

Technical suggestions to improve outreach:
- Make the consultation website more flexible, user-friendly and accessible from mobile devices; specific mobile applications could also be developed in order to increase awareness of consultations, include a FAQ section in the consultation webpage.
- Attract a wider audience by deploying creative options in responding to consultations, e.g. use electronic/social media and 'crowdsourcing' for consultation.
- Use consistent e-mail address per DG for all consultations to facilitate greater engagement and dialogue.
- Establish 'stakeholder accounts' gathering their inputs into all consultations in which they participated.
- Make consultation documents/questionnaires available in WORD (.doc) format to facilitate completion.
- Develop a comprehensive system for training the various stakeholders, as they often lack the capacity to contribute constructively to the consultation process.

Consultation period:
- Establish an 'early warning' system to inform stakeholders, allowing them to prepare well or select consultations they want to participate in.
- Public consultations: Consultation period must be extended to give all stakeholders, especially SMEs a chance to familiarise themselves with the background and topic of the consultation; provide justification if 12 weeks consultation period is shortened; 12 week consultation period should only start running when the last document or language version has been made available online; the months of July, August and December should not be taken into account for the 12-week-term: add more time, if consultations falls in holiday period.
- Targeted consultations: Stakeholders should be given longer than 20 days’ notice to respond/accept/prepare invitations to meetings, conferences, workshops, seminars.
- Consultative meeting / hearing: Provide for sufficient time to prepare for the participation in public hearings/meetings in Brussels for those stakeholders not having an office on the spot, consultation documents should be distributed well in advance; after the meeting the presentation and minutes of the results should be distributed.
### Suggestions to improve the quality of questionnaires & consultation documents

#### Questionnaires
- Questionnaires often contain suggestive or closed questions, which limit the range of possible responses (e.g. multiple-choice, yes/no, biased) and prejudge the outcome and thus could discourage stakeholders from taking part.
- Number of questions: too many and detailed questions, limit number of questions as too many questions might discourage potential respondents, avoid questions whose answering will not contribute to the topic at hand.
- The most important questions should be put at the beginning of the questionnaire, more detail-related questions in a separate category at the end.
- Questions must be well-structured, well-targeted and specific to ensure useful results, not too abstract or aggregated, thus eliciting general and vague answers, use plain language.
- Questions could be adapted or differentiated according to the different groups of socio-economic partners, particularly, in the case of economic partners, by focusing on business examples and scenarios.
- Facilitate 'work in progress' of online questionnaires: stakeholders should be able to save, change and check their contribution before submission.
- Make sure that there are no text / character limits applied to answers on consultation questions.
- Questionnaire should refer to the chapter / page number, of the consultation document if the consultation document is long.
- There should be a common (technical) template for questionnaires (this does not mean common template for question content).

#### Consultation documents
- Clear evidence should underpin the consultation documents.
- Provide stakeholders with all relevant data they need to contribute to the consultation.
- Consultation documents should be formulated more open and objective, also outlining options and alternatives to the DG’s opinion.
- Make process more straightforward and user-friendly: Avoid jargon and use plain, user-friendly language (e.g. explain the consultation objectives in a clearer way); make it simple, manageable and more understandable for SMEs and smaller individual stakeholders; consider that consultation documents require technical knowledge and risk to reach rather 'EU-professionals' than the general public; the description of impacts of legislation on the local and regional level is too abstract to be useful – this discourages participation, as the impacts of the legislation and thus the necessity of taking part in the consultation cannot be properly assessed.
- Make consultation documents and questionnaires easier to handle: Paragraphs or even lines of the consultation document should be numbered in order to facilitate targeted responses to a certain paragraph or sentence – consultation questionnaires should include references to the relevant parts (chapter, page, line) of the consultation document.
- For complex issues: simplification and downscaling of consultations as a way to stimulate interest and encourage people to reply; where a consultation document exceeds ten pages, a one-page executive summary should be added.
- Design consultation documents together with stakeholders (e.g. questionnaires).
- Stakeholders should be encouraged to provide as much data and information as possible to ensure complete consultation process.

**Overcome language barriers**

- Consultation documents should be available in more languages than English (at least DE, FR), especially in cases of highly complex and very technical issues – translating only the questionnaire in all EU-languages is not sufficient if the underlying consultation document remains only in English, translation for stakeholders not possible due to time limits of the consultation.
- Guidelines should make it clearer that the stakeholder mapping is relevant in order to better identify the languages which need to be covered: link between targeted stakeholders and relevant language will be a key factor to ensure quality responses and effectiveness of consultation; if the proposal affects specific Member States particularly, documents should be translated into the relevant languages.
- If complete translation is not feasible, at least a summary of the consultation document and the questionnaire should be offered in all official EU languages (this would enable assessment whether participation in the consultation is at all necessary).
- Improve timely availability of translated consultation documents: ensure that the consultation period is not de facto shortened by delayed or missing information or translations, inefficiently structured consultation documents or an adverse launch date of the consultation (e.g. at the beginning of / during the holiday period).
- Provide opportunity for all stakeholders to use their own (EU) language, including sign language, as this has a direct impact on the participation of excluded or discriminated groups.

**Suggestions on how to reach underrepresented groups:**

- Identify particular small professional groups, which are relevant for the policy field, including less obvious stakeholders and those who could unintentionally be affected by EU action.
- Reach-out pro-actively to less-represented or marginalised organisations and civil society groups: disadvantaged groups who due to their vulnerability may require the organisation of more outreach oriented and individual consultative practice.
- Ensure that documents are provided in accessible formats, including for persons with disabilities. Accessible formats means that information is provided by using text, audio, video (equipped with subtitles and/or sign language interpretation) and/or electronic means so as to be accessible to all.
- Stakeholders who are directly concerned, and especially organised stakeholders, are better informed and participate more often as they have the necessary resources (budget, HR, time, knowledge) and thus advantages compared to individual/smaller stakeholders –
accessibility of smaller professional/expert groups/NGOs without large monopolising lobbying organisations is important.

- Provide funding: Make resources/support available (traveling and accommodation costs etc.), incl. guidance under which conditions these could be provided.
- Establish mandatory requirement to take into account the views of stakeholders which are underrepresented or difficult to reach.

### 4.4 Question 4 – Risk of over-consultation

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

A majority of respondents stated that no risk of over-consultation exists. However, the importance of keeping a calendar and announcing consultations early, including a better use of the 'Your Voice in Europe' website, was stressed. This would allow stakeholders to prioritize and focus resources on those consultations which are identified as relevant. Correct stakeholder mapping and well-targeted consultations are seen as essential to prevent 'bombarding' of stakeholders with non-relevant consultations.

**Limit risk of over-consultation through planning:**

- Include and regularly update a calendar of planned consultations.
- Provide for transparent and expansive roadmaps taking into account the whole legislative process, including planned consultations.
- Establish not only a consultation website but a website including a timeline for the whole legislative process (per initiative).
Limit risk of over-consultation through targeting and prioritisation:

- Correct stakeholder mapping and clear and understandable consultation documents are essential: Well-structured and targeted identification of stakeholders as early as possible may reduce risk of over-consultation and enhance quality of responses and prevents stakeholders being diverted by consultations of marginal interest.
- Indicate on the 'Your Voice in Europe' website the relevance of a consultation topic for the different stakeholder groups and governance level (national, regional, local); only consult on major, overarching issues, following the application of quality criteria; take into account the stakeholders’ capacity to respond meaningfully to a consultation.
- Apply prioritisation tool such as MOSCOW (M: must have elements; S: should have; C: Could have; W: won't have).
- Communicating very precisely with those likely to be affected is essential - aim of the consultation, the potential influence and impacts on different stakeholders should be made very clear.
- Streamlining various consultation processes at both EU and national level helps to focus the scope of the consultation and to prioritise.

Limit risk of over-consultation through process/methodology

- Prevent 'consultation fatigue' by ensuring that consultations are seen to be genuine and influential.
- Consultations should be possible at every step of the legislative process and on all topics.
- Consider either to consult once on the same policy initiative or to split up consultations in different parts taking place at different moments of the policy development.
- Ensure that frequencies of expert group meetings are proportionate to the policy relevance of the topic and not influenced by the objective of pleasing certain lobby groups.
- Make use of input received already from previous consultations.

4.5 Question 5 – Limits of consultation

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

Nearly all contributors stated the limits of consultation should be explained in the guidelines, with only very few respondents arguing against it. Transparency and clarity on limits are seen as essential in order to assess representativeness and balancing interests of involved parties and to understand to which extent the outcome of a consultation can influence the draft policy initiative. Examination of limits during the quality assurance/control process and proper
stakeholder identification and question design are seen as important measures to mitigate the limits of consultation.

**Suggestions to better explain consultation limits**

- Explain in depth the 'regulatory capture' and rigidity of the decision-making process and make clear which changes are still possible to the draft proposal. Aspects which cannot be changed due for legal or political reasons should not be subject of consultation. Limits of consultation should be made transparent and agreed upon in a democratic adoption process (and not set by administrative conditions, which would hamper interest to contribute); add examples of limits or limitations and their justification.
- Include a reference to the fact that the timing of the consultation is a trade-off between involving the public and supporting the decision making process.
- Make clear the consultation is not a vote, but a means to inform policy making.
- Explain in detail the way contributions will be analysed; to keep processing feasible, the number of characters per contribution could be limited.
- Adjust the level of detail of the explanation to the specific audience, situation or purpose of each document.

**Suggestions to mitigate consultation limits**

- Guidelines should make clear how to assess risks/need to consult. Avoid disproportionate consultation on minor technical amendments (e.g. following Court rulings), when adequate consultation has taken place at an earlier stage.
- Proper stakeholder identification and question design.
- Better classification and presentation of participants and their interests allows better judgment on representativeness and balancing of interests and will improve credibility of consultations; consider that not all stakeholders may have participated in the consultation.
- Limits should be examined during the quality assurance/control process.

4.6  Question 6 – Analysis, representativeness and feedback

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?
Slightly more than half of the contributors agreed that the guidelines provide enough guidance on analysis. However, the overwhelming majority of submissions felt that the guidelines lack steering with regard to assessing the representativeness of submissions, especially with regard to the weighing of replies from a public authority or organisation representing many thousand citizens/members versus the reply of an individual citizen or company. A great majority of contributions also asked to give stakeholders better feedback on whether and how their contributions have been taken into account in policy making and to explain to them the reasons if this has not been the case.

Also, many additional issues and suggestions have been raised on each of the three elements of the question:

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<th>Suggestions on how to improve analysis of contributions received:</th>
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<td><strong>Methodology of analysis:</strong></td>
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<tr>
<td>• Outline more clearly the criteria used when assessing whether to take into account contributions from stakeholders.</td>
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<tr>
<td>• Currently, mainly quantitative analysis methods are used, however, qualitative analysis methods should be used to a larger extent. Make use of computer assisted qualitative data analysis tools.</td>
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<tr>
<td>• Clearer guidance is needed to distinguish data and facts from opinions.</td>
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<td>• Avoid bias when analysing submissions. E.g. no distinction in value should be made between expertise and data gathered by expert groups and that gathered by other consultation groups.</td>
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<td>• Differing business environments and market conditions in individual Member States must be taken into consideration.</td>
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<td>• Guidance should be added how to handle sensitive material/information.</td>
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<td><strong>More robust approach to subsidiarity / special role of municipalities:</strong></td>
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<tr>
<td>• Analysis should always include a special chapter on the contributions of municipalities and regions and their representative organisations, especially analysing subsidiarity, proportionality and minimisation of administrative and financial burdens (special role of municipalities within the constitutional architecture of Member States).</td>
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<tr>
<td><strong>Enabling meaningful analysis:</strong></td>
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<td>• Differentiate stakeholders in order to better understand the consultation responses (e.g. local/regional, national or EU perspective, SME).</td>
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<tr>
<td>• Poor consultation documents/questionnaires cannot encourage meaningful inputs. When defining consultation questions, analysis part of the process must be kept in mind (the more specific the questions, the easier their analysis).</td>
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</table>
Suggestions on how to assess representativeness of received contributions:

Representativeness:
- Guidelines should provide guidance on how to proceed with a proposal if the consultation does not secure a balance of responses from all 28 Member States;
- EU representations in Member States can help with assessing the representativeness.

Weighing:
- Too little detail regarding how to weigh responses from various stakeholders - main criteria should be to distinguish national / EU umbrella organisations representing the broad interests of its members and single stakeholders representing a specific or limited view; a municipality should not be weighed as integral part of the umbrella organization for municipalities.
- Representative value of contribution: The contribution of a large business organisation representing several hundred members or a regional authority representing several thousand citizens should not be given the same weight as the contribution of an individual citizen.
- Duplications: Information is missing on how to weigh the submission of identical or similar contributions from different stakeholders (e.g. 295 counties in Germany – all of them likely to have the same concern with a particular issue): Clear and mandatory rules are needed.
- Geographical origin of submissions: Balance responses submitted by stakeholders from only some Member States or regions.
- A small (and thus not representative) number of responses to a consultation may not be estimated as an overall assent or rejection of a certain question by the public, bear in mind that there is always a bias towards those who feel most strongly about the subject.

Suggestions on how to improve feedback:

Giving feedback to stakeholders:
- After the end of the consultation, all stakeholders should receive a general reaction thanking them for their input, referring to the most important and positive points from their input and outlining trends of responses to increase motivation.
- Strengthen commitment to provide feedback on contributions received and on how they influenced policy making: Feedback should make explicit which suggestions have been taken on board, and how, and which have not (especially on items that have been addressed various times), including a justification.
- Mandatory justification in case Commission adopts proposals deviating from the results of stakeholder consultation.

Timing and form of feedback:
- Provide feedback as fast as possible / establish a time limit for providing feedback: The decision to publish and the timing of publication varies from DG to DG – this approach is
Suggestions on how to improve feedback:

- inconsistent and not easy to follow, standardisation needed.

- Feedback should not only be clustered according to stakeholder groups, but also according to topics, so that a regionally different impact of the legislation / consultation document remains visible.

- On the Commission website, the follow-up section of closed consultations should be widely publicised and a timeline for the publication of the feedback report included in this section.

Reporting on the results of the consultation:

- Guidance on how to publish the results of a consultation is needed.

- Data on the participation in the individual consultations should be made available in an open format.

- The identification of the geographical origin of contributors should be made mandatory in order to increase transparency and accountability. This could also help to raise Member States’ awareness of national contribution levels.

- Information about the results of the consultation should be provided in a separate communication after the consultation and not in the Impact Assessment document.

4.7  Question 7 – Consultation steps

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

Nearly all contributors agreed with the presentation of the consultation steps.

Several other suggestions have been provided here, which overlap with replies to the other questions. In order to avoid repetition, they have been clustered and presented under the replies to the relevant questions.

4.8  Question 8 – Consultation tools

Do you think these consultation 'tools' are adequate or do you see other tools which should be referred to in the guidelines?
Nearly all contributors saw the presented consultation tools as being adequate. However, the contributors made a number of useful suggestions on how to select the correct tool for the consultation. They also expressed their views on individual consultation tools.

**Suggestions on methodology for choosing tools:**

- For each stage of the EU legislative process, clearer criteria should be developed which consultative mechanism is to be used.
- The guidelines should include case studies to verify which tool is more appropriate to achieve the consultation objectives and include practical examples showing how the consultation can best be done.
- Possible combinations of consultation methods should be outlined (e.g. open public consultation and selection of statistically representative samples from the public domain, using the same questionnaire).
- The consultation approach must be proportionate to the impact of the measure and avoid disproportionate consultation costs to both the Commission and stakeholders.

**Contributions on individual consultation tools:**

- Written consultations are the best available means to acquire a representative picture of the positions as hearings mostly give only a random ad-hoc-impression of positions.
- Consultation questionnaires: Use "EU Survey" to make questionnaires more versatile. Abolish multiple choice questions; substantiated articulated input counts. Provide possibility for freely drafted additional comments.
- Digital tools: Look further into innovative ways to engage and communicate on all aspects of European citizenship, by using digital engagement methods, social media, media and internet-based tools.
- Only under exceptional circumstances should a targeted consultation be the only method of consultation. If used, transparency must be increased: Who is invited when to reply to targeted consultations? What is being done with the results of the consultation?
- Stakeholder meetings tend to disproportionately incorporate private or civil society.
- Telephone consultation should be enabled.
- Public hearings should be enabled and can be improved by holding them in Member States or regions to facilitate accessibility by experts.
- Stakeholder panels should become a general tool for all consultations, including in the context of the preparation of consultation documents.
- 'Information meetings' are not a consultation tool.
- Stakeholder groups should include gender equality experts (researchers on gender and representatives from women’s, men’s and equality organisations) as well as equality authorities. In the groups consulted, equal representation of men and women should be
actively promoted, especially the participation of women from minority groups.

4.9 Question 9 – Other comments

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

Several comments or suggestions were received which covered miscellaneous additional aspects.

Suggestions on external studies / consultations:

- Role of external studies commissioned before a public consultation takes place: These studies usually lack adequate resourcing and have to be drafted with limited time periods. This means that stakeholder views and input risks remaining minimal rather than meaningful;
- Studies and reports previously conducted on the topics of the consultation should be made available.
- Establish a more rigorous framework for consultations supported by external consultants (as for example proposed in the evaluation guidelines).

Suggestions on evaluations:

- While the Commission’s ambition to improve procedures is welcome, the current approach lacks clear criteria for the selection, timing and scope of evaluations; the inter-service quality review panel should include independent external experts.
- Stakeholders support the idea of 'evaluation mandates': to be linked to the items included in the Forward Planning of Evaluations; final evaluation reports should include summary on key findings to be communicated to stakeholders.