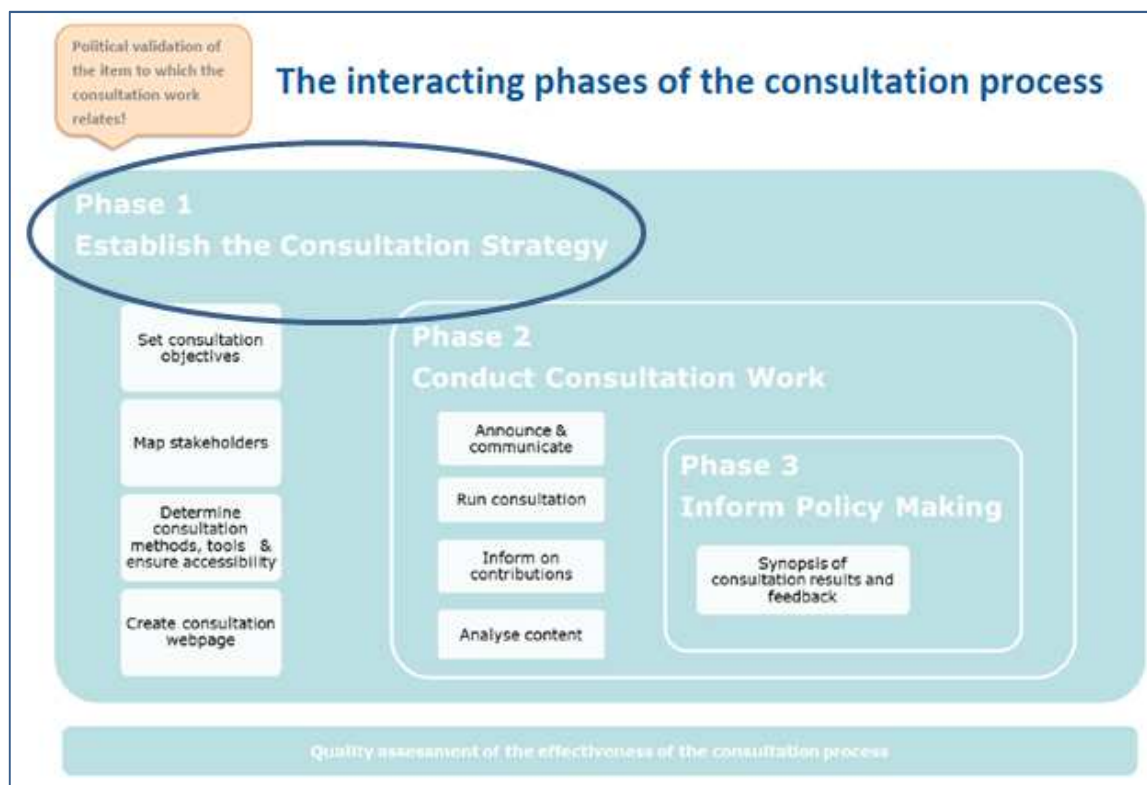


TOOL #53. THE CONSULTATION STRATEGY



Box 1. The consultation strategy – Key elements

- A consultation strategy is a key requirement for each initiative, including those accompanied by an impact assessment (IA), evaluation and fitness check and should build on the overall mapping of available evidence and identified gaps.
- The consultation strategy should cover the following key elements: consultation scope and objectives, identification of stakeholders, envisaged consultation activities, their timing and language regime.
- A draft consultation strategy should already be prepared when requesting political validation as the political validation covers required better regulation instruments.
- After political validation, the consultation strategy should be finalised and endorsed by the interservice group, or if no interservice group is established or if no roadmap/inception impact assessment is needed by the Secretariat-General and, where relevant, associated DG's.
- The key elements of the draft consultation strategy should be outlined in the roadmap/inception impact assessment in order to inform stakeholders and to invite them for feedback.
- When the 4-weeks feedback period on the roadmap/inception impact assessment has ended, where relevant, the consultation strategy should be updated based on received

feedback.

- In case of a "back-to-back"⁵⁵⁷ approach a single consultation strategy for the evaluation and IA work is sufficient.
- The consultation strategy should be published or described on the consultation website of the related initiative, evaluation or fitness check.
- When designing the consultation strategy, human and financial resource planning for preparing, conducting and processing the consultation should be considered.
- Planned consultation activities need to be included into the planning module of Decide and the consultation planning calendar.

1. INTRODUCTION⁵⁵⁸

Consulting stakeholders is an important instrument to collect information for evidence-based policymaking. Their views, practical experience and data will help deliver higher quality and more credible policy initiatives, evaluations and fitness checks. It also ensures greater transparency and legitimacy of the policy development process and contributes to a more successful policy implementation.

The purpose of the consultation strategy is to design an effective and efficient consultation approach. It should build on the overall mapping of *available* and *needed* information for a specific initiative, evaluation or fitness check and be fed by a thorough and structured desk review of relevant sources.⁵⁵⁹ The consultation strategy should aim to ensure that all relevant evidence is taken into account, including data about costs, about societal impact, and about the potential benefits of the initiative. Evidence collected from stakeholders should complement evidence obtained from other sources.

Designing a consultation strategy is a key requirement for each initiative, evaluation and fitness check. Already when requesting the political validation⁵⁶⁰ the political level should be informed about the intended better regulation instruments⁵⁶¹ to be used including planned data collection and consultation activities.

This means that the key elements of the draft consultation strategy should already be outlined at the time political validation is requested and be included in the Roadmap or IIA. This is particularly important as through the Roadmap/IIA stakeholders are informed at an early stage about the initiative and planned consultation activities. This allows them to plan ahead and prepare their participation in subsequent consultation activities. In addition, stakeholders have the opportunity to comment through the feedback mechanism on the appropriateness of the data collection and consultation approach.

⁵⁵⁷ See Tool #52 "*Back-to-back*" evaluation and impact assessment.

⁵⁵⁸ See conceptual background in the Guidelines chapter VII paragraph 6.1.

⁵⁵⁹ See Tool #4 on *Evidence-based better regulation*.

⁵⁶⁰ See Tool #6 on *Planning and validation of initiatives*.

⁵⁶¹ See part I of the Guidelines: better regulation essentials

The consultation strategy should be developed in parallel with the roadmap or inception impact assessment (where applicable) and be endorsed by the interservice group. If no interservice group is established or no roadmap/inception impact assessment is required this is done by the Secretariat General and, where relevant, interested DG's.

When the 4-weeks feedback period⁵⁶² for the roadmap or inception impact assessment has ended, the consultation strategy should be updated by considering provided feedback. .

This tool provides methodological guidance on the systematic conception and identification of the key elements to be covered in the consultation strategy: the consultation scope and objectives, the stakeholder groups, the envisaged consultation activities and their timing and language regime. **It is recommended to use the consultation strategy template available on GoPro.** The better regulation support functions in the DGs, as well as SG-C.4⁵⁶³ can provide support to the drafting of the consultation strategy.

The consultation strategy⁵⁶⁴ should be published or described on the consultation website of the relevant initiative, evaluation or fitness check. The consultation strategy may need to be updated in the course of the preparatory process of an initiative, evaluation or fitness check.

Planned consultation activities need to be included in the planning module of Decide and the consultation planning calendar. As soon as the planning of a consultation is known, the key information should be provided to SG.C4 via the [EU survey tool](#)⁵⁶⁵ or via Decide as soon as the 'consultation tab' in the Planning section becomes available.

2. SETTING CONSULTATION SCOPE AND OBJECTIVES⁵⁶⁶

Box 3. Consultation scope and objectives – key elements⁵⁶⁷

- Be clear from the outset about what is 'in-scope' and 'off-scope' due to legal or political limits.
- Map the available sources and information in a concrete and topic related way. This

⁵⁶² See Tool #56 on *Stakeholder feedback mechanisms*.

⁵⁶³ To be contacted via the functional mailbox: SG STAKEHOLDER CONSULTATION

⁵⁶⁴ Either the strategy document or the content of the strategy as information embedded in the website

⁵⁶⁵ https://ec.europa.eu/eusurvey/runner/Planning_Calendar

Note: By end 2017 the information on planned consultation activities will be automatized by means of the Better Regulation Portal. Relevant information will need to be submitted via Decide.

⁵⁶⁶ See conceptual background in the BR-Guidelines chapter VII.

⁵⁶⁷ Practical examples for systematic scoping is available on GoPro: <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

includes also a check of past, but still valid stakeholder consultation work.

- Identify information gaps and the type of information needed for each topic: quantitative data or qualitative data.
- Decide which sources should be used to obtain the missing information.
- Define the concrete and topic related scope of stakeholder involvement.
- Pay attention to sensitive, controversial or highly uncertain issues.
- Be aware of potential blind spots that consultation work should detect.
- Depending on the type of initiative, consider the following:
 - If an **impact assessment** supports the preparatory work the consultation work, including the public consultation, should cover the four key elements of an impact assessment: the problem to be tackled, subsidiarity and the EU dimension to the problem, the policy options and their likely impacts. In addition it should address as well the scope for regulatory cost reduction and simplification measures not affecting the achievement of objectives.
 - If an **evaluation** or **fitness check** is carried out the consultation work should contribute to the subsequent analysis of the five evaluation criteria: effectiveness, efficiency, EU added value, relevance and coherence.
 - In case of the "**back-to-back**"⁵⁶⁸ approach the stakeholder consultation work should cover the five evaluation criteria and the four key elements of an IA.
 - For **initiatives** not supported by an IA nor related to an evaluation or fitness check the consultation work can focus on any element/issue identified in the consultation strategy on which stakeholders should be consulted. It is recommended to follow a similar approach as for consultation activities supporting IAs.

2.1. Introduction

The consultation scope and objectives should be determined based on the scope and content of the new initiative or evaluation.

Depending on the stage in the policymaking process, different aspects should be considered.

For each aspect, concrete themes or topics should be identified that are subject of the policy preparation or evaluation work. Decide for each topic if views and information should be collected, or rather already existing analysis and evidence be tested and

⁵⁶⁸ See Tool #52 on "*Back-to-back*" evaluation and impact assessments.

validated. Clarify if quantitative and/or qualitative data⁵⁶⁹ are needed as this is necessary, at a later stage, for the selection of the appropriate consultation methods and tools⁵⁷⁰.

Check also if there are sensitive or controversial issues, potential diverging views or high uncertainties which need special attention. Don't ignore the 'elephant in the room' Consider and address any relevant input. Ignoring issues entails the risk that they re-appear at a later stage.

Consider that there may be issues/blind spots that you might not be aware of (e.g. due to unintended consequences), but which the consultation work can unveil. The strategy should offer stakeholders the opportunity to raise these issues (e.g. through open questions in a questionnaire or the possibility to upload further material).

Be clear about the topics that are 'off-scope', either due to lack of EU competencies or legal limits (e.g. Treaty provisions) or due to the limited scope set at political level.⁵⁷¹

2.2. Stakeholder consultation in the context of an Impact Assessment

Consultation activities in the context of an IA, including public consultation, should cover the key elements to be addressed in the impact assessment: the problem definition, the subsidiarity and the EU dimension to the problem, possible policy options and their likely impacts. When modifying existing interventions, the scope for efficiency improvement (regulatory cost reduction) and simplification measures not affecting the achievement of objectives should also be covered.

The consultation is usually based on consultation documents rather than the draft legal text, which comes only late in the policymaking process. These consultation documents may include background information, existing evidence and ideas related to the key elements to be addressed in the IA and a questionnaire aiming to collect views and information of stakeholders on these key elements or to test/validate already existing analysis. The stakeholder contributions feed into the IA and help shaping of the draft legal text.

Given the variety of Commission initiatives accompanied by an IA, there is no one-size-fits-all solution on how to consult, in what time sequence and at which stage of the IA process. However, the consultation strategy should include a wide-ranging, open internet based consultation for all IAs as it ensures transparency and accountability and gives any interested party the possibility to contribute. This can be complemented with more

⁵⁶⁹ See Tool #4 on *Evidence-based better regulation*.

⁵⁷⁰ See information on consultation tools and their appropriateness for collecting quantitative information on GoPro: <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

⁵⁷¹ If the decision to establish a specific EU instrument has been taken by the political level (e.g. Commission decision) – consulting on the type of instrument is thus 'off-scope'. Consultation work should be focussed on the content. Or, if the Commission announced in a Communication a mandatory approach, consultation work should not check stakeholder opinion on the mandatory nature of the approach, but focus on the content. The pure announcement of an intention of an individual Commissioner without College endorsement may not be seen as political limit.

targeted or specialised consultations of particular stakeholder groups or experts, which can be more relevant to gather specific technical input in relation to the IA questions⁵⁷².

Box 4. Type of questions for key IA elements

Objective/element	Problem	Subsidiarity	Options	Impacts
Testing preliminary analysis	Magnitude/importance of the problem for the groups of affected stakeholders? Identification of risk, uncertainty?	EU dimension of problem? International engagements?	Coverage of options? Implementation arrangements and roles of actors?	Magnitude of impacts, disproportionate impacts? Indirect impacts?
Collection of views/information	Nature of problem and its drivers? Sources of diverging views? Lessons learned?	National intentions or objectives? Solutions at national, regional or local level?	Mitigating measures? Alternative solutions? Feasibility of options?	Unintended consequences? Impacts (positive and negative) that have not been accounted for?

2.3. Stakeholder consultation in the context of an evaluation or fitness check

Consultation activities in the context of an evaluation or fitness check should contribute to the subsequent analysis of the five evaluation criteria: effectiveness, efficiency, EU added value, relevance and coherence.

A consultation is usually based on consultation documents which may include background information and existing evidence related to the evaluation criteria and a questionnaire aiming to collect views and information of stakeholders or to test/validate already existing analysis. The stakeholder contributions feed into the evaluation staff working document.

Given the variety of evaluations, there is no one-size-fits-all solution on how to consult and at which stage of the evaluation process. However, the consultation strategy should include a wide-ranging, open internet based consultation for all evaluations and fitness checks as it ensures transparency and accountability and gives any interested party the possibility to contribute. It is important to note that the overall consultation exercise should always address both the costs and benefits of the legislation subject to the evaluation or fitness check.

In practice, the consultation strategy for the evaluation or fitness check will include a combination of consultation methods (i.e. open/targeted) and tools (i.e. questionnaire, document, meeting, hearing, and workshop)⁵⁷³.

⁵⁷² For more detail see paragraph 4 'Determine the Consultation Methods, Tools & ensure Accessibility'

⁵⁷³ For more detail see paragraph 4 'Determine the Consultation Methods, Tools & ensure Accessibility'

3. STAKEHOLDER MAPPING

Box 5. Stakeholder mapping – key elements

- Identify all stakeholder categories relevant for or interested in the policy area concerned.
- Sort stakeholder groups according to the level of interest in and level of influence on the initiative to be consulted upon.
- Do not limit mapping to the 'obvious' stakeholders, identify target groups that run the risk of being excluded –underserved groups-.
- Make use of existing stakeholder lists gathered during previous consultation or in the context of networks, expert groups, stakeholders listed in the Transparency Register, etc.

3.1. Introduction

Knowing **who** the stakeholders are that should be consulted is an essential prerequisite for successfully collecting necessary information and providing appropriate opportunities for stakeholders to contribute to the EU's policymaking and evaluation work.

While the "obvious" stakeholders of a policy or sector may be well known, it is important to fine-tune and tailor the stakeholder mapping to the concrete initiative or evaluation: While different initiatives in the same sector may have similar/common key stakeholders, concrete impacts and implementing issues may concern additional stakeholders that also need to be addressed.

Thus, it is essential to:

- Find out if there are other stakeholders affected besides the 'obvious' stakeholders.
- Specify who they are.

This can be done in two successive steps:

- (1) **Identification** of stakeholders;
- (2) **Sorting** of the identified stakeholders according to their level of interest and influence.

The following guidance is of purely methodological nature and not exhaustive. Other methods may be more suitable, depending on the specific needs for a certain policy sector.

3.2. Identification of Stakeholder Groups

The stakeholder mapping stage should purely focus on the 'who', and not yet look at 'how' to address them, which is the next step.

The identification of the concrete stakeholders to be consulted can be done in an unstructured and/or structured way.⁵⁷⁴ The table in box 6 gives an overview of the main stakeholder categories of the Commission.

⁵⁷⁴ The JRC Policy LAB can provide support: <http://blogs.ec.europa.eu/eupolicylab/>

Box 6: Stakeholders categories⁵⁷⁵ (non-exhaustive list):	
Citizens	<ul style="list-style-type: none"> • Individual persons responding on their own behalf
Businesses⁵⁷⁶	<ul style="list-style-type: none"> • Large-sized enterprises • SMEs • Microenterprises • Self-employed
Trade, business and professional associations	<ul style="list-style-type: none"> • Chambers of commerce • Business organisations • Trade Unions • Representatives of professions or crafts
Non-governmental organisations	<ul style="list-style-type: none"> • Non-governmental organisations • Platforms • Networks • Similar associations
Consultancy	<ul style="list-style-type: none"> • Professional consultancies • Law firms • Self-employed consultants
Research and academia	<ul style="list-style-type: none"> • Think tanks • Research institutions • Academic institutions
Organisations representing regional, local and municipal authorities, other public or mixed sub-national entities	<ul style="list-style-type: none"> • Regional, local or municipal structures • Other sub-national public authorities • Transnational associations and networks of public sub-national authorities • Other public or mixed entities, created by law whose purpose is to act in the public interest
National and international public authorities	<ul style="list-style-type: none"> • National governments • National Parliaments • National public authorities or agencies • EU institutions, bodies or agencies • Intergovernmental organisations⁵⁷⁷

It might be useful to start with a brainstorming: just list those people, businesses or organizations who may be affected by the policy, who have influence on or an interest in its conclusion or revision. Discuss who has relevant information and expertise and who is responsible for implementation or application of a policy.

The brainstorming should be complemented by a more structured approach:

⁵⁷⁵ Organisations and businesses eligible to register in the Transparency Register that choose not to register should be considered as a separate category "non-registered organisations/businesses"⁵⁷⁵ unless they are recognised as representative stakeholders via relevant Treaty provisions⁵⁷⁵.

⁵⁷⁶ For the identification of the business size please consult the [User guide to SME identification](#)

⁵⁷⁷ Definition of [Intergovernmental organisations](#)

- Use available contact information gathered during previous consultation work or in the context of, networks, expert groups, newsletter subscriptions, stakeholders registered in the Transparency Register ⁵⁷⁸ etc.
- Analyse social media⁵⁷⁹ ('Social listening') to identify stakeholders: who discusses the issue, where are they, what are their concerns, how big is their influence⁵⁸⁰ and outreach. Apart from the identification of stakeholders, this may already provide information on expected campaigns, are welcomed but may need special attention.
- Stakeholders can also be assessed systematically according to guiding questions as e.g. suggested in the 'Six tests', or by certain criteria like the level of interest (see mapping matrix below).

3.2.1. *The 'Six tests for Stakeholder Identification'*

This stakeholder identification tool consists of six questions with a set of sub-questions, which can be used for a structured approach to identify stakeholders (see box 8).

It helps to list those that are impacted, needed for implementation and having expertise and/or interest in the subject⁵⁸¹.

<i>Box 7: The Six Tests for Stakeholder Identification</i> ⁵⁸²
<i>Test 1 Who is directly impacted?</i>
<ul style="list-style-type: none"> • Whose daily/weekly lives will change as a result of this policy? • Who cannot easily take steps to avoid being affected by this policy? • Who will have to change their behaviour as a result of this policy?
<i>Test 2 Who is indirectly impacted?</i>
<ul style="list-style-type: none"> • Whose daily lives will change because others have been directly impacted by the policy? • Who will gain or lose because of changes resulting from this policy?
<i>Test 3 Who is potentially impacted?</i>
<ul style="list-style-type: none"> • In particular circumstances, who will have a different experience as a result of this decision? • Are there individuals or groups who will have to adjust their behaviour if particular conditions apply?

⁵⁷⁸ <http://ec.europa.eu/transparencyregister/public/homePage.do>

⁵⁷⁹ Social media analysis tools can be used. Some examples: <http://www.socialbakers.com/>; <https://twitter.com/search-advanced?lang=en>; <http://www.sentiment140.com/>; <http://buzzsumo.com/>; <https://moz.com/followerwonk/>; <https://crowdcontrolhq.com/>

⁵⁸⁰ The identification of the level of influence of somebody and of their followers is beside the identification of linked interested persons or groups also important for the later outreach of the concrete consultation activities, e.g. <https://klout.com/corp/about>; <http://www.marketingcloud.com/products/social-media-marketing/radian6/>

⁵⁸¹ It can be complemented by the 'Circles of Stakeholder Interest' which allows to better fine-tune the level by which certain stakeholders are concerned, more info on GoPro: <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

⁵⁸² Source: The Consultation Institute, London (Bedfordshire)

Test 4 Whose help is needed to make it work?
<ul style="list-style-type: none"> • Are there vital individuals or groups in the delivery chain? • Who will have the ability to obstruct implementation unless co-operating? • Who understands the likely impact of this decision on other stakeholders?
Test 5 Who thinks they know about the subject?
<ul style="list-style-type: none"> • Who has studied the subject and published views on it? • Who has detailed know-how that those implementing the policy should also understand? • Are there individuals or groups that will be perceived as knowledgeable on the subject?
Test 6 Who will show an interest in the subject?
<ul style="list-style-type: none"> • Are there organisations or individuals who think they have an interest? • Has anyone been campaigning about the issue? • Is there anyone publishing or broadcasting views on this subject?

3.3. Sorting of stakeholders

The second step of stakeholder mapping is the sorting of the identified stakeholder categories:

- **Distinguish stakeholders groups** which **may be affected** by the concrete initiative (both directly and indirectly) in a significantly different way and **determine the level of interest** of these groups;
- **Differentiate the potential different ways stakeholders are affected within a specific stakeholder group** e.g. depending on the size, location, type of activity, or other characteristics.
- **Determine the level of influence** of the identified stakeholders to show the relative influence that different stakeholders have over policymaking and its evaluation.

3.3.1. Stakeholder Mapping Matrix⁵⁸³

Establishing a stakeholder mapping matrix combines insights on the level of influence and the level of interest on the issue consulted on.

To identify **the level of interest** the following guiding questions could be used:

- How close is the issue to the main purpose/role of the stakeholder (proximity test)?
- If a meeting were held tonight, how prominently would it feature on the stakeholders' agenda (agenda test)?
- What is the history of the stakeholder's involvement with this issue?
- How many of the stakeholder's active members are directly affected?

⁵⁸³ Source: Consultation Institute

- At 'worst case' how affected might the stakeholder be?

To identify **the level of influence** the following guiding questions could be used:⁵⁸⁴

- Does the status of the stakeholder confer upon any particular legitimacy or relevance (status test)?
- Is the stakeholder's leadership regarded as personally influential (VIP test)?
- Is there evidence this stakeholder has wide popular following?
- How effective is the stakeholder in using press relations or new technology to publish views?
- What is the stakeholder's track record?
- Has the stakeholder successfully persuaded decision-makers in the past?

Building on e.g. the abovementioned 'Six-tests' the various stakeholders can be attributed to four groups based on the identified influence stakeholders have on policymaking and the interest of stakeholders in the policy matter (see figure 1):

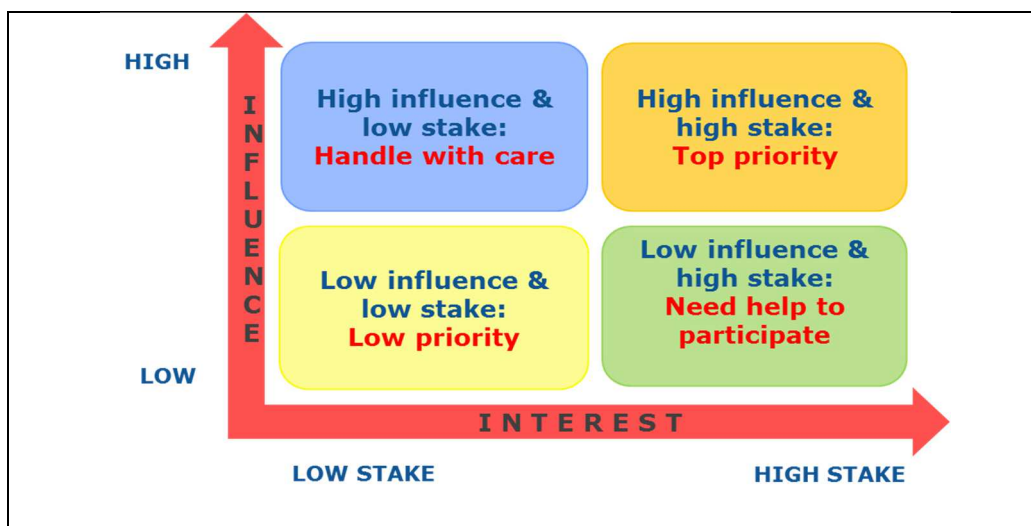


Figure 1: Stakeholder Mapping Matrix

The level of interest combined with the level of influence is important for selecting the appropriate consultation approach. For each stakeholder type, the following issues should be considered:

High influence and low stake:

- Relationship is paramount;
- Use high visibility methods;
- Watch out for increased interest.

High influence and high stake:

⁵⁸⁴ It can be complemented by the 'Pyramid of stakeholder influence' which allows to better fine-tune the level of influence of stakeholder groups, more info on GoPro: <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

- Use well informed communicators;
- Use high-capacity methods;
- Ensure transparency.

Low influence and low stake

- Acknowledge right to participate;
- Easily accessible methods;
- No discrimination.

Low influence and high stake

- Find them and understand them;
- Choose stakeholder specific methods;
- Positive discrimination.

The stakeholder mapping provides important information for the next step: the selection of the appropriate consultation activities.

4. DETERMINE THE CONSULTATION METHODS & TOOLS AND ENSURE ACCESSIBILITY

Box 8. Key elements for the selection of consultation activities & accessibility:

- The most appropriate consultation activities depend on the nature of the initiative, the scope of the consultation, the identified stakeholders, as well as on time and resources required and available.
- If you do an IA, an evaluation or a fitness check, it is mandatory to include a 12-week internet-based public consultation in your consultation strategy as it ensures transparency and accountability and gives any stakeholder the possibility to contribute. This should be complemented, where appropriate, by other consultation activities in order to engage all relevant stakeholders and to target potential information gaps.
- In case of a "back-to-back"⁵⁸⁵ approach to evaluation and IA a single 12-week internet based public consultation is sufficient which should be complemented by appropriate other targeted consultation activities.
- Plan early ahead and consider the timing and sequencing of the proposed consultation work and operational arrangements (i.e. internal and external resources, translations⁵⁸⁶ etc.).
- All consultation work, including any activity outsourced to contractors, should follow the Commission's better regulation Guidelines.
- Ensure adequate language coverage for consultation activities according to the scope

⁵⁸⁵ See Tool #52 on "*Back-to-back*" evaluation and impact assessment.

⁵⁸⁶ DGT should be contacted as early as possible so that language needs of the target audience(s), length of documents, timing and available translation resources can be properly assessed and taken into account

and outreach of the activity⁵⁸⁷.

- Ensure that persons with disabilities can participate in consultations on an equal basis
- Determine a communication plan as part of the consultation strategy in order to ensure that relevant target groups are reached in the most effective way. It should identify adequate communication actions in function of the identified consultation objectives, targeted stakeholders and consultation activities. (possible action: social media, web, face-to-face, press, publications, etc.)

4.1. Selection of consultation method and activities

4.1.1. Public consultation versus targeted consultation

Public and targeted consultations are generally the two methods for carrying out consultations.

Box 9. Open public consultation and targeted consultations

Public consultation

- Gives unlimited ("self-selected") access to everybody who wishes to contribute.
- The most common tool is a web based consultation (questionnaire).

Targeted consultation

- A targeted consultation activity addresses specific well-defined stakeholder groups and invites them to participate.
- A targeted consultation can be embedded in a web-based public consultation containing specific parts addressed to particular stakeholder groups.
- In a restricted targeted consultation activity, stakeholders are pre-selected and only the explicitly invited stakeholder groups or individuals can participate in the consultation activity (e.g. focus group or workshop). If an internet based activity is carried out, the identification part could only allow the targeted groups to participate. Access rights can be managed with EU login.

In case of a restricted targeted consultation the criteria of selecting the stakeholders as well as information on who has been selected and to what stakeholder group they belong should be transparent and mentioned on the consultation page.

4.1.2. Exploratory consultations

Box 10. Exploratory consultations – key elements

- Exploratory consultations may be needed in those rare cases where essential information is missing that prevent the Commission from making basic conceptual

⁵⁸⁷ See table 4 of Tool # 53 'The Consultation Strategy' and Better Regulation Guidelines, Chapter VII box 'key requirements'

choices.

- The SG is available to help assessing if an intended consultation could be of exploratory nature.
- Exploratory consultations need to be part of the DG work plan and validated at DG level.
- The DG takes full responsibility for the preparation, organisation and follow-up of the consultation activity. This includes its announcement on the policy website, the publication of contributions or a narrative of them, and information on the way forward and next steps.
- Where relevant, associated DGs should be informed or consulted on consultation documents (background papers, questionnaires, etc.) and be kept informed on the outcome of the consultation.
- Exploratory consultations do not waive formal consultation requirements in case they trigger the preparation of a concrete Commission initiative. Information on the exploratory consultation should be incorporated in the scoping part of the consultation strategy of the new initiative.

Usually, formal stakeholder consultation takes place in view of informing the concrete preparation of an initiative or an evaluation or Fitness Check. This type of formal stakeholder consultation is *linked* to a Commission initiative under preparation or in case of an evaluation to an existing policy. In these cases, the establishment of a consultation strategy is necessary and the procedural and methodological requirements of the better regulation Guidelines apply.

However, in rare cases it may be necessary to enter into a formal dialogue with stakeholders to explore a subject for which very limited information is available. Such "exploratory consultations" can provide further information, which may be necessary to take basic conceptual decisions.

"Exploratory consultations" are thus of preliminary nature, do not yet address the broad public, but are targeted to those that 'have the information'. They may provide insights to determine if any problem exists and could be addressed by EU action, or sketch the potential scope of a genuinely new policy. It thus may contribute to the agenda setting of the Commission. They can help identifying how far the Commission should invest in further studies and consultation work on a specific topic and are carried out before validation for a concrete new initiative is sought and before stakeholder consultation *linked* to a concrete initiative takes place – e.g. they may feed the design of a Green Paper.⁵⁸⁸

On the other hand, a consultation is not of exploratory nature simply because it is carried out very early in a policy preparation process or because targeted consultations are complemented by public consultation work.

⁵⁸⁸ Green Papers are documents published to stimulate discussion on given topics at European level. They invite the relevant stakeholders to participate in a consultation process and debate on the basis of the proposals they put forward. Green Papers may give rise to legislative developments that are then outlined in White Papers

"Exploratory consultations" for evaluations and Fitness Check do not exist by definition, i.e. due to their preliminary character described above.

4.1.3. Consultation activities

Based on the scoping and stakeholder mapping for the concrete policy initiative, evaluation or Fitness Check the most appropriate consultation activities should be identified.

There is no one-size-fits-all solution regarding the type of consultation activities and moment in the policy preparation or evaluation process when they should take place. Also, not all identified stakeholders need to be addressed in every consultation activity, but all stakeholders should have the opportunity to contribute somehow.

However, following the scoping and stakeholder mapping steps, information should be available which allows identifying the most appropriate:

- Mix of public and targeted consultations
- Sequence of consultation activities
- Degree of interactivity for the various stakeholder groups – see table below
- Level of effort needed to stimulate contribution of stakeholders with low influence - this includes accessibility⁵⁸⁹ considerations like language regime and participation of citizens with disabilities

An external service provider or a facilitator⁵⁹⁰ (who should comply with the minimum standards for stakeholder consultation and follow the Guidelines) might be considered for certain consultation work. It should be carefully checked that the contractors involved have no interest in the policy area which is subject to consultation and can operate in an independent way on behalf of the Commission.

If you do an IA, an evaluation or a fitness check, it is mandatory to include a 12-week internet-based public consultation in your consultation strategy as it ensures transparency and accountability and gives any stakeholder the possibility to contribute. This should be complemented, where appropriate, by other consultation activities in order to engage all relevant stakeholders and to target potential information gaps. Where the initiative concerns an evaluation of an activity conducted outside the EU or where the internet is not a the most appropriate support tool, an exemption to the mandatory public consultation may be justified as long as the consultation strategy envisages appropriate tools to reach the relevant stakeholders. In this case, an exemption should be requested to the SG⁵⁹¹.


⁵⁸⁹ See paragraph on accessibility further down in this tool.


⁵⁹⁰ The JRC.I.2 Policy lab and the 'Community of participatory management' is available to facilitate participatory stakeholder consultation activities like workshops, conferences, policy labs.

⁵⁹¹ For the exemption procedure see Tool # 1: *Principles, procedures and exceptions*

Table 1 below shows the degree of interactivity of certain consultation activities and feedback mechanisms and indicates how they respond to certain consultation objectives at the various stages of the policy cycle.

Table 1: Degree of interactivity with stakeholders regarding objectives and stages of the policy cycle



	INFORM and ENABLE FEEDBACK	CONSULT (written)	CONSULT and INVOLVE (based on direct interactions)
Objectives	<p>Provide information to interested parties on Commission plans:</p> <ul style="list-style-type: none"> Give a first indication on the issues at stake, why the EU should address them Keep interested parties informed on when their input will be expected 	<p>Obtain input from interested parties on issues at stake, possible solutions and impacts:</p> <ul style="list-style-type: none"> Collect views, new ideas, evidence, data Validate analysis, test hypotheses 	<p>Obtain input from interested parties on issues at stake, possible solutions and impacts:</p> <ul style="list-style-type: none"> Discuss directly with stakeholders to make sure their points are fully understood Allow for exchange of views between different stakeholder groups Facilitate consensus seeking or deliberation
Instruments & activities	<ul style="list-style-type: none"> Roadmap/ Inception IA Calendar of planned public consultations on Alerts sent by Transparency Register or "Commission at work" notifications 	<ul style="list-style-type: none"> Public consultation Consultation tools targeted at specific consultation groups 	<ul style="list-style-type: none"> Stakeholder meetings, workshops, seminars Stakeholder conferences, public hearings, broad events Expert/focus groups
		 Consultation documents and questionnaires	
	Early stages of policy preparation & planning	Policy preparation (development and revision of policies) Policy application (evaluation of policies)	

4.2. Frequently used consultation activities

Table 2 presents frequently used consultation activities and their use. Table 3 gives indications on the potential of consultation activities to collect different types of information: the collection of factual data, the validation of analysis, gathering expertise or information, understanding views and opinions and validating information.

Table 3 also indicates how far they cover characteristics like the level of interactivity, accessibility, transparency and statistical representativeness.

Note that when stakeholder consultation is used for **collecting information** (i.e. evidence such as data, expertise etc.), it should be *verified* if the method used is appropriate for collecting the required type of information in view of its reliability, accuracy etc.⁵⁹².

⁵⁹² See Tool # 4 on *Evidence-based better regulation*.

Tailored information on most frequently used consultation activities is provided by means of overview fiches available on GoPro⁵⁹³.

Table 2: Use of consultation activities (in alphabetical order)

Activity	Used to:
Conferences, public hearings & events	Gather input from a larger number of targeted stakeholders through direct interaction.
Eurobarometer Surveys	Gather views of European citizens through representative samples of targeted populations. Can also target professional stakeholders (e.g. in-depth studies).
Expert groups of the Commission	Gather inputs and advice from experts on a well-defined mandate.
Focus groups	Gather information through group discussion of citizens/stakeholders with similar features.
Interviews	Collect information via in-depth, more or less structured conversations with individuals.
Public consultations	Gather inputs from a broad range of stakeholders through different instruments. Mandatory for impact assessments, evaluations, fitness checks, Commission Communications launching a consultation process and Green Papers.
Consultations targeting SME's - SME panel	Gather information directly from SMEs via the Enterprise Europe Network, managed by DG GROW.
Workshops, meetings and seminars	Collect specific information from targeted stakeholders through direct interaction.

Table 3: Consultation activities: their information potential and characteristics

Consultation activity	Information potential ⁵⁹⁴						Characteristics			
	Collect factual data	Validate analysis	Gather expertise	Gather information	Understand views and opinions	Validate information	Level interactivity	Access ibility	Transpa rency	Statistical representa tiveness
Conferences, Public hearings, Events	○	●	○	●	○	○	●	○	○	○
Eurobarometer Surveys	○	○	○	○	○	○	○	○	○	●
Expert Groups	●	●	●	●	○	●	●	○	●	○
Focus Groups	●	●	○	●	●	●	●	○	○	○
Interviews	●	●	○	●	○	○	●	○	○	○
Public Consultations	●	○	●	●	●	○	○	●	●	○
SME Panel	○	○	○	●	○	●	○	○	●	○
Workshops, Meetings & Seminars	●	●	○	●	●	●	●	○	○	○

Level of information potential/impact on characteristic: ●=high ○=medium ○=low

⁵⁹³ <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

⁵⁹⁴ When stakeholder consultation is used for collecting evidence (e.g. factual data, expertise etc.), there is a need to verify that the method used is correct and appropriate for collecting the required type of evidence.

4.3. The SME dimension in a public consultation

Public consultations can target SMEs either directly or through their representative organisations. These two channels have different characteristics and needs. While the latter usually have experience in participating in Public Consultations, individual SMEs will probably reply only if they are made aware of the launch of a specific OPC and if the subject is particularly relevant for their business. It is advisable therefore:

- To devise different questionnaires for these two types of respondents (as two different questionnaire web links on the OPC main page).
- Not to mix the two channels when analysing the OPC replies.

Detailed guidance on preparing consultations targeting SME's is provided in the specific fiche available on GoPro⁵⁹⁵.

4.4. Accessibility of consultations including language regime

Consultations should be planned and conducted in such a way that all stakeholder groups can participate easily and effectively. A key aspect for accessibility relates to the language regime of consultation activities. **It is essential to ensure adequate language coverage of the consultation activity.** The table below provides information on linguistic accessibility, accessibility of activities and consultation channels, and timing and consultation periods.

Table 4. Accessibility of consultations	
1. Linguistic accessibility	
Language regime	<ul style="list-style-type: none">• In general, ensure that consultation documents are translated into as many languages as feasible and appropriate in accordance with the scope and outreach of a consultation. While highly technical consultations could be conducted in English or a few languages only, especially consultations reaching out to non-expert stakeholders or citizens in general should be translated into all EU languages. Equally, ensure that consultation events are interpreted, whenever necessary.• The language regime for consultation activities should be explained and justified in the consultation strategy, to be endorsed by the interservice Group (ISG) or Secretariat-General (SG) and interested DGs, in case no ISG is established. The language regime should be referred to in the consultation section of the roadmap or inception impact assessment. SG will consistently screen consultation strategies to identify consultation activities, in particular those with a broad public interest, which should be translated into all or several languages.• Consultation documents related to public consultations for initiatives included in the Commission Work Programme, Annex I, need to be translated into all official EU languages⁵⁹⁶. Together with the questionnaire, the consultation web page (or at least a summary thereof) and any additional consultation/background documents should be translated.

⁵⁹⁵ <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

⁵⁹⁶ Until the capacity to translate into Irish has been fully built up, translation of public consultations into Irish should be assessed on a case-by-case basis.

	<ul style="list-style-type: none"> • The questionnaires and any accompanying documents of all other public consultations need to be made available in, at least, the Commission's three working languages: English, French and German. Consultation documents need to be made available in additional languages if the consultation is of broad public interest or if relevant for the underlying initiative. • To allow citizens and stakeholders to easily identify public consultations of interest, for all public consultations, the consultation webpage, or a summary thereof explaining the scope and aim of the consultation⁵⁹⁷, need to be available in all official EU languages. • Exceptions to language requirements, to be duly justified, should be requested to the SG⁵⁹⁸. • All language versions of the consultation documents should be available at the launch of the consultation. If that is <u>exceptionally</u> not possible, stakeholders should be informed that missing translations will be made available shortly. • The Secretariat-General can help in identifying the appropriate language coverage. The Commission translation service (DGT) can advise on timelines for translation of consultation documents. Please contact⁵⁹⁹ DGT as early as possible when planning a consultation so that length of documents, timing and available translation resources can be properly assessed and taken into account⁶⁰⁰. • Stakeholders should be informed that they can always reply to a consultation in any official EU language regardless of the translation of the consultation documents.
Stakeholder friendly language	<ul style="list-style-type: none"> • Communicate in a manner that is easily understood by diverse audiences including persons of limited linguistic proficiency. • Ensure that consultation documents (strategy, questionnaire, background documents) are explicit, clear and understandable. It is recommended to have them proof-read by non-experts. • Avoid bureaucratic or too technical language. Abbreviations should be avoided too. Necessary specialist terms should be explained. • Make use of plain language guidance when drafting consultation documents. The Commission has issued a guide called "How to write clearly"⁶⁰¹, available in all official EU languages, and also offers trainings on clear writing. The

⁵⁹⁷ Template available:
<https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

⁵⁹⁸ In accordance with the procedure for exceptions set out in Tool # 1: Principles, procedures & exceptions

⁵⁹⁹ Please go to <https://myintracomm.ec.europa.eu/serv/en/dgt/Pages/index.aspx> or contact the functional mailbox "DGT-ALL-SERVICES".

⁶⁰⁰ DGT can provide translations of consultation documents of up to 10 pages into all requested EU official languages. Details and information about other services offered by DGT in the context of translations of consultations is provided in the internal note Ares (2013)2752242. More info is available on GoPro:
<https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>

⁶⁰¹ http://www.cc.cec/translation/clear_writing/index_en.htm and service of DGT-EDIT can help to transform technical language to plain and accessible language

	European Court of Auditors' list of "Misused English words and Expressions in EU publications" ⁶⁰² can also help improve clarity.
Participation of persons with disabilities	<ul style="list-style-type: none"> • Ensure that persons with disabilities can participate in consultations, on an equal basis with others and in line with the UN Convention on the Rights of Persons with Disabilities⁶⁰³ and the European Disability Strategy 2010-2020⁶⁰⁴. • Use a variety of communication means and accessible formats. The Commission has, for example, already used a sign-language video for a consultation and made simplified, easy-to-read questionnaires available. • Ensure that the consultation page complies with the international Web content accessibility guidelines (WCAG)⁶⁰⁵ (version 2.0), level AA. This means that texts, images, forms, sounds, etc. should be accessible and understandable by as many people as possible without discrimination. • As of May 2016, the EU Survey tool allows respondents to switch to a WCAG-compliant view. It is not anymore necessary to manually activate this option when designing the questionnaire. Contact the EU Survey team should there be any problems with the tool.⁶⁰⁶ • Keep questionnaires as simple as possible, using simple question types like free text, single/multiple-choice, and matrixes. Try to avoid tables and file uploads. Also avoid "visual" elements and try not to use formulations like "in the question below" or "in the next section". Refer to the name of the section or question instead. When adding images to your questionnaire make sure to provide a meaningful descriptive text.
2. Accessibility of activities and consultation channels	
Selection of activities and communication channels	<ul style="list-style-type: none"> • Ensure that relevant target groups are reached and invited to participate in the most effective way. Usually, a combination of different communication channels (e. g. press release, networks, multipliers, events, social media, Commission delegations and representations in Member States) works best. Public consultations should also be included in the planning calendar well in advance.⁶⁰⁷ • Target groups in remote and rural areas, with lower access rates to internet, may need to be addressed by other consultation tools and communication channels than target groups in more densely populated areas with higher access rates to internet. EC Representations and Europe Direct could be engaged in identifying appropriate tools and channels. • For specific target groups (e.g. SMEs), it might be more effective to fine-tune communication actions and limit the scope on social media, press or other

⁶⁰²

http://www.eca.europa.eu/Other%20publications/EN_TERMINOLOGY_PUBLICATION/EN_TERMINOLOGY_PUBLICATION.pdf

⁶⁰³ Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities

⁶⁰⁴ <http://ec.europa.eu/social/main.jsp?catId=1137>

⁶⁰⁵ <http://www.w3.org/TR/WCAG20/>

⁶⁰⁶ Please contact the EU Survey team via EC-HELPDESK-IT@ec.europa.eu.

⁶⁰⁷ Published on [the 'Consultation Portal'](http://ec.europa.eu/info/consultations_en): http://ec.europa.eu/info/consultations_en

	<p>communication means.</p> <ul style="list-style-type: none"> • The Secretariat-General⁶⁰⁸ is available for guidance on the design and implementation of a communication plan.
3. Timing and consultation period	
Timely consultation	<ul style="list-style-type: none"> • Identify the stages of policy preparation where stakeholder input will be needed and define the appropriate moment for each consultation activity as well as their sequence accordingly. • Spread information early and widely.
Timeframe for contributions	<ul style="list-style-type: none"> • Allow sufficient time for replying to consultations to increase participation. • The consultation period should strike a reasonable balance between the need for adequate input and the need for swift decision-making. • The minimum period for replies to public consultations is 12 weeks. It is strongly recommended to prolong this period if it overlaps with holiday periods. • For meetings, hearings, conferences or other consultation events, relevant documents should be disseminated 20-working-days ahead of the meeting.⁶⁰⁹

4.5. Communicate the Consultation Strategy

The content of the Consultation Strategy should ideally be communicated to the public on the consultation website related to the policy preparation or the evaluation or fitness check. Providing all relevant information on the consultation activities (both planned and concluded), contributes to transparency and accountability of the consultation process. At the same time, it informs stakeholders on their possibilities to contribute.

The website should at least include the following:

- a brief background;
- explain the approach of the consultation, in particular in case of a "back-to-back"⁶¹⁰ approach;
- the consultation strategy;⁶¹¹
- a link to the Roadmap or IIA and its feedback, where applicable
- a description of the consultation activities that are planned or that have already been completed;

⁶⁰⁸ Via the functional mailbox SG-COMMUNICATION@ec.europa.eu

⁶⁰⁹ See the 2002 General principles and minimum standards for consultation of interested parties by the Commission http://ec.europa.eu/governance/docs/comm_standards_en.pdf.

⁶¹⁰ See Tool #52 on "Back-to-back" evaluations and impact assessments.

⁶¹¹ Either the strategy document or the content of the strategy as information embedded in the website

- the preliminary timing for upcoming consultation activities;
- the actual consultation activities and documents or links to them;
- where relevant a link to the contributions received in the context of consultation activities;
- A factual summary (recommended) about the main issues raised in a consultation activity and providing a first statistical overview on the number, categories and geographic distribution of participating stakeholders;
- after the conclusion of the last consultation activity: the Synopsis Report
- in case of delegated or implementing acts: information about and a link to the feedback received, and
- in case of legislative proposals: information about and a link to the post-adoption feedback received and a link to the document summarising it.

The web page should be regularly updated. In order to ensure consistency and user-friendly access, a specific template is available for public online consultations, to be cross-linked on the general webpage for the initiative. For the template as well as further guidance on the design of the web pages and **a list of good practice examples**, please see GoPro.⁶¹²

⁶¹² <https://webgate.ec.europa.eu/fpfis/wikis/display/REGISTRY/Stakeholders%20consultation>