

Tools Used For Public Consultation

Basically there are five instruments or different ways to perform public consultation, depending on who is to be consulted, how formal the process is, and the communication means used.

Informal consultation

Informal consultation includes all forms of discretionary, ad hoc, and unstandardized contacts between regulators and interest groups. It takes many forms, from phone-calls to letters to informal meetings, and occurs at all stages of the regulatory process. The key purpose is to collect information from interested parties. This approach can be less cumbersome and more flexible than more standardized forms of consultation; hence, they can have important advantages in terms of speed and the participation of a wider range of interests.

The disadvantage of informal procedures is their limited transparency and accountability. Access by interest groups to informal consultations is entirely at the regulator's discretion. Informal consultation resembles "lobbying", but in informal consultation it is the regulatory agency that plays the active role in establishing the contact. The line between these two activities, however, is potentially difficult to draw.

Circulation of regulatory proposals for public comment

This form of public consultation is a relatively inexpensive way to solicit views from the public and it is likely to induce affected parties to provide information. Furthermore, it is fairly flexible in terms of the timing, scope and form of responses. That is why it is among the most widely used form of consultation.

This procedure differs from informal consultation in that the circulation process is generally more systematic, structured, and routine, and may have some basis in law, policy statements or instructions. It can be used at all stages of the regulatory process – but is usually used to present concrete regulatory proposals for consultation. Responses are usually in written form, but regulators may also accept oral statements, and may supplement those by inviting interested groups to hearings.

The negative side of this procedure is again the discretion of the regulator deciding who will be included in the consultation.

Public notice-and-comment

Public notice-and-comment is more open and inclusive than the circulation-for-comment process, and it is usually more structured and formal. The public notice element means all interested parties have the opportunity to become aware of the regulatory proposal and are thus able to comment. There is usually a standard set of background information,

including a draft of the regulatory proposal, discussion of policy objectives and the problem being addressed and, often an impact assessment of the proposal and, perhaps, of alternative solutions.

Public hearings

A hearing is a public meeting on a particular regulatory proposal at which interested parties and groups can comment in person. Regulatory policymakers may also ask interest groups to submit written information and data at the meeting. A hearing is seldom an independent procedure; rather, it usually supplements other consultation procedures.

Hearings are usually discretionary and ad hoc unless connected to other consultation processes (for example, notice-and-comment). They are, in principle, open to the general public, but effective access depends on how widely invitations are circulated, the location and timing of the hearing, and the size of the room. Public meetings provide face-to-face contact in which dialogue can take place between regulators and wide range of affected parties and between interest groups themselves.

A key disadvantage is that they are likely to be a single event, which might be inaccessible to some interest groups, and thus require more co-ordination and planning to ensure sufficient access. In addition, the simultaneous presence of many groups and individuals with widely differing views can render a discussion of particularly complex or emotional issues impossible, limiting the ability of this strategy to generate empirical information.

Advisory bodies

Besides informal consultation and circulation-for-comment, the use of advisory bodies is the most widespread approach to public consultation. Advisory bodies are involved at all stages of the regulatory process, but are most commonly used quite early in the process in order to assist in defining positions and options. Depending on their status, authority, and position in the decision process, they can give participating parties great influence on final decisions, or they can be one of many information sources.

There are many different types of advisory bodies under many titles – councils, committees, commissions, and working parties. Their common features are that they have a defined mandate or task within the regulatory process (either providing expertise or seeking consensus) and that they include members from outside the government administration.

There two main different kinds of advisory bodies: first, the bodies seeking consensus are interest groups where they negotiate processes, and secondly, technical advisory groups are formed by experts and their aim is to find information for regulators. The first kind tends to have a permanent mandate while the technical bodies are often ad hoc groups to work in concrete issues.