STAKEHOLDER ENGAGEMENT IN REGULATORY POLICY

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1. OECD and Stakeholder Engagement
2. Overview of Stakeholder Engagement
   1. Why engage?
   2. Who to engage with?
   3. How to engage?
   4. When to engage?
3. Conclusion
1.1 The Organisation for Economic Co-operation and Development

- 35 members economies from around the globe, extensive work with non-members
- Mission: to promote policies that will improve the economic and social well-being of people around the world
- More than 20 years experience on regulatory policy
1.2 The OECD Regulatory Policy Committee

- **Aim:** Assist countries in building and strengthening their regulatory reform efforts.

- **Legal instrument:** 2012 Recommendation of the Council on Regulatory Policy and Governance

- **Evidence on implementation:** Country reviews; Regulatory Policy Outlook (2015 & 2018)

- **Draft OECD Best Practice Principles on Stakeholder Engagement in Regulatory Policy**
  

- **Extensive work with non-OECD countries**
  
  - LAC Network on Good Regulatory Policy Practices
  - Southeast Asia & Good Regulatory Practice Network
  - OECD Accession candidates: Colombia, Costa Rica, Lithuania, Russia
1.3 Stakeholder engagement: key pillar of regulatory quality

OECD 2012 Recommendation of the Council on Regulatory Policy and Governance

1. Explicit policy on regulatory quality
2. Communication, Consultation and Engagement
3. Regulatory Oversight
4. Integrated RIA
5. Review Regulatory Stock – ex post evaluation
6. Review performance of regulatory reform
7. The organisation of regulatory agencies
8. Administrative and judicial review
9. Risk and Regulation
10. Regulatory coherence across levels of Government
11. Regulatory management capacity at sub-national level
12. International regulatory co-operation
1.4 All OECD Countries engage with stakeholders

Formal requirements in the areas of consultation, regulatory impact assessment and ex post evaluation

Note: Based on data from 34 countries and the European Commission. Chile, Estonia, Israel and Slovenia were not members of the OECD in 2005 and so were not included in that year’s survey.

Source: 2015 OECD Regulatory Policy Outlook
2. But doesn’t this slow down government activities?
2.1 Why engage with stakeholders?

- **Collecting better evidence:**
  Getting more diverse and well-informed inputs to best address real needs of citizens

- **Improving compliance:**
  Increase a sense of ownership among stakeholders – increases compliance and reduces enforcement costs

- **Strengthening legitimacy of decision-making:**
  Ensure accountability of the government and civil servants and regain trust in public policies
2.2 Who to engage with?

Those interested and affected by regulation

‘Stakeholders’ can potentially include citizens, businesses, trade unions, civil society organisations, public sector organisations, etc.

General guidance:

• Consultation should be open and voluntary
• Be specific when selecting who to consult
• Revisit stakeholder analysis throughout the consultation process
• Avoid over reliance on advisory bodies or expert groups

Keep in mind:

• Stakeholders usually least represented (eg. new entrants, SMEs)
• Potentially affected foreign stakeholders
2.3. How to engage with stakeholders?

Building a framework for stakeholder engagement

1. A clear cross-cutting policy on stakeholder engagement
   - Government-wide policy with clearly set objectives
   - Guidance for SE (for civil servants and stakeholders) – on tools, information dissemination, providing feedback

2. Mechanisms and institutions to provide oversight of engagement activities
   - Clear competences for coordination and promotion of stakeholder engagement

3. Planning stakeholder engagement actions beforehand and strategically
   - Helps identify when stakeholders will be engaged with and select the right tools to conduct engagement
2.4 How to engage with stakeholders?

Scope and form of stakeholder engagement

- **Consultation**
  - Information/notification
  - One way process
    - Agency ➔ Citizens

- **Active Participation**
  - Two-way flow
    - Agency ↔ Citizens
  - Partnership
    - Agency ↔ Citizens

- **Complementary**
2.5 How to engage with stakeholders?

Types of consultation in OECD economies

- Advisory group or preparatory committee
- Broad circulation for comment
- Formal consultation with selected groups (e.g. social partners)
- Informal consultation with selected groups
- Physical public meetings
- Posting on the internet without invitation to comment
- Public consultation conducted over the internet with invitation to comment
- Virtual public meetings
- Other

Number of jurisdictions

Source: 2015 OECD Regulatory Policy Outlook
2.6 How to engage with stakeholders?

The full potential of ICT remains to be exploited.

<table>
<thead>
<tr>
<th></th>
<th>Number of jurisdictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Website(s)</td>
<td>24</td>
</tr>
<tr>
<td>Discussion Forums</td>
<td>11</td>
</tr>
<tr>
<td>LinkedIn</td>
<td>3</td>
</tr>
<tr>
<td>Facebook</td>
<td>5</td>
</tr>
<tr>
<td>Twitter</td>
<td>7</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
</tr>
</tbody>
</table>

2.7 How to engage with stakeholders?

Follow-up to inputs received

**Obligation to provide feedback**

<table>
<thead>
<tr>
<th>Are regulators formally required</th>
<th>18</th>
<th>21</th>
</tr>
</thead>
<tbody>
<tr>
<td>to consider consultation comments when developing the final regulation?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are regulators required to publish a response to consultation comments online?</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Are regulators required to respond in writing to the authors' consultation comments?</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Are the views expressed in the consultation process included in the Regulatory Impact Analysis?</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>Are the views of participants in the consultation process made public?</td>
<td>28</td>
<td>27</td>
</tr>
</tbody>
</table>

**Note:** Based on data from 34 countries and the European Commission.

**Source:** 2015 OECD Regulatory Policy Outlook.
2.8 When to engage with stakeholders?

Throughout the regulatory policy cycle

- 1. Develop a policy roadmap and choose the policy instrument(s)
- 2. Design new regulation • Check current regulation
- 3. Enforce regulation
- 4. Monitor and evaluate performance of regulation

The 4 Cs
Consultation
Co-ordination
Co-operation
Communication

Other policy tools
### 2.9 When to engage with stakeholders?

*Trends in OECD Economies*

Consultation tends to happen at a late stage in the rulemaking process.

<table>
<thead>
<tr>
<th>Jurisdiction Type</th>
<th>Early-stage</th>
<th>Later-stage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary laws</td>
<td>22 (6, 21)</td>
<td>6 (2, 4, 24)</td>
</tr>
<tr>
<td>Subordinate regulations</td>
<td>21 (4, 17)</td>
<td>2 (2, 0)</td>
</tr>
<tr>
<td>Primary laws</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subordinate regulations</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Source:* 2015 OECD Regulatory Policy Outlook
3. Conclusion: Critical pillars for stakeholder engagement

- Stakeholder engagement is key for evidence-based policy making
- Effective and meaningful stakeholder engagement may be supported by:
  - A clear, cross-cutting policy
  - Engagement at each stage of life-cycle of regulation
  - Engagement with all interested and affected parties
  - Feedback about consideration given to inputs
  - Regular evaluation of stakeholder engagement policy and practices
Thank you!

For more information:
www.oecd.org/gov/regulatory-policy

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