

How regulatory agencies use stakeholder consultations to craft their reputation

*It is common for regulatory agencies to carry out consultations with relevant stakeholders. However, little is known about what agencies actually do with the information they receive during these consultations. Drawing on a new study, **Simon Fink** and **Eva Ruffing** shed some light on the process, illustrating how consultations are used by agencies as a tool to manage their reputation with stakeholders and the wider public.*

Stakeholder consultations have become a standard procedure in many policy fields. This is particularly true in the field of regulation. Independent regulatory agencies need policy-relevant information, and they need to legitimise their decisions. Conducting consultations with the relevant stakeholders promises to satisfy both needs and is often mandatory for agencies. However, we know little about what agencies actually do with the comments they receive and how they process and use them.

In a [recent study](#), we argue that agencies use stakeholder consultations as a way to work on their reputation. Reputation theory notes that we can explain agency behaviour as a strategic attempt to project a certain reputation towards critical stakeholders or the wider public. Having a good reputation is vital, as it can shield an agency from criticism and ensure its survival.

An agency can strive for four types of reputation: A performative reputation is achieved if stakeholders believe that an agency does its job well. An agency has a technical reputation if stakeholders believe that it is competent and well-informed about technical issues (think of an agency being known as the biggest expert on pharmaceuticals). An agency can also cultivate a procedural reputation, being known for “diligently following the rules”. Lastly, an agency can strive for a moral reputation, being known for “caring for the public welfare”.

Most studies investigate material like agency’s reports or press releases and find evidence for reputation considerations – emphasising due diligence, technical competence, or care for the community, depending on the vital audience they want to reach. However, how an agency uses stakeholder consultations can also be seen as part of the attempt to generate and maintain a favourable reputation.

Our argument is that regulatory agencies normally strive for a technical reputation. If an agency can argue that its decisions are technically sound and based on state-of-the-art knowledge, this insulates the agency against political interference – who would criticise an agency for choosing the technically best solution? However, our second argument is that not all agencies can follow this strategy as it is extremely costly. Building a technical reputation needs resources – in terms of personnel, knowledge, and so on – and not all agencies have the necessary resources. Their fallback solution, according to our argument, is establishing a procedural reputation.

We show how reputational considerations explain how two agencies – the German Federal Network Agency (*Bundesnetzagentur*) and ACER – react to stakeholder comments. Our case is electricity grid planning. Both agencies have the same task: they have to supervise the planning of electricity grids by the companies building and operating these grids. The Federal Network Agency does this for the German electricity grid, ACER for the European-wide grid. In detail, the institutions differ, but the procedure is broadly similar: First, the grid operators propose a list of power lines they deem necessary to ensure the functioning of the grid. Second, stakeholders like energy companies or environmental groups can comment on their proposal. Third, the agency decides whether to approve the plan or to demand changes.



Electricity pylon in Sussex, UK, Credit: sagesolar (CC BY 2.0)

Both agencies also receive roughly the same type of stakeholder comments. In both the German and the European consultations, stakeholders either complain about the openness and transparency of the stakeholder consultation – e.g. arguing that important documents are missing or unclear, important assumptions are not spelled out etc. – or they give very detailed technical input – e.g. offering alternative assumptions about electricity production, the development of electromobility and its impact on electricity grid usage etc.

However, both agencies diverge when it comes to reacting to these stakeholder comments. The German Network Agency is well-resourced and goes for a technical reputation. In its reactions to the stakeholder consultations, it only briefly mentions the contributions criticising transparency and openness. On the other hand, it devotes many pages to discussing technical contributions in great detail, giving precise regulatory directions. ACER has fewer resources than the Federal Network Agency. Thus, it pursues a procedural reputation. Where the German Network Agency only briefly mentions stakeholder comments about a lack of transparency, ACER gives precise instructions on how stakeholder consultations should be conducted, and what good consultation documents should look like. Conversely, ACER's comments refer to the same technical issues as the Federal Network Agency, but only in vague terms.

For example, the German Network Agency precisely prescribes which kind of sensitivity analyses the grid operators should perform (e.g. “what if energy consumption is reduced by 10 per cent until 2020”?), while ACER only urges the grid operators to cooperate with policymakers to derive plausible energy scenarios. Thus, we show that even given similar institutions of stakeholder consultation, agencies react differently to stakeholder input, depending on their reputational concerns. The message is not that the Federal Network Agency only takes into account technical contributions or that ACER only focuses on procedure. But there is a distinct bias in the way in which contributions are used and emphasised to motivate regulatory decisions.

Viewed from the perspective of stakeholders, the message is clear: if your voice is to be heard, tailor your message to the reputational concerns of the agency you want to reach. If an agency is trying to project a technical reputation, detailed technical comments are helpful. If an agency is emphasising procedural issues, a contribution focusing on rules and transparency will be more successful.

For more information, see the authors' accompanying paper at the [Journal of European Public Policy](#)

Note: This article gives the views of the authors, not the position of EUROPP – European Politics and Policy or the London School of Economics. Featured image credit: [sagesolar \(CC BY 2.0\)](#)
