



Event summary - EU agencies - How to manage the risk of reputational damage

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On 18 October 2017, European Ombudsman **Emily O'Reilly** hosted a stakeholder discussion on **how the EU's agencies can implement the highest ethical and transparency standards** so as to **protect themselves from reputational damage** .

The EU's decentralised agencies have been set up to perform technical and scientific tasks that **help the EU institutions implement policies and take decisions**. They help guarantee the safety of the food we eat, the chemicals we are exposed to, the medicines we take and the airplanes we fly in, as well as the integrity of economic sectors like the financial sector and the reliability of products to consumers.

Public trust in their work is paramount. What happens when the expertise they rely on is called into question; when the experts themselves are conflicted? To what extent can they be held responsible for the decisions that are ultimately taken? When things are seen to go wrong, how should they react? And what are the broader implications for public perceptions about the EU?

The Ombudsman was joined on the panel for the discussion by:

- **Bernhard Url**, Executive Director at the European Food Safety Authority (EFSA)
- **Jukka Malm**, Deputy Executive Director at European Chemicals Agency (ECHA)
- **Monique Goyens**, Director General of the European Consumer Organisation (BEUC)
- **Tracey Brown**, Director at Sense about Science

Ms O'Reilly opened the discussion with an overview of the general context facing policy makers, regulators and those agencies tasked with providing independent advice. The internet and social media have democratised information that was previously controlled by narrow specialist groups, whether experts, politicians or the media. This is particularly relevant for EU agencies, which the public need to be able to trust and rely on for making crucial recommendations about the safety of products, substances and services. Most advice from agencies is not challenged but contentious issues place agencies under greater scrutiny and present communications challenges.

There is a consensus that greater **transparency of the information** that agencies process, combined with **exchange and broad collaboration with stakeholders** is crucial for establishing trust. The public expects not just information but a reliable explanation of what



this means for them.

In a context where lobbying is intense, there is also an expectation that agencies providing advice that guides policy decisions have the **highest procedural standards and operate with the utmost independence**. The Ombudsman's Office has looked at issues like transparency, independence and governance in various EU agencies. The response from agencies has typically been very positive and they are keen to apply the highest standards.

Bernhard Url noted that there is a general decline in trust in both public institutions and in economic actors like industry and corporations. EFSA realises that it needs to ensure public trust in its work. It does so both by focusing on "competence" - the quality of its work - but also on "character" - the way in which it carries out its work. He noted that there is a specific challenge - in terms of ensuring trust - where science meets values. In such situations, the debate becomes based on emotions, as well as facts.

EFSA aims to deliver high quality scientific work, relying on the best experts in the EU's Member States, using a rigorous methodology, and attempting to include the broadest possible evidence. It aims to ensure that the way in which it works is as transparent as possible and EFSA makes as much information as possible available on its website. This is crucial not just for public trust but also for the scientific process, with a view to allowing scrutiny of its work. EFSA also has a very rigorous policy on independence and addressing conflicts of interests.

Mr Url argued that science needs to be communicated but that this is not enough. There is also a need to engage stakeholders and the public in the process. EFSA is looking at ways of co-creating research, such as through "community-sourcing".

Jukka Malm stated that ECHA has realised the importance of ensuring public trust in its work since the outset of its work, 10 years ago. He argued that openness, honesty and independence are crucial for ensuring public trust.

ECHA aims to make its work fully transparent: not only the results of research and recommendations it has already carried out, but also looking forward to what work it is planning to carry out, as well as the processes involved. This way interested parties and stakeholders can contribute to its work.

Making ECHA's work public is not, by itself, sufficient. ECHA also actively works to engage with stakeholders. In addition to running public consultations, it also has a system of accredited stakeholder organisations, which feed into its assessment work and can act as observers on its committees.

ECHA prioritises independence and has a rigorous policy on managing conflicts of interests, which covers both its staff and members of the committees it uses for its assessment work. There is clearly a balance to be struck between the need to ensure the best expertise, which can come from the industry, and avoiding undue influence from stakeholders.



Monique Goyens argued that a primary motivation for EU agencies should be putting the interests of consumers and the wider public first. She argued that the EU agencies perform well in this regard but highlighted two challenges for their work: balanced stakeholder representation and the heavy reliance on data from industry.

Ms Goyens argued that while there is a good reason for industry stakeholders to be involved in the process, there is a perceived over-representation and this needs to be balanced. Agencies are working to address this by making themselves more accessible to organisations representing public interest issues and improving how they operate to enable these organisations to better feed into the process. She noted that the agencies are not only under pressure from industry lobbies but also sometimes from politicians and national authorities. How the question agencies are asked is framed also frames the outcome of their work.

On the overreliance of data and information from industry, Ms Goyens asked whether there is a need to increase public funding for truly independent research. She also argued that, where there is a predominant reliance on data provided by the industry, agencies must play a role in holding these businesses accountable and ensuring they make their research work as transparent as possible.

Tracey Brown noted that regulatory agencies are facing much greater exposure to public scrutiny, and that they need to adapt to this reality. She criticised politicians for abandoning agencies to take responsibility for decisions the politicians themselves take.

Ms Brown argued that there was a need to draw greater attention to the clash between scientific evidence and value-based judgements. She pointed out that the scope for evidence can be limited by the political debate. To counter this, agencies need to focus on truly addressing questions that are relevant for the public regarding their work. She expressed concern that there appeared to be a growing divide between scientists and experts and the public. Experts cannot expect the public to trust them if they have a distrust of the public.

On the question of whether **EU agencies' relationship with industry** is too close, **Ms O'Reilly** noted that there is sometimes a **lack of awareness among staff working in the EU institutions and agencies** of the sometimes hugely influential role industry plays in shaping policy decisions and how it does so. The Ombudsman's Office has tried to help EU agencies to ensure they work in a fully independent manner. It has also tried to highlight a best practise approach to engaging with interest representatives (notably through a 'Do and Don't' list of practical recommendations for EU civil servants).

All participants agreed that there is a need to strike a balance between the crucial expertise in industry and the need for assessment of this expertise to be independent.

An important issue raised in the debate was whether there should be a greater focus on ensuring **independent scientific research** . Given the current resource constraints, Martin Pigeon from Corporate Europe Observatory proposed that a **public fund** could be created, based on a levy on the industrial sectors concerned by the agencies' work, with a view to funding this independent research. Expanding on this, Dennis De Jong MEP asked whether it



would make sense to make the industries concerned pay for the research of EU agencies directly through a fee or levy, but that the fee should be paid into the EU budget, which would then have earmarked funds for each agency's work. This could help ensure independence and, therefore, public trust in the agencies' work.

Both Mr Url and Mr Malm indicated that they would welcome such an approach, but that it would require political will. As an interim measure, Mr Url proposed that there could be a greater focus on auditing the work of those facilities currently carrying research, with a view to ensuring their work is truly reliable.