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Sent: 26 August 2014 10:54
To: Euro-Ombudsman
Subject: [EOWEB] Nominet Response to European Ombudsman public consultation concerning the composition of European Commission expert groups
Attachments: Nominet submission to European Ombudsman inquiry on expert groups.pdf

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Date Tuesday, August 26, 2014 10:53:32 AM CEST

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Content

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26 August 2014

Nominet response to consultation on Composition of European Commission Expert Groups

Dear Sir or Madam,

Nominet is a private, not-for-profit business, responsible for the smooth and secure running of the .uk internet infrastructure. We have over 2,800 members and are committed to acting in the public interest. As a company working at the heart of the internet infrastructure we regularly seek to engage with the European Commission and other EU institutions regarding relevant policy issues. We therefore welcome this inquiry into the operation of expert groups by the European Commission.

While our experience of the Commission's use of expert groups is relatively limited, we would like to make the following contribution to this consultation, which we hope is useful to the overall inquiry. For ease of reference, we have set out our contribution in question and answer format.

1. Which specific Commission expert groups do you consider to lack a balanced representation of relevant areas of expertise and interest in their membership? What, according to you, is the root cause of the unbalanced composition of the Commission expert groups identified by you?

N/A

2. The Commission's horizontal rules on expert groups allow for the Commission to appoint individual experts in their personal capacity. In your experience, does this possibility give rise to concern in terms of the balanced composition of expert groups and/or conflicts of interest?

While experts may sit on a group in a personal capacity their previous work and how they derive their income must be considered in relation to ensuring a balanced composition of experts and potential conflicts of interest.

3. Do you consider that the current level of transparency regarding the composition of Commission expert groups, in particular through the Register of Commission Expert Groups and Other Similar Entities, is sufficient? In particular, does the information made available by the Commission allow you to ascertain which interests are represented by the members of Commission expert groups? If not, where do you see room for improvement? Do you consider that the current level of transparency regarding the work of expert groups, in particular through the publication of agendas and minutes, is sufficient?

The publication of agendas, minutes and papers considered by expert groups is an essential element of transparency. It will never be possible to reflect every possible viewpoint on a policy issue within the membership of an expert group, it is therefore very important that stakeholders who are not 'represented' on a relevant expert group are able to follow the discussions and recommendations of the group.

One way to improve the transparency of expert groups would be for the papers, and particularly minutes, of meetings to be made public in a timely manner. We would suggest that a mandatory time limit is set for the length of time between the date of a meeting and the publication of the meeting papers. This time limit should be as short as practical and certainly not longer than three working weeks. The Commission should ensure that the time limit is not treated as a *de facto* target date for publication, but rather as an absolute maximum. Such a time limit would help external stakeholders assess more accurately how discussions in expert groups are developing and influencing policy making.

An example in an area in which Nominet is involved would be that the High Level Working Group on Internet Governance last met on 16 June 2014, however the minutes of the meeting have still not been made public at the time of writing, some 10 weeks later. In a rapidly developing policy area this sort of delay hampers the effective involvement of stakeholders outside of the expert group membership and makes the Commission's use of expert groups opaque.

4. Where the Commission publishes calls for application for membership in expert groups, do you consider that these calls provide for selection criteria which sufficiently take into account the need for a balanced composition of expert groups? If not, where do you see room for improvement? In your view, could the Commission do more to raise awareness about these calls, with a view to encouraging applications? If so, what concrete steps could it take in this regard?

This is an area where there is significant room for improvement to avoid any appearance of expert groups being made up of the experts the Commission wants to listen to, as opposed to a balanced group that reflects the spectrum of expert views on a particular policy area.

Calls for applications to experts group should be better communicated to the broad stakeholder community. One practical way to do this would be for individuals and organisations signed up to the European Union Transparency Register to receive calls for applications for expert group membership. While not every stakeholder will have signed up to the Transparency Register, every industry sector and area of civil society will be represented in some respect by the broad range of organisations who have joined the register.

As the experts are often found working in industry the Commission should proactively contact relevant European and national trade bodies who can pass calls for applications onto their members.

5. Do you have any experience in applying for membership in a Commission expert group? If so, did you face any problems in the application process? If not, are you aware of any such problems faced by civil society organisations? Based on your experience, do the costs inherent in participation/the lack of comprehensive reimbursement schemes discourage civil society organisations from applying for membership?

N/A

6. Please give us your views on which measures could contribute to a more balanced composition of Commission expert groups.

As set out in response to question 4, including calls for applications to expert groups in announcement emails sent to organisations in the Transparency Register could encourage a wider range of stakeholder to be involved in expert groups. The Commission could also proactively contact relevant European and national trade bodies who can pass calls for applications onto their members.

It would be beneficial to have an observer status for industry representatives on national expert groups (i.e. those groups whose membership is exclusively made up of representatives of Member States). Many of these groups are deciding on the technical aspects of policies that have a direct impact on the way businesses are required to operate under EU law. It is clearly important that industry stakeholders are able to understand directly how policy outcomes are being shaped by the work of relevant expert groups. This is crucial when it comes to the issue of informal consultation with national experts in order to adopt delegated acts.

7. Do you have any other comments?

N/A

I hope that the above submission is helpful in the conduct of this inquiry. If you would like further information about Nominet or any aspect of this submission please do not hesitate to contact me.

Yours faithfully,

David Abrahams
Head of Public Policy