This report shows that the EU and its citizens could benefit from a more purposeful approach to opening up policy making. We focus on better communications, transparency, participation, new routes for comment and connecting the European conversation.

Open Policy Making in the EU
Lessons and Opportunities

The Democratic Society, April 2016
Executive Summary

Open policy making is a term that originated in the UK government's civil service reform work, and which refers to a connected set of open government approaches including transparency, bringing different voices into the policy making process, and experimenting with new participation initiatives. It has generally focused on civil service action rather than legislative, media or parliamentary action. This report assesses the history of the European Union’s related initiatives, particularly within the Commission, and considers the opportunities and challenges for an open policy approach at European level.

The Commission’s approach to open policy making has followed developments elsewhere. As public sector practice has developed, the EU’s practice has developed, but it has not sought to position itself as an innovator. In this context, we discuss several initiatives, such as Plan D, the 2001 White Paper on Governance, and the most recent Better Regulation proposals.

This report shows that the EU and its citizens could benefit from a more purposeful approach to opening up policy making. We set out a model based around several different sorts of initiative – information, transparency, crowdsourcing, commenting, deliberation, and feedback.

To most citizens EU policy processes can seem complex and difficult to engage with, but civil society and policy makers share a common interest in creating better conversations and a wider range of perspectives on policy. In this report we set out the issues raised during three workshop discussions on issues in open policy making undertaken as part of this project.

Through producing this report we have discovered that there is potential and interest in a productive partnership between institutions and civil society to create a shared development agenda for open policy making. Several existing smaller projects show the possible way forward for such a partnership. We discuss the European Citizens’ Initiative, Futurium, Citizen Dialogues, the Better Regulation proposals, and two external initiatives that the EU has supported, such as Debating Europe and D-CENT.

Such a partnership also has barriers to overcome. We consider the different logics of policy making and crowdsourcing, the difficulties of engaging people in highly complex issues, and the role of experts.

Finally, we consider the most productive avenues for future work, and make recommendations. We focus on better communications, transparency, focused experiments on participation, new routes for comment, mixing methods of engagement, and connecting the European conversation into city-level and local conversations.
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Introduction

This report summarises the outcomes of the Open EU project, carried out by the Democratic Society with the support of the European Commission Representation in the UK.

It considers how the EU can use open policy approaches and greater citizen engagement in making policy, to increase the democratic legitimacy of the Union. As with open policy making in the UK, the focus is on the policy development process within the Commission, rather than the legislative process in Parliament and Council.

We start from a view that societal and technological change, and declining trust in institutions, mean that the European Union and its institutions have a pressing need to involve the public and civil society networks in decision-making in new and different ways. The concept and practice of open policy making, a term in use in the UK in 2012, but practiced in various ways and under various names across the world, show some of the methods that could be adopted.

The report also draws from and reports discussions at a set of workshops and events held during the last eighteen months, along with our own extensive research into and experience of open policy making at UK and European level, as well as helpful conversations with others in and around the European Union Institutions.

The organisation

The Democratic Society is the civil society lead for participation in the UK Open Government Partnership. As well as significant work in partnership with local, regional and national governments in the UK, it has previously worked with European Union institutions on various projects related to increased openness and transparency in policy making and citizen engagement. Past projects include: the London Citizens’ Dialogue in 2014; networked consultation for the European Commission’s Directorate General for Employment, Social Affairs and Inclusion; and with the Committee of the Regions to create an open policy unconference as part of the European Public Communications Conference.

1 A challenge that demands open policy, but makes it more difficult to achieve: only a quarter of people think their voice counts in Europe. Source: Eurobarometer (“Don’t Know” line not shown)

2 http://www.opengovpartnership.org/
What is Open Policy Making?

Open policy making is a term that originated in the UK government’s civil service reform work, and which refers to a connected set of open government approaches including transparency, bringing different voices into the policy making process, and experimenting with new participation initiatives. It has generally focused on civil service action rather than legislative, media or parliamentary action.

Open policy making doesn’t mean engaging with each individual citizen, or referendary democracy. It means opening out traditional hierarchically organised, government-bubble policy making and bringing in contributions from a wider and more networked system.

In the past the EU institutions relied for input on national governments, lobbyists and the media. Those channels are losing their links with public opinion, while at the same time technology makes public voice easier to find, easier to listen to and easier to respond to.

The EU, like all governments, is therefore challenged to find new ways to create the links among citizens and between citizens and governments, and to use those links to increase trust in the decision making process, make better policy and create a more involving democracy.

Open policy making, done well, allows a wider range of citizens and stakeholders to participate in policy making. By increasing transparency and bringing public voices in throughout the policy making process, it increases trust and shows a greater connection between public discussion and government action.

The history in the UK

Before the launch of the Civil Service Reform White Paper, more open and collaborative processes had already been marked out in the UK as one of the signs of successful policy creation\(^3\); and there had been some attempts at crowdsourcing policy ideas, such as the Your Freedom\(^4\) website, which allowed the public to suggest laws or regulations that needed to be repealed or altered.

“Government is listening and we’ll put the best suggestions into practice. It’s a totally new way of making policy - a totally new way of putting you in charge.” Nick Clegg at the launch of Your Freedom, July 2010

The UK’s Coalition government of 2010 to 2015 published its White Paper on civil service reform\(^5\) in June 2012, promising that open policy making would become “the default” for


\(^{5}\) https://www.gov.uk/government/publications/civil-service-reform-plan
Government.

Open Policy Making was described as a modernization of the traditional policy making process, focusing on broadening engagement with stakeholders, public and experts; using innovative methods and design thinking to make policy in more effective ways; and creating policies that were more flexible and responsive to changing situations than had been the case in the past.

Following the Civil Service reform white paper, a small Open Policy Making team was created inside the Cabinet Office, alongside a Policy Lab which worked with departments to test out new ways of policy making on live issues. A toolkit was produced, which is still live, and various online and offline discussion spaces were created.

Commitment to open policy making was shown in the 2013 National Action Plan on Open Government, which the UK Government created alongside a network of civic society organisations in its national open government partnership. That plan promised five demonstrator projects on open policy making to take place between 2013 and 2015, to show the practical benefits of an open policy approach, by:

- sharing the context and evidence on which policy development is being based, both at the start and throughout the policy process,
- engaging a broad range of experts – both from a professional and an experiential point of view – in the development of policy and ensuring their views are effectively gathered and demonstrably part of the result,
- using new platforms to break open traditional consultation approaches to enable citizens to comment and track how policy is developing.

The open policy making team was disbanded at the end of 2015, and its open policy remit taken over by the Policy Lab.

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6 [https://www.gov.uk/guidance/open-policy-making-toolkit](https://www.gov.uk/guidance/open-policy-making-toolkit)
7 [https://openpolicy.blog.gov.uk](https://openpolicy.blog.gov.uk)
8 [https://www.linkedin.com/groups/5139031](https://www.linkedin.com/groups/5139031)
9 UK National Action Plan for Open Government 2013-5, Commitment 16
10 [https://openpolicy.blog.gov.uk/2015/12/22/open-policy-what-next/](https://openpolicy.blog.gov.uk/2015/12/22/open-policy-what-next/)
The EU’s history on openness

Before considering the practical steps that could be taken to open the policy process, and the work already underway, it is worth considering how the discussion on openness and transparency more broadly has progressed within the Union.

At its inception, the EU (and its predecessor, the European Communities) was an organisation for nation states to work together. While technical experts and other sources of information were consulted during the policy making process, the concept of open policy making in its modern context was irrelevant. It wasn’t until 1979 that there were even direct elections to the European Parliament.

Developments in increasing openness and transparency in EU policy making have generally come in reaction to voting signals from the citizens of one or other country: the Irish No to the Treaty of Nice in 2001 shaped the White Paper on Governance that same year; the Dutch and French No votes on the Constitutional Treaty led to the proposals in the Plan D Communication; persistent decline in European Parliament election turnouts have kept the issue of political consent on the agenda for policy-makers in all EU institutions. This latter is especially notable as it has moved in parallel with the increase in legislative powers of the European Parliament – though the decline in turnout is a common feature in elections across the established democracies.

The language of openness has changed over time, following the general context of ideas on transparency and openness in policy making. The 1993 Maastricht Treaty talked of “measures designed to improve public access to the information available to the institutions”\(^\text{11}\). By 2001 the White Paper on Governance proposed “opening up the policy making process to get more people and organisations involved in shaping and delivering EU policy”.\(^\text{12}\) Now, in 2016, the European Commission talks of “making the European Union more democratic and bringing it closer to its citizens”.\(^\text{13}\)

Within the EU context, the bulk of the conversation about openness has tended to be about allowing EU citizens to follow the policy process and have access to information about it. Only in recent years with projects such as Futurium (see below) have institutions actively sought citizen participation in that process.

The distinction between information/transparency and participation in policy making is one that is crucial for considering how to move forward with open policy making in the future.

**White Paper on Governance 2001**

The proposals in the 2001 White Paper on Governance\(^\text{14}\) sought to make the EU policy making


\(^{13}\) https://ec.europa.eu/priorities/democratic-change_en

process less opaque. The five principles underlying the approach were Openness, Participation, Accountability, Effectiveness and Coherence.

Measures proposed included:

- Up-to-date online information at each stage of the policy process
- More interaction with local and regional representatives and civil society
- Standards for consultation

The White Paper also looked to tackle the issue of better policy making, urging the EU to consider whether action is necessary and if so, whether that action needs to be at EU level. Measures included:

- Using different policy tools
- Simplifying EU laws and urging Member States to do the same at national level
- Publish guidelines on collection and use of expert advice.

Inter-institutional agreement on better law-making

The 2003 inter-institutional agreement on better law-making included commitment to “the widest possible consultation” being undertaken by the Commission in advance of legislative proposals being produced; and a “joint commitment to greater transparency and to the increased provision of information to the public at every stage”.  

Plan D – Democracy, Dialogue, Debate

After the No votes in France and the Netherlands on the Constitutional treaty, the EU entered a “period of reflection”. In October 2005, the European Commission issued a communication which was designed to be a contribution to this reflection. Plan D sought to find ways for EU institutions to connect more directly with the EU population. It set out to be a “listening exercise so that the European Union can act on the concerns expressed by its citizens”.

In this Communication, the Commission invited national debates on topics of common interest and set out a process for feeding these into policy reflections at the highest level within the EU. It proposed a number of measures for bridging the gap between the EU institutions and their citizens. It also explicitly set out to promote the participation of citizens in the democratic process, through more effective consultation, support for European citizens’ projects, greater openness of institutions and considering how to tackle low voter turn-out.

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15 OJEU 2003/C 321/01
Increasing role of European Parliament via Treaty change

Since the first direct elections to the European Parliament in 1979, the assembly has seen its impact on legislation grow with every subsequent change in the treaties governing the EU (see Table 1).

<table>
<thead>
<tr>
<th>Year of entry into force</th>
<th>Treaty</th>
<th>Measures affecting European Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>1987</td>
<td>Single European Act</td>
<td>Enhanced role in certain legislative areas (co-operation procedure)</td>
</tr>
<tr>
<td>1993</td>
<td>Maastricht Treaty</td>
<td>Co-decision procedure introduced, co-operation procedure extended. EP given final approval over College of Commissioners</td>
</tr>
<tr>
<td>1999</td>
<td>Treaty of Amsterdam</td>
<td>Co-decision extended to most areas of legislation. EP became co-legislator with Council. EP given approval of appointment of President of the European Commission</td>
</tr>
<tr>
<td>2003</td>
<td>Treaty of Nice</td>
<td>Scope of co-decision procedure further extended</td>
</tr>
</tbody>
</table>


However, at the same time, voter turnout has been declining:

The European Parliament has a significant part to play in any discussion of openness and participation in policy making, as it is the only European Union institution that can bring a direct democratic mandate into the EU’s policy making processes. However, it is just a part of the picture, since its main involvement is in the middle of the policy process, between conception and implementation of policies.

One of the essential elements of an open policy approach is that it is open throughout – from the initial framing discussions in the Commission to the point at which the roles of Council and Parliament are engaged, and afterwards through the committee process which in the EU governs the way in which policies are implemented.

The role of the Parliament also has to be balanced with the parallel democratic mandates of national governments and national parliaments, around which political and media relationships are better-established.

**Union of Democratic Change**

When Jean-Claude Juncker became President of the European Commission in 2014, it was the first time that the role had been filled based on the outcome of the European Parliament elections. In his opening statement to the European Parliament on 15 July 2014, President-designate Juncker set out his 10 political guidelines, one of which was the notion of a Union of Democratic Change\(^\text{17}\). This was framed as:

- Political rather than technocratic dialogue between Commission and Parliament
- Lobbyist transparency
- GMO regulation responsive to national Parliaments
- Improving the interaction with national Parliaments

\(^{17}\) http://ec.europa.eu/priorities/sites/beta-political/files/juncker-political-guidelines_en.pdf
From a perspective of open policy making, it is noteworthy that all of these were connected to the interaction between the institutions of the European Union and the Member States and did not address more participative policy making per se.

**What we can learn from this history**

The history of initiatives to increase participation, openness and transparency in European policy making is instructive for the considerations within this report for a number of reasons.

First, there needs to be an understanding of how terms are used. Openness, participation and transparency are all used, but with different emphasis to similar terms in the UK context. In the next section we describe a model for understanding the different elements that make up open policymaking.

Second, is clear is that there have been significant developments in making the policy process at EU level more understandable to the general public. What has not advanced at the same pace has been a process of bringing their concerns to the table when policy is discussed. Some recommendations on ways this could be done will be discussed later in this report.
A model of open policy for the EU

Open policy should be distinguished from other sorts of participative and democratic innovation. Open policy is about the creation of policy and law, not participation in service delivery or co-production. At the other end of the scale, it is not about voting, party politics or election process. As the name suggests, it aims to make the policy process more open within whatever framework of governance exists.

Open policy initiatives can be divided into categories:

- **Information** - those focusing on providing the policy, process and background information citizens need to participate effectively.
- **Transparency** - those focusing on sharing the policy process with citizens, or providing insight into internal discussions. One participant at our events said “I know we have the framework programme for social innovation; it would be nice to see how social innovation takes place under that programme”.
- **Crowdsourcing** - gathering unstructured ideas, suggestions or comments from citizens and stakeholders in a bottom-to-top process, that focuses on bringing ideas in rather than discussion with or between stakeholders.
- **Commenting** - gathering structured responses to a draft or question, for example clause-by-clause comments on a legal text. Also focused around a question-response model. Most traditional consultation exercises fall into this category.
- **Deliberation** - processes that are designed to create discussion and refinement of opinion or options between stakeholders or between stakeholders and institutions. These can be highly structured such as citizen juries, or more freeform, such as workshops.
- **Feedback** - “closing the loop” and showing how participation shaped a final outcome. The most important category to get right, if trust and participation are to be maintained.

Open policy approaches are therefore well-suited to the work of the European Union institutions, which are a policy creating machinery with few direct implementation powers. The EU’s context - a multilingual Union with legislative powers, made up of democratic nation-states - means that some open policy approaches will be more successful than others. Local action, for instance, is hard to achieve at the European scale, and the challenge of managing large-scale responses to a consultation is greater than for even the largest member state.

Open policy making can still work at this scale and complexity, but the European context makes particular demands.

Because of the huge spread of people and languages in the Union, the focus of effort should be on connecting with existing networks to access public voice, rather than trying to build new platforms.
Because of the complexity of European rules and their implementation, there should be a focus on creating informed participation, going beyond information websites that get little traction.

The significant role that lobbyists play in shaping European legislation means that routes that increase public voice need to accompany moves for greater lobbying transparency.

The potential large number of citizen participants mean creating routes for participation that group and order individual views so that civil servants and parliamentarians are not overwhelmed. One participant said “how can one deal with comments when there are more than 120,000 of them? Try to talk to specific communities to make it easier to get faster results.”

The reality of co-decision between European Parliament and member states means that the involvement of the public at European level must be understood and framed to the public as just one of several routes to influence European policy making.

“Sometimes there is high volume but low value participation. A platform to gather high level data may be efficient. However, if this is just a click on Facebook, it’s hard to discover what the actual issue is within the problem that has already been proposed. Perhaps the most valuable type of participation is creating ideas from different people from different cultures.”

Event participant.
What do stakeholders want?

Open dialogue means the people inside the system must want the change.

Workshop participant

During the term of this project we held three standalone events, involving 96 participants and ran workshop sessions at two larger conferences, EuroPCom and CAPS, involving a further 113. All events asked the question, “how can the EU open up its policy making processes and how would you want to be involved?”

The first thing we learned from these events is that discussion of policy making as a process interests policy professionals to a far greater extent than it interests citizens. Our standalone events aimed at policy professionals attracted much more interest than those events aimed at a wider audience. The opportunities for online discussion on the website were taken up only sparsely, even when accompanied by information on how to navigate the EU’s institutions. Relevance of an issue is clearly essential and the policy making process as a process is of interest mainly to policy professionals.

Even if the public will only be drawn in by discussions that are of immediate relevance, civil society has a strong interest in the quality and openness of decision making, and there is therefore great scope for developing open policy practices with a greater range of civil society actors. We know from our research and various conversations that there is certainly willingness from European Union officials to engage with a broader range of stakeholders than is currently the case.

A later section considers the structural constraints to such open policy making and these need to be taken into account when considering how to increase participation in European policy making. Participants at our events identified a number of other issues that are worth bearing in mind. These participants were not a representative sample, given that they shared an interest in the decision making process, but there was agreement that new ways of engaging a wider range of stakeholders in decision making were needed, and that this could help increase the legitimacy of European policy and its quality. A number of specific issues were raised in discussion and are outlined below.

Changes to the Trilogue process

The trilogue process – where representatives of the Commission, Council and Parliament reach consensus on policy differences around a proposed piece of legislation – was mentioned by several participants as an example of poor transparency. The European Ombudsman, during the period of this project, launched an inquiry into the transparency of the trilogue process, saying “Transparency as regards the law-making process is vital for building trust in the EU. Trilogues are now an established feature of the ordinary legislative procedure. They are, moreover, increasingly heralded as the place where the negotiated content of the final legislation text is decided upon.” The ombudsman’s letter said that a list of current trilogues was
not made public, nor were the documents shared at them.¹⁸

**Complexity of EU landscape**

Each organisation or person outside the “Brussels bubble” that wants to engage with EU policy making will be coming from a different national political system, each with a different structure and culture. The EU is therefore likely to appear to them as unfamiliar and complex. Policy-makers must keep this in mind and be ready to help people navigate the system. The distinctions between one EU institution and another diminish when one moves way from daily interaction with the EU, and failure of the institutions to act in a joined up way by guiding people to the appropriate point of interaction can act as a disincentive for motivated individuals and organisations to get involved.

There was clear understanding among workshop participants in both Brussels and Edinburgh that onus for improved legitimacy, responsiveness and quality of EU policy-making lay with the Member States. What is not so clear is how national governments can be prevailed upon to recognize and implement it.

**Languages and terminology**

Languages remain a thorny issue, with several dimensions. First is the issue of opening access early in the policy-forming process when documents are often only available in one language, usually English. This limits the ability to get involved of grassroots organisations in Member States where English is not a national language. EU institutions could make better use of their representatives in Member States (European Commission Representations, European Parliament offices and of course national ministries) to counter this effect.

There is also an issue in terms of terminology and the way policy is expressed. This report has already highlighted how the term “open” means something slightly different in the EU context to the UK. This is of many terms, which are not expressed in quite the same ways. Consequences could be as simple as an organisation with a legitimate interest in an issue not being able to find it because different terms are used. Our workshops also raised the issue that the style in which policy documents and even consultations are written can be off-putting.

**Pace of change**

Nobody is disputing that there has been considerable change in the way that the European

¹⁸ Letter to the Council of the EU opening the European Ombudsman’s own initiative inquiry OI/8/2015/FOR concerning transparency of trilogues
Commission, in particular, has approached opening up its policy making processes to greater transparency and participation. However, the pace of change coupled with the pace of decision-making within the institutions is frustrating for those that are advocating for more openness, particular when changes are being made quite rapidly in some Member States at national, regional and local level. Systemic change will undoubtedly take time, but in the meantime, there are adjustments that could be made within existing parameters that could send a clear signal that the fundamental approach is changing. Some of these are addressed below.

**Responding to a new policy context**

As one workshop participant said

“*Millennials don’t join organisations anymore*”

The EU institutions are struggling with adapting to the new realities of political and civic engagement, much like the institutions of most major democracies in the world today. People engage much more through networks than organisations and EU institutions have to find a way to harness that knowledge, insight and experience without at the same time allowing certain voices to fade away.

**Trust and legitimacy**

Trust is the real key to success of an open policy making initiative: trust on the part of the participants that the institution involved will listen to them and act on what they have said; trust on the part of the institution that those involved with take the process seriously and not hijack it with narrow agendas. Past experience has diminished trust in both directions. Eurobarometer 84\(^{19}\) shows that trust in national and EU institutions remains relatively low (i.e. a majority of respondents across the EU reported distrust in these institutions).

Another aspect is that many of the participants felt that the EU institutions were the last level of representation that they were prepared to engage with – they were much more likely to interact with local and regional representatives, even on EU issues. The role of national/regional/local politicians and organisations in EU policy making and their respective roles in increasing public participation are therefore at the core of this issue.

\(^{19}\) Autumn 2015.
Open Policy initiatives in the EU Today

Participants who were familiar with the European Union institutions said that there had been some progress on openness in the last five years, and that the culture within the institutions was changing as the culture around them changed.

A Commission official, speaking at one of our events, said “Different sorts of engagement approaches are emerging. Smaller transformations get lost so it’s difficult to compare how different it was to how it is now. Institutions are a lot more open then they have ever been. That doesn’t necessarily mean we have a functioning democracy but things are getting better.”

This improvement is shown by the number of participation initiatives currently underway in different parts of the European Union institutions.

Citizens’ Dialogues

The Citizens’ Dialogues were initially part of the 2013 European Year of Citizens. They were a localized means for European Commissioners and national/regional/local representatives to interact with citizens within a particular country or region, to listen to their concerns and hear stories about how they were affected by EU policies in particular areas. The Citizens’ Dialogues held over 2013/4 were examined as part of the evaluation of the European Year of Citizens and were generally found to have been positive. Main findings of relevance to this report were:

- The Dialogues were processes that may contribute to expanding a European public space

- In the future, should the Dialogues be held again, the possibility of focusing more on one single topic should be considered.

- The presence of European Commissioners and high-level European (and national) decision-makers was a positive point. It gave credibility to the approach as the citizens had the impression of being heard by decision-makers who could effectively influence European matters.

- A format that participants perceived as respectful of a transparent process. They were confident that all questions could be asked without any kind of censorship.

- The Dialogues were powerful tools for fostering empowerment of EU citizenship. Most of the participants expressed the wish that they would like to see them continue in the long term. This raised the issue of continuation of the project to avoid a deceitful one-shot approach and counterproductive effects.

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This positive outcome probably contributed to a decision to continue the Citizens’ Dialogue during the Juncker Commission, with a number of such events held across Member States in 2015/6, involving different Commissioners. These events have sometimes focused on a specific theme and sometimes been quite wide-ranging.

**Better regulation**

The Better Regulation agenda adopted in 2015 states explicitly that “[w]e should not impose policies but prepare them inclusively, based on full transparency and engagement, listening to the views of those affected by legislation so that it is easy to implement.”\(^{21}\)

Ideas within the Better Regulation agenda include:
- A web portal for tracking initiatives
- Points for feedback on proposals across the lifecycle, from the roadmap, when an initiative is being considered via public consultation to presenting feedback to the European Parliament and Council during the legislative debate.
- Improvements in explanatory memoranda setting out why a piece of legislation is considered to be necessary
- A constant process for gathering feedback on regulation, called Lightening the Load.
- An external body for scrutinizing impact assessment

**European Citizen’s Initiative**

The European Citizens’ Initiative (ECI) was introduced with the Treaty of Lisbon, in an attempt to create a mechanism to allow greater citizen involvement in the development of EU policy\(^{22}\). One million EU citizens from at least 7 Member States are needed for an ECI to be considered. Once submitted, the European Commission and European Parliament consider whether it meets the other requirements, most specifically being in an area where the European Commission has the right of initiative. According to the European Citizens’ Initiative website\(^{23}\), the current state of the initiatives is:

- 3 successful
- 6 open
- 11 withdrawn
- 16 with insufficient support

**Debating Europe**

Debating Europe\(^{24}\) is a platform launched in 2011 that creates online discussion spaces for citizens to put questions to and raise issues with policymakers. They have interviewed more

\(^{21}\) Better regulation for better results - An EU agenda COM(2015) 215 final  
\(^{22}\) http://ec.europa.eu/citizens-initiative/public/welcome  
\(^{23}\) http://ec.europa.eu/citizens-initiative/public/welcome  
\(^{24}\) DebatingEurope.EU
than 1,800 policy makers, from European institutions and beyond, and have received 70,000 comments. The format is structured around debates, usually started with an article in the form of a briefing, featuring interviews with experts, on which site participants then comment.

**Futurium**

Futurium is a platform for crowdsourcing ideas about and for the future, created by DG Communications Networks, Content & Technology for a project on technology futures also called Futurium. The platform has since been repurposed for several other idea-generating exercises, including the current Digital4EU exercise. This is an exercise in co-creating options for the future, rather than a traditional question-and-answer stakeholder consultations. Although there are currently no links into wider democracy and participation tools, and Futurium operates as a standalone section of the EU’s website, there are plans to release the code as a standalone package so the same approaches can be used elsewhere.

**D-cent**

The D-CENT project, though not a core part of the EU’s work, is an EU-funded project, now coming to a close, that aimed to create Decentralised Citizen Engagement Technologies. It is interesting in part because the philosophy behind it - a set of interconnected tools rather than a single platform - is the current direction of travel in digital democracy in general. The Commission’s willingness to fund this shows that it appreciates the need for the next generation of digital democracy innovations to focus on creating participation through networks - the original vision of the Internet as small pieces loosely joined.

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27 [http://dcentproject.eu](http://dcentproject.eu)
Open Policy: What is achievable?

There are a number of structural and systemic properties that act as constraints on the ability of EU institutions to allow a more open approach to policy making. Some of these are briefly outlined below.

**The treaties**

Where the EU can act is set out in the treaties. While the field of action has expanded greatly over the lifetime of the EU, the inability to act in certain areas could impact negatively on the perception of EU as an open and participative organisation. It provides a conceptual problem for open policy making, which is based on a problem/solution approach to policy making. If not all potential solutions to an identified problem are available to an organisation, participative decision-making can be frustrating for all involved.

The Trilogue system was repeatedly cited as a negative aspect of EU policy making in terms of its openness. The closed-shop, “wheeling and dealing” perception of the Trilogue system outweighs any positives that might have been gained earlier in the process through consultation. The European Ombudsman’s investigation into the transparency of the trilogue system is therefore a welcome first step.

The treaties also constrain open policy making by hard-wiring certain organisations into the legislative process. A good example of this is the social dialogue in the area of employment and social affairs. The reasoning at the time was solid – ensuring the representation of employers and workers in discussing issues that relate to them. But as union representation has dropped, the legitimacy of having certain bodies within the policy making process and others that may be as, if not more, representative outside it can be questioned.

**Policy process**

The EU acts in two main ways - legislation and budgets/programmes. Issues relative to the legislative process are discussed widely in this document. However, it is also worth highlighting that the various EU funding programmes could also be more open to participative decision-making in deciding priorities and allocating funds. One of the reasons this has been difficult in the past is the nature of the budget and programming process. The 7-year time line for the budget and the programmes that implement it mean that it is difficult for the EU to be responsive to new issues as they arrive, or significant changes in context. This can in turn give the impression that the EU is not listening in circumstances when change would be useful/positive.

28 tripartite meetings attended by representatives of the European Parliament, Council of the EU and the European Commission

Policy and crowdsourcing logic

Public policy making, particularly at national and supranational level, finds it hard to handle the output of many more participative approaches. To use a phrase from Tanja Aitamurto of Stanford’s D-Lab, the logic of crowdsourcing is different from the logic of policymaking.30 Policymakers work with syntheses of policies, where different policies are connected to other and meet a group of strategic goals. Lobbyists, other policy makers and politicians know that for a policy to be accepted it either has to fit into the existing synthesis, or be part of a different, equally comprehensive synthesis. They therefore present policies that are structured to fit into policy makers’ needs in this regard.

Ideas that arise from crowdsourcing exercises, however, are often atomised - individual ideas from one person or group, that are not structured to be fitted into a synthesis without further work and development. The broader the group of citizens, the less likely they are to understand enough of the surrounding context - the financial, legal or policy constraints - that affect the way in which their ideas can be implemented. Introducing experts into the deliberation process, as in Fishkin’s model of citizen juries or the work of the People’s Assembly (Rahvakogu) in Estonia, can help, but raises questions about the extent to which experts use their own positions and prejudices when framing and synthesising citizen issues.

The absent audience

All public engagement work competes for the attention of those who might wish to participate. The EU, in that competition, is often at a disadvantage because it deals with issues that are technically complex and long term. This can reduce the size of the potential audience, and skew it to those with professional interest and expertise. This defeats the purpose of open policy making - bringing wider voices in - unless careful attention is paid to how issues are framed, presented and described.

In the Dragons of Inaction,31 Robert Gifford described various psychological traits of humans that discourage action to mitigate or solve long-term problems such as climate change. These included ignorance; “numbness” caused by the limited ability of human brains to understand complexity or uncertainty; a unjustified optimism; and belief that

Every environment is composed of more cues and elements than individuals can wholly monitor, so we attend to environments selectively. Therefore, people are often unaware of much of their physical surroundings, particularly aspects causing no immediate difficulty, but sometimes even aspects of it that are causing them at least mild difficulties. Climate change is like that for many citizens: a phenomenon outside immediate attention because it is not causing any immediate personal difficulties.

- Robert Gifford, the Dragons of Inaction

31 in American Psychologist, May 2011
individual action can never affect something on the large scale.

These are equally barriers to participation in open policy making on issues of the at European scale and complexity. In particular, the “numbness” that Gifford describes as an aspect of limited cognition will be familiar even to those with considerable policy expertise.

In the EU context, this suggests that public participation needs to be variegated, with big principles discussed for the early forming of big conversations, and where more technical issues need to be discussed, a focus on giving participants an opportunity to inform themselves on the issue, for example using a representative sample such as a citizens jury, which can take a more deliberative approach on the basis of information provided to them by a range of experts.

It also emphasises the importance of good communications and background knowledge on the role of the European Union and the broad issues that it considers.

**Public consultations**

The process of public consultations, and the lack of language diversity, makes it much easier for European-level interest groups (lobbyists or otherwise) to take part in the consultations than national/regional/local organisations and private individuals. This can mean that even if a specific interest group can be said to have been consulted, certain nuances and different points of view may be lost.

**Selection of 'experts' or 'stakeholders'**

The EU institutions rely on outside expertise through expert/stakeholder groups and committees. The processes for selecting these experts need to be more transparent and more accessible to a range of voices. Part of the remit of such experts and stakeholder representatives could be a requirement to be available to private individuals and grassroots organisations.
Open Policy: Where next?

During our workshops on this project, several suggestions arose as to how the EU institutions in general (and European Commission in particular) could develop open policy.

Better communications

The starting point was making sure that people felt empowered to participate, had the information they needed to participate, and knew what opportunities were open to them to participate.

The EU should think about its means of communicating and the terms used, to make sure it is as accessible as possible to as many people as possible. Innovative thinking about how to engage with people in a way that makes them feel involved could engage a wider range of organisations and make policy more responsive. Progress has been made in finding ways to explain EU initiatives in accessible language, but the fact that issue was raised in the workshops shows that more needs to be done.

MEPs, Commissioners and other representatives of the EU institutions have a responsibility to communicate with the general public as best they can. Great strides have been made in this direction, but it remains the case that some individuals are much better than others at this. A more open attitude to two-way communication on a range of issues could go a long way to establishing an atmosphere of trust.

Transparency

The Better Regulation package offers the potential of a watershed moment for participation in EU policy making, but within that are the risks that it can be seen as either another level of bureaucracy.

The recognition of progress made does not exclude the need to consider how such progress can be continued. This is in terms of how the EU ensures that multiple voices are to contribute to its policy processes. Transparency, openness and participation should be considered as default in all areas of EU activity and systems developed to ensure that it is responsive to the realities of the EU and seen to be so.

Treaty change is obviously difficult, but there are changes that can be made within existing systems. Such efforts will help build the trust between institutions and general public which is the fundamental issue open policy making seeks to address. As one workshop participant put it: Institutions have to work on their image when it comes to trust. People have to have trust in the open political process in order to engage with the institution.
**Depth over breadth**

A (somewhat counter-intuitive) remark made at both workshops was that the scope for participation should be limited. “When all policy is there to be commented upon, it is too overwhelming. If one policy area were open to genuine participation, this would be much more effective than limited initiatives across the whole policy spectrum.” This suggests that both that signposting of issues needs to be clear so that people can find the areas that they are interested in, and that there is a need for experimentation in individual policy areas to understand what a deeper level of participation would entail.

**Routes for commenting on process**

Participants at workshops agreed that there should be greater opportunities to bring public voice in as issues progressed through the different stages of decision-making, from problem identification, through issue definition to solution finding.

PopVox is a platform that allows people to comment on and express support for Bills before the US Congress. The parliamentary procedure in the US means that a large number of Bills are introduced with little hope of becoming law, so this provides a route for commenting on a wide range of different issues, at stages from first conception through complex detail of amendments. PopVox founder Marci Dale said at our CAPS event:

> “The media make it very easy for the public to tell politicians what they think but very difficult for Congress to weigh up public opinion due to the sheer number of views they receive. The concept behind PopVox is to create an online platform so that individuals can share their stories, stakeholders can post their positions publicly and for all of this information to be available to the public.”

One of the participants at our Brussels workshop commended the approach that PopVox had taken as a model for the EU. Transparency of decision making could be improved, he suggested, if a PopVox-type platform was available for public and stakeholders to clearly see current issues under deliberation and post their ideas and positions on them.

**Mixing methods**

Engagement will generally be skewed towards those with the most information and the most interest, particularly if traditional question-and-answer methods of consultation are used. To reach a broader audience, a mix of methods should be used on each issue. Idea-generation experiments in participation in the past can be stepping stones to what we should try next – we are working on trial and error. We don’t want to ask philosophical questions like which sort of representativeness is better than the other, but are we acting in the legitimate interest of the public? European Commission official, CAPS event

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32 https://www.popvox.com
tools such as Futurium can combine with short surveys and rolling conversations on the Fairer Scotland model. Together, using mixed engagement methods can reach a wider range of voices than single tools alone. Working through networks and rolling conversations also takes issues to where people already are rather than recreating silos and “insiders” in the digital space.

**Linking up with city and national efforts**

People are most ready to participate at the level closest to them, where the results of participation are immediately visible, and there are easier routes to get informed on opportunities and options. European policy making can hook into these levels of conversation through networks, as discussed above. Representations can also create opportunities for engagement that go beyond national policy-making communities. Engaging through this route makes explicit the connection between European action and impact on the ground.
Recommendations

A number of recommendations emerge from the discussions and research that have gone into this report:

1. The European Commission should improve and spread information on live issues and opportunities for participation. For example, the European Commission should recognise the importance of the Representations for engaging with groups in their Member States in a language and using terminology that is appropriate. There could therefore be a greater role for Representations in the “roadmap” phase of new initiatives, as well as in ensuring national voices can be heard.

2. The European Commission should find the participants, don’t wait for them to arrive. At the moment, the EU institutions have a somewhat passive approach to openness, assuming that building systems for participation is enough.

3. Looking through recent results, it can be seen that participation rates are quite low. Resources should be devoted to searching out contributions, not just creating systems that people have to find. European Commission services should intensify existing efforts to identify in advance the range of voices that are important to a proposal and search out feedback if it is not forthcoming through the consultation process, using a “network of networks” approach.

4. Questions in consultations should be posed in a way that recognises different levels of expertise. Feedback that has been received should be published in a way that it can be easily found and also using technology that allows others to comment on or add to it. The factual response sheets prepared after consultations have closed should be added to the table of consultations for easy access.

5. An overall evaluation of the extent of participation to date and impact of public consultations would provide a useful baseline against which progress in this area could be judged.

6. Currently consultation is predominantly at the phase of legislation implementing the Commission Work Programme. The Commission should think about ways to encourage more input from a wider range of voices when setting its political priorities. This could also help with making the priorities more detailed and specific. The Commission could also take a more case-by-case approach in considering how much consultation is necessary. Some top level issues will be of wide interest and/or direct applicability across many groups in many Member States; others will be of interest to specific groups.

7. The European Commission could consider ways to seek public participation in the design of funding programmes and the implementation of policy as well as in decision-making processes.

8. It is not necessary to be all things to all people all the time. Engaging a group who are
passionate and vocal about a single issue at a time that matters can be highly effective in building the trust and communication that lies at the heart of open policy making. Positive examples of this can be found in deliberative and participative exercises on the topics of fish discards and neo-nicotinoid pesticides.

9. Open-policy making requires a change of mindset on the parts of both the institution and the stakeholders that are contributing. Such change will not and cannot happen overnight. A pilot project approach, such as has already been adopted to some extent with Futurium and related initiatives, is a good way to judge whether open policy making is possible and achievable within the EU institutions. It would be advisable to take a scientific approach to such pilots, such as creating indicators that can be compared with other legislation to see the impact of open policy making. Such indicators could include: level of contributions to consultations, time to adoption, tone of media coverage, EP amendments, infringements proceedings etc.

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