

# Consultative contraction and detraction in the European Union

*A study of the European Commission's consultation regime*

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## Abstract

To pursue its task as a policy maker, the European Commission engage with a complex set of stakeholders. This paper demonstrates how the formal structure of both the Commission and stakeholders affect the Commission administration's consultation behaviour, ultimately resulting in two conceptually differentiated consultation patterns, coined *consultative contraction* and *consultative detraction*. Empirically, the study measure how Commission officials engaged with stakeholders when formulating the battery regulation proposal published on 10 December 2020. The proposal contains elements of both old and new provisions being merged into a single legal instrument where two Directorate-Generals (DGs), DG Environment (ENV) and DG Growth (Grow), share the responsibility of formulating the proposal encompassing the entire battery value chain. The study characterizes the Commission's consultation regime as a two-stage process, with an initial stage of consultative detraction followed by a stage of consultative contraction. The study moreover finds that the organizational structure of the Commission, organizational capacity of stakeholders, and the

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temporality of the consultation process affected the Commission administration's consultation pattern.

**Keywords:** consultative contraction, consultative detraction, battery policy-making, European Commission, stakeholder involvement

## **Introduction**

In 2019 and 2020 the European Commission (Commission) set ambitious environmental policy goals through the European Green Deal and Circular Economy Action Plan (CEAP) (European Commission, 2019, 2020b), signalling that time is scarce and that there is an urgent need of new policies. In effect, Commission officials have come under severe time-pressure to submit policy initiatives and revisions in due time while stakeholders are expected to respond accordingly and at high speed. When formulating policies, such as the battery regulation proposal, the Commission rely on policy expertise from a varsity of stakeholders, while stakeholders depend on the Commission for access to the policy-making process. Stakeholder accessibility is likely to impact the sources of information available to the Commission, while the Commission is likely to grant stakeholders access to the policy-making process if stakeholders provide policy expertise to the Commission in return: 'In the context of the EU decision-making process, private and public actors become interdependent because they need resources from each other' (Bouwen, 2004, p. 339). Thus, we recognize the Commission and stakeholders as mutually interdependent actors. In effect, the Commission's involvement of certain stakeholders in the formulation process may create biases and leave some stakeholders in a more favourable position vis-à-vis the Commission than others. One

particular finding in extant literature pertain to the bias in stakeholder involvement, both across DGs and throughout the EU policy cycle (Coen et al., 2021; Gornitzka & Sverdrup, 2008; Van Ballaert, 2017). While extant literature has focused on how attributes of the stakeholders improve their access to the Commission and thus advance their lobbying success, we know little about how the organizational structure of the Commission and stakeholders shape Commission officials' consultation behaviour. Hence, this study asks: To what extent and why did the process of formulating the battery regulation in the Commission display a mix of consultative contraction and/or consultative detraction over time? Consultative contraction denotes a standardized and top-down coordinated approach towards stakeholders with a bias towards few, large and established stakeholders. Consultative detraction reflects a fragmented approach towards stakeholders where many, small and less established stakeholders are included in the policy-making process. The contribution of the study is thus two-folded:

- Firstly, it contributes theoretically to an organizational theory agenda by shedding light on how the organizational structure of the Commission and stakeholders shape patterns of consultative contraction and consultative detraction. We argue that the organizational structure of both the Commission and stakeholders resulted in a consultation pattern characterized by an initial stage of consultative detraction followed by a stage of consultative contraction.
- Secondly, benefiting from 15 semi-structured interviews, the article proposes how patterns of consultative contraction and detraction unfolded during the process of formulating the Commission's battery regulation proposal. Time constraints and an overload of policies both curbed the policy-makers opportunities to consult stakeholders as well as restricting stakeholders' ability to respond in due time.

However, involving policy-makers from two DGs expanded the scope of stakeholders consulted. Further, since part of the proposal involves a new policy area regulated by the Commission, new stakeholders were also substantially involved in the process. Thus, the study empirically characterizes the Commission's consultation regime as a two-stage process, with an initial stage of consultative detraction followed by a stage of consultative contraction.

The battery regulation proposal published on 10 December 2020 was the first product specific legislation, and a potential blueprint, proposed under the Green Deal. The proposal contained elements of both old and new provisions being merged into a single legal instrument where two Directorate-Generals (DGs), DG Environment (ENV) and DG Growth (Grow), share the responsibility of formulating the proposal encompassing the entire battery value chain (see Birkeland & Trondal, 2022). Observing the Commission's consultation regime as a two-stage process, the study suggests that the first stage serves to *legitimize* the policy-making process. Taking part in the process from the start is seen as a prerequisite, but not a guarantee for participation in the later stage of the consultation process. The later consultation stage serves more as an *instrumental* device in the Commission's consultation process. Commission officials were selective in their involvement of stakeholders in this stage, however, both established as well as new stakeholders took part.

The article proceeds as follows: The next section outlines the theoretical framework and empirical expectations. Second, the empirical strategy is outlined which provides an overview of data and methods. Third, the final section offers key findings, a discussion, and avenues for future studies.

## **Theoretical framework**

The theoretical framework is outlined in two parts: The first part specifies two conceptual models of the Commission's consultation patterns: consultative contraction and consultative detraction. Given the Commission's dependency on stakeholders for policy expertise, these consultation patterns denote what characterizes stakeholders who are favoured during the policy-making process. The second part outlines an organizational approach to account for variation in the Commission's consultation behaviour and outlines three empirical propositions.

### *Consultative contraction*

Consultative contraction denotes a systematic and centrally coordinated executive consultation pattern. It reflects a coordinated approach towards stakeholders with an attention bias towards few, large and fairly established stakeholders. Temporal stability in stakeholder involvement is also expected. The Commission administration is thus likely to take a top-down coordinated approach towards stakeholder involvement, guided by priorities set by the politico-administrative leadership. With the resignation of the Santer Commission in 1999, the need to legitimize the policy-making process within and by the Commission has become increasingly pertinent, and an internal reform process of the Commission has been initiated and implemented accordingly over time (Kassim et al., 2013, 2017). Among the reforms aimed at legitimizing the policy-making process were specific provisions on how to involve stakeholders in the policy-making process. In 2001, the Commission published a White Paper on Governance and proposed to open 'up the policy-making process to get more people and organizations involved in shaping and delivering EU policy' (European Commission, 2001,

p. 1). Moreover, in 2015, under the Juncker Presidency, the Commission launched a Better Regulation Agenda (European Commission, 2015). Better regulation in the EU implied making informed policy decisions, prioritizing complementary actions, regularly evaluating legislations, actively seeking feedback from those impacted, and modifying legislations as necessary (Listorti et al., 2020; Radaelli, 2018; Radaelli & Meuwese, 2009). Moreover, establishing minimum criteria for stakeholder involvement through a centralized approach towards Commission policy-making, such as the Better Regulation Agenda, increases the need for coordination within the Commission. As a consequence, the Commission publishes coordinated guidelines to enhance the quality of its policy-making processes, including strengthening stakeholder involvement to enhance the coherence of the policy cycle and reliance on evidence-based policy-making (Listorti et al., 2020). These guidelines, last updated in November 2021, emphasize a preference for early stakeholder engagement and cross-sector collaboration (European Commission, 2021a, 2021b).

Even if most stakeholders have an opportunity to participate in open online consultations, access may be more restricted at later stages of the process (Coen & Richardson, 2009). Therefore, 'public consultations do not necessarily decrease bias' (Redert, 2020, p. 1433). Joosen et al. (2022) show, for example, that an EU agency favoured business interests over more diffuse interests. In addition, Greer et al. (2008, p. 427) show that 'EU interest representation in health is biased in favor of those who are already powerful in the member states and the Commission'. Moreover, stakeholder groups arrange one-to-one meetings with the Commission officials and participate in workshops and expert committee meetings. The Commission decides which stakeholders to invite to such meetings where information is shared and interpreted (Mahoney, 2004). It is at the later and technical stages of the

consultation process that stakeholders are expected to hold most leverage vis-à-vis the Commission (Coen & Richardson, 2009). Coen et al. (2021, p. 65) show that ‘to control the inputs that feed into discussions and preserve the efficient flow of policy outputs, institutions engage in information exchange with a limited number of lobbyists they trust out of the overall mobilized population, selecting a limited few interests as well as informed experts acting as representatives of broader constituencies’. Therefore, it is desirable for stakeholders to be involved at later and more technical stages of the formulation processes.

### *Consultative detraction*

Consultative detraction reflects a dispersive approach towards stakeholder involvement. It denotes an attention bias towards a fragmented group of stakeholders including many and smaller groups, and where more recently established stakeholders may with greater ease take part in the policy-making process. Compared to a standardized and top-down coordinated approach as outlined above, consultative detraction denotes that different DGs are expected to consult autonomously resulting in a fragmented engagement with stakeholders for the Commission as a whole. This implies that different DGs consult stakeholders separately, subsequently, attracting a variety of stakeholder groups and sets of information. Extant stakeholder literature indeed finds variations across policy fields concerning how the Commission decide to involve stakeholders. For example, Van Ballaert (2017, p. 420) shows that ‘the stakeholder landscape in older policy fields is shaped more profoundly by expert groups as the Commission started establishing stakeholder fora decades ago’. Coen et al. (2021) show that business groups mobilize in larger number in older policy fields and across the population, with not only mobilization variation in density and diversity across fields, but that it also clusters differently. In addition, as lobby networks expand, they become

increasingly fragmented. 'They also demonstrate that shocks stimulate the entrance of new interest groups and make repeat players more selective in their lobbying efforts. This implies that the financial regulation policy network becomes less club-like after the crisis, allowing new groups to inform regulators about their policy preferences' (Redert, 2022, p. 1). Hence, a shift of stakeholder involvement is likely.

Moreover, different consultation instruments serve different purposes for the Commission and are associated with different opportunity structures for stakeholders (Binderkrantz et al., 2022). Bunea (2017, p. 65) contests the role already powerful actors may have, and find 'lack of systematic, significant differences between insiders and outsiders when evaluating the [Commission's consultation] regime. Where differences do occur, they are consistent with the image of a consultation regime that seems to have created conditions for alleviating bias in stakeholders' participation'. Arras and Beyers (2020, p. 851) show that 'while business interests clearly dominate in absolute numbers, institutionalized interest representation in EU regulatory agencies is not as biased towards regulated business as capture theory would expect, and agencies clearly try to avoid such bias'. Furthermore, 'EU NGOs now have the resources and capacities to move 'beyond victimhood'', erasing the distinction between industry actors and environmental NGOs (Greenwood, 2017, p. 130). Thus, interest type does not necessarily play an important role in explaining position alignments (Klüver, 2012). Moreover, when studying agencies' engagement with stakeholders, Busuic and Jevnaker (2022, p. 171) show that: 'EU agencies are increasingly turning towards building support and allies from their environment'.

### ***An organizational approach***

To empirically probe the two conceptual models, an organizational approach specifies three distinct empirical propositions. We argue that the formal structure of the Commission and stakeholders are essential providers of decision premises for the Commission administration's consultation behaviour, favouring some type of stakeholders over others. The Commission administration's demand for policy expertise is supplied by available stakeholders: '[T]he EU institutions have the ultimate say in whose voices are heard in the formal arenas of debate', where 'the Commission sets priorities and allocates funds accordingly – influencing interest group activity in the process' (Mahoney, 2004, pp. 449, 460). Further, 'interest groups are embedded in a highly complex and multi-layered institutional environment that sometimes constrains, yet in other instances enables, them to successfully pursue their interests' (Klüver et al., 2015, p. 448). In other words, 'organization is the mobilization of bias' (Schattschneider, 1960, p. 71). The formal structure of the Commission may affect its ability to invite, involve and incorporate input from stakeholders whereas the formal structure of stakeholders may affect available policy expertise for the Commission to consult. Organizational structures thus represent rules and routines that may affect organizations' attention allocation (Bach & Wegrich, 2019). In the following, we specify three independent variables: organizational specialization of the Commission, organizational capacity of stakeholders, and temporality of the Commission's consultation process.

### Horizontal specialization

Horizontal specialization refers to how tasks and activities, such as consulting stakeholders, are assumed to be linked together or de-coupled (Egeberg et al., 2016; Egeberg & Trondal, 2018). When tasks belong to the same organizational unit, they tend to be better coordinated than if they are organized in separate units (Gulick, 1937). The Commission are mainly

organized by purpose, meaning that tasks are distributed along policy sectors. As a consequence, different DGs are likely to operate with different consultation preferences and practices: '[T]he EU is best understood as a functionally differentiated system with very different modus operandi. Different policy areas form issue- and policy-specific constituencies that evolve according to different logics' (Gornitzka & Sverdrup, 2008, p. 746). Furthermore, Vestlund (2015, p. 95) found that re-locating one unit in the Commission from one DG to another led to a shift in its policy focus, including a change in this unit's attention towards the task environment and subsequently which stakeholders it invite: 'the heterogeneity of the Commission also seems to affect relations to interest groups, as each DG has become associated with particular client groups'. In other words, organizational embedment of policy domains within the Commission influenced the outward attention of Commission officials and how extensively they consult different stakeholders. In our study, a battery policy team was formed by officials from both DG ENV and DG Grow (Birkeland & Trondal, 2022), yet their consultation behaviour is expected to be primarily driven by their unit and DG affiliation. Having two DGs share the responsibility of drafting the regulation proposal is expected to broaden the scope of stakeholders consulted. We may thus expect:

*#1: Having Commission officials from two DGs involved in the policy process increases the Commission's ability to invite, involve, and incorporate input from various stakeholders. It thus contributes to a detracted consultation pattern.*

### Organizational capacity

Organizational capacity relates to organizations' resources to pursue their preferences and tasks at hand: 'To what extent do we find departments, units or positions devoted to a

particular policy area? The idea is that in an information-rich world systematic interest articulation, problem attention and problem solving are highly dependent upon the degree to which such activities are underpinned by organizational capacity' (Egeberg et al., 2016, p. 31). Organizational capacities thus affect the availability of policy expertise in organizations. In the following we are concerned with how the organizational capacity of stakeholders may shape the Commission's consultation pattern. Greer et al. (2008) show that the Commission hierarchy does not exclude stakeholders but it is up to the stakeholders to participate in multiple forums. In addition, Klüver (2012, pp. 1128, 1119) found that 'lobbying success does not vary systematically with interest group type', instead 'variation in lobbying success is the result of a varying ability to provide the goods requested by the European Commission'. Thus, stakeholders enhancing their consultation capacity by collaborating and mutually drawing on each other's resources may create a ripple effect on Commission officials' consultation behaviour. In other words, a contraction of stakeholders increases the likelihood of a contraction of the Commission's consultation pattern. We may thus expect:

*#2: A contraction of stakeholders increases the likelihood of the Commission predominantly inviting, involving and incorporating input from few and larger stakeholders. It thus contributes to a contracted consultation pattern.*

#### Temporality: Urgency and policy overload

Temporality may also mobilize certain consultation behaviours: 'Along the policy dimension, political time is centrally concerned with the temporal allocation of values in society', where '[t]ime rules are applied as tools of governance' (Goetz & Meyer-Sahling, 2009, pp. 189, 190). In this section we are interested in the Commission's self-perceived urgency with regards to

the submission of policy proposals. Adam et al. (2019) observe a trend of policy accumulation across policy sectors and democratic systems, and that this is most intrusive in environmental policy. Policy accumulation is a result of public authorities responding to societal challenges and demands to legitimize policies. Accordingly, 'the resulting accumulation of rules and policies has started to create problems of overload. [...] [T]he overload problems [...] threaten to overburden our administrative systems and the public arenas within which political discourse takes place' (Adam et al., 2019, p. 5). Policy overload may thus be conceived of as a threat to civil servants in the Commission. Thus, building on threat rigidity theory, Staw et al. (1981) found that external threats leads to both a restriction in information as well as constriction in control. Restriction in information means that fewer sources are consulted as it becomes more prominent to rely on knowledge and practices already known. At first, policy-makers seek information to 'confirm the presence of the threat. [...] However, as the threat became a reality, the search for information appeared to decrease' (Staw et al., 1981, p. 512). Thus, pre-existing practises as well as information from few familiar sources is preferred. Regarding the constriction in control, Staw et al. (1981, p. 513,514) assert that threats 'increased centralization of authority, more extensive formalization, and standardization of procedures', and that 'we should expect increases in both organizational coordination and control'. Hence, we expect short timeframes set forth by the politico-administrative leadership of the Commission, such as reaching climate neutrality through the European Green Deal, will constrain the Commission administration's ability to extensively consult stakeholders. We may thus expect:

*#3: A short timeframe, with an overload of policies to respond to, will constrain the Commission's ability to invite, involve and incorporate input from various stakeholders. It thus contributes to a contracted consultation pattern.*

## **Method and data**

The study presents new empirical data on how the Commission officials involved stakeholders when formulating the battery regulation proposal, as well as how stakeholders perceived their own involvement in the process. Actors referred to as stakeholders include business associations, companies, and NGOs (notably environmental and consumer organizations). The objective of the study is to examine stakeholder involvement in the process leading up to the publication of the battery regulation proposal on 10 December 2020. For this purpose, we conducted 15 semi-structured interviews with key actors who either participated in or possessed significant knowledge about stakeholder involvement when drafting the Commission's battery regulation proposal. This included both Commission officials involved in drafting the proposal as well as a variety of stakeholders. The selection of interviewees was based on purposive sampling. We obtained guidance on whom to contact from official documents and information provided by interviewees. All respondents were contacted via email. The stakeholders we contacted for interview had submitted feedback in at least one of the open online consultations. Both remote and in-person interviews were organized in Brussels in October and November 2021. The interviews lasted from half an hour to an hour, with all but two interviews recorded and transcribed in full. Respondents include three Commission officials, one member of Cabinet, six business association representatives, three NGO representatives, one member state representative from the Council Working Party on the Environment, and one assistant to a member of the European Parliament involved in

reviewing the regulation proposal. The interviews were semi-structured with a set of questions adapted to each respondent. Policy-makers were asked about their relations and contacts with stakeholders, while stakeholders were asked about their relationships with the Commission and how they perceived their involvement in the formulation process. In addition, the data are compared to observations from open online consultation feedbacks, the impact assessment, and the battery regulation proposal (European Commission, 2020a, 2020c).

### **How the Commission consults**

This section explores Commission officials' consultation behaviour and involvement of stakeholders when drafting the battery regulation proposal. The section is presented in two parts. The first part focuses on Commission officials' engagement with stakeholders, while the second part examines stakeholders' involvement in the Commission's consultation process.

#### *Commission officials' engagement with battery stakeholders*

The battery regulation proposal was prepared jointly by DG ENV and DG Grow due to the revision of the battery directive and ecodesign preparatory study done on batteries being merged into a single legal instrument. Formulating the battery regulation proposal put all aspects related to the battery value chain on the table at once. Hence, Commission officials engaged with various battery stakeholders when formulating the battery regulation proposal. They report that they knew the battery stakeholders beforehand and that they have a good working relation: 'I consider the large majority [of the stakeholders] very civilized. I have experience of dealing with not that civilized stakeholders in my career in the Commission, but they are very civilized [and] open in general' (Commission official, 03.11). Various meetings

with stakeholders took place and at the later stages, for example in workshops where technical details are to be discussed, selected stakeholders were asked to participate as limiting the number of actors involved was seen as necessary (Commission official, 20.10). The interviewees report that the Commission officials have a balanced approach towards who they decide to include at the various stages of the consultation process. This includes new as well as old stakeholders: 'Some stakeholders appear for the first time here in Brussels or in the process of preparing, but in general, we had very good prior relations, civilized relations (Commission official, 03.11). Stakeholders also report that the Commission took onboard more political pressure than expected. Even if the stakeholders recognized that the Commission could not address all their concerns, some provisions in the regulation proposal surprised them. Either the benefit was not demonstrated in the impact assessment, or it was not previously discussed with them.

*This is a civilized world, sometimes they receive us, of course they are not completely available for us, and that we can understand. [...] We were a little bit surprised that some part of the text did contain [provisions] that we had discussed and were generally recognized as not very efficient, like the recycle content. Nevertheless, due to political pressure, there is a requirement about recycle content that we continue to consider. [...] Of course they took on board more political pressure than we would have expected. That is one side. The other side, which is a bit more surprising, is that there were some proposals that were not discussed with us. And we consider that anything about batteries should be discussed with us because we are the producer, and we have to control everything, the placing on the market, the collections or recycling. [...] Of course we recognize that it is quite normal that the Commission have some freedom to propose text*

*on their own, I mean, that is their task [..]. All in all, that is why I can say we are not really deceived by the communication process with the Commission. Not enthusiastic but let us say it is acceptable (Business association representative, 21.10).*

In addition, the complexity of the battery value chain was brought up in interviews. Even if it is a global value chain, one of the stakeholders questions the strong dominance European stakeholders, aligned with the Commission, were able to leverage:

*What we can see is that the proposed EU battery regulation was the Commission consulting predominantly European stakeholders, and they clearly were in a better position. I think there are some companies who already years ago formulated a mandate and a mission [..] where they made it clear that they want to be a sustainable actor in a sustainable batteries value chain and what I can see is that these companies are better heard. [..] It is a strong focus on European stakeholders [..]. I mean, it is the European Commission and of course they have to listen to European stakeholders. The only point why I stress this is [because] this is a global value chain and Europe looks at the issue from a very European perspective. You would have expected that they also listened to international stakeholders, but apparently this has not taken place. And given that the Commission is looking at establishing a full, sustainable battery value chain, they were listening to those companies along the value chain which positioned themselves in the sustainability debate (Business association representative, 13.10).*

Furthermore, the Commission administration was under severe temporal pressure to submit the policy proposal on time: 'I wanted to have one more year, me too. I will say one third of

these pieces of secondary legislation could have been developed as annexes to the proposal, but we did not have time as simple as that' (Commission official, 03.11). All the technical challenges could not be addressed within the given timeframe (Commission official 28.10). However, it was also pointed out that even if the Commission were on a tight schedule, they did not compromise on the substance of the proposal: 'I do not want to use the word rush because rush means that something was not done properly, which was not the case here. I mean, we speeded up the work and literally colleagues worked day and night on this to make sure that it is adopted on time' (Member of Cabinet, 10.11). The time constraints did, however, curb the Commission officials contact with stakeholders: 'There was a point in time we said no thanks. No matter who because the calendar was that tight. [...] You try to cover as much as is feasible. The whole range of possible stakeholders, but there is a question of time' (Commission official, 03.11). Despite time constraints, Commission officials from both DG ENV and DG Grow engaged with a wide range of stakeholders, both individually and in larger meetings attended by representatives from both departments (Commission official, 28.10). However, some differences between the DGs were indicated:

*We have the same constituency or constituencies, but we do not talk to the same people. This is something we discovered and is curious. For a number of stakeholders, it was the first time they came to discuss with us. The instructions [...] were: Try not to privilege only European associations. [...] The problem was that these small companies were used to talk through or be represented by European associations. They were not used to discuss bilaterally with Commission services. This was something we arranged immediately, and we had a clear open-door policy. Many, or a number of them, came to meet with us (Commission official, 03.11).*

Moreover, one NGO representative even highlighted that taking part in the process from the start improved their contacts with DG Grow in this case:

*The battery regulation story started with the ecodesign process, with the preparatory study, which was under DG Growth so we [were already] in contact with the Commission at that stage. [We] started our dialogue with DG Grow at the very beginning and then we followed the process. We submitted our comments according to the standard procedure. Then there was a point where the battery regulation went in orbit to DG Environment and DG Grow, but [...] we could still talk to both of them quite well. [...] We started with DG Growth because usually it is a bit more difficult to get in touch with DG Growth than DG Environment. Since we started with them, we kind of kept the contacts and we have always been involved in all the workshops and stakeholder meetings they were organizing, and they almost always accepted to also discuss with NGOs this time which I am quite happy with (NGO representative, 19.10).*

Further, stakeholders report that it was important to target officials from both DGs when trying to impact the legislative process, even if this doubled their workload (NGO representative, 18.10). Given the complexity of the regulatory proposal stakeholders also support the choice of the Commission of having two DGs responsible for the policy-making process (Business association representative, 21.10). In addition, and illustrating a two-staged consultation pattern, it was mentioned that DG Grow usually favours large stakeholder groups, at least in the beginning of the consultation processes (Commission official, 20.10). Stakeholders allude to knowing how the consultation system worked and having meetings

with the cabinet and at Commissioner level as important for getting their messages across (Business association representative 08.10b).

Commission officials thus report strong relationships with the stakeholders. They were instructed to speak with a wide range of stakeholders and claim to have had an open-door policy. However, they also indicate knowing stakeholders beforehand as beneficial. Further, they admit that the temporal pressure to submit policy proposals within the given timeframe limited their contacts with stakeholders. On the other hand, stakeholder representatives report that Commission officials took onboard more political pressure than expected and indicated that they were dissatisfied not all provisions were discussed with them. Stakeholder representatives noted that despite some differences in consultation behavior between DG ENV and DG Grow, the stakeholders needed to consult officials from both DGs. In addition, active participation from the start were seen as improving stakeholders' odds of being included in the later stages of the consultation process.

### *Stakeholder perceptions*

Battery stakeholders report close contact with Commission officials. Moreover, some stakeholders report a more open and inclusive process at the early stage of the consultation process, especially before the decision of proposing this as a single legal instrument was made (Business association representative, 04.11). Representatives of both business associations and environmental NGOs emphasized the importance of participating in early policy-making stages to ensure inclusion in the later stages of the process. Thus, making oneself available and bringing convincing arguments to the table were viewed as important (Business association representative, 15.10). Stakeholders report that they followed closely the

Commission policy process on batteries and were ready to offer their expertise when requested:

*We were aware of this regulation or update of the battery directive, which was dated 2006, and we were aware of this coming revision of the directive for more than four to five years now. [...] We have been involved [in the initial process] just to help the Commission identify what needed to be updated in the existing batteries directive, and what more modern regulation could contain. As I said on one side, the Commission did listen to us, so that is of course a good reason for us to talk and explain, because we know that they are listening to us. It does not mean that they have written everything we have proposed. Not at all, but they took it on board to make a balanced proposition from their point of view, between the industry view and vision and the political will that they had about promoting the Green Deal. [...] They made their own compromise. It is clear for an industry association that collaboration is the right way to go and to have our numbers being taken on board, the reality being well understood by the Commission. [...] There were plenty of opportunities for us to make proposals and to discuss with the Commission (Business association representative, 21.10).*

One opportunity for stakeholders to have their voice heard is to provide feedback to the Commission's open online consultations<sup>3</sup>. Stakeholders report in interviews that participating

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<sup>3</sup> Three rounds of open consultation took place when preparing the battery regulation proposal: one round conducted for an ecodesign preparatory study done on batteries, one round 5-6 months before the regulation proposal was presented and one shortly after the proposal was published (European Commission, 2020c, 2020d).

in the open consultation rounds was important for shaping the regulatory proposal and for their subsequent involvement in the consultation process:

*Well, there are various stages when drafting a piece of legislation. In the preparatory stages, there is on the one side the possibility, or the Commission is consulting stakeholders to get their views. That is part of the EU better regulation process, and this was actually the reason for us, given that we felt there is a lot to say, and to eventually already steer the legislation into the right direction that we said, listen, we need to actually contribute to the stakeholder consultation processes. There were various stages in which we contributed (Business association representative, 13.10).*

Open online consultations are open for anyone to submit feedback to the Commission. Stakeholder groups often reach out to the Commission to make themselves known and available even before such online consultations (Business association representative, 15.10, 21.10). In addition, being proactive from the start of the consultation process is deemed important if they are to participate in the later stage of the process:

*It always goes both ways, depending on which part of the process you are. At the beginning [...] we usually go and knock ourselves on the door but then there are these stages of the process like public consultations, targeted stakeholder consultation, preparation of a road map by the Commission, so-called inception impact assessment where you are invited to participate. [...] Our involvement is really hybrid, this is what we do ourselves and also this is what we do because we are invited to participate (Business association representative, 15.10).*

Stakeholders signal availability to the Commission to make them aware that they may offer resources to the Commission in exchange for inclusion. At later consultation stages, Commission officials select which stakeholder groups to invite. Business association representatives indicate which business entities they represent as pertinent for participation in the consultation process. They emphasize the potential jobs and economic benefits that the European battery industry may generate as well as the direct impact that the new regulation would have on their members (Business association representative, 08.10b, 15.10, 21.10). Meanwhile, acknowledging that they have fewer resources compared to industry actors, NGO representatives emphasize that Commission officials were aware of this and took it into account when consulting with them. Thus, NGO representatives argued that one reason for their inclusion in the consultation process was their already established role:

*We have an established, I would say, position within the European stakeholders and we are often consulted. The Commission gave us enough time to listen to our views through the consultation [...]. There were also stakeholder meetings, few of them for experts here in Brussels and we were always invited. [...] Overall I have to say we are satisfied, but we also see that the industry is very often getting the first, I mean, in the last years they have deployed a lot of resources to address this regulation and to lobby in general, and they are also given quite a lot of space (NGO representative, 18.10).*

Stakeholder involvement also include exploiting existing stakeholder collaborations, such as the European Battery alliance (EBA). The EBA was set up by the Commission in 2017 to facilitate meetings between companies, research institutions, and NGOs among others.

Stakeholder collaboration in EBA was perceived as less controversial than in other EU alliances as the actors in the EBA share a common mission (NGO representative 19.10). The EBA is described as a 'political driven incentive [with] very good political success because it has achieved to recognize the battery industry as strategic for Europe (Business association representative, 21.10). It is deemed important for grouping industry together (NGO representative, 18.10), '[underpinning] a more strategic vision for batteries in Europe' (NGO representative, 19.10). Moreover, a business association representative (15.10) viewed EBA as a great initiative even though their association was not a member. They stay informed about the EBA through their association's members who serve as part of the EBA. Both Commission officials and stakeholders viewed EBA as successful in bringing stakeholders across the value chain together. In addition, both Commission officials and stakeholder groups stress that recently established actors in the battery industry were able to take part in the consultation process too: 'We have newcomers like Northvolt, so it is different than in other pieces of legislation that we follow as you can see that there are new stakeholders, new battery stakeholders sitting around the table' (Business association representative, 13.10), and:

*There are always some actors more gold than others, that is a common thing. Just to give an example, [there is a] Swedish company [called] Northvolt, that is currently preparing a battery factory and wants to do this very sustainably. [They] certainly contacted us to exchange views, but of course we are not talking to every manufacturer separately because that is impossible. Just to highlight that there are those that are more active and that is out there (Commission official, 28.10).*

Illustrating a step-wise consultation pattern, stakeholders report that the Commission officials were more open and inclusive at the beginning of the consultation process. To be involved in later stages of the consultation process it was considered important for stakeholders to closely monitor policy developments leading up to the regulatory proposal and to participate in open online consultations. Thus, stakeholder involvement involved both making themselves known and available to Commission officials from the beginning *and* later to participate in workshops and expert meetings in the Commission.

### **Discussion and conclusion**

The process of formulating the battery regulatory proposal displayed elements of both consultative contraction and consultative detraction. The organizational specialization of the Commission, organizational capacity of the stakeholders as well as the temporality of the policy-making process biased the Commission's consultation behaviour. First, supporting proposition #1, involving Commission officials from two DGs broadened the scope of stakeholders consulted and reflects a detracted consultation pattern. Second, as predicted by proposition #2, stakeholder collaboration facilitated a contraction of the Commission officials' consultation behaviour. Third, our findings also support proposition #3, which suggests that a short timeframe with an overload of policies constrained the Commission officials' opportunities to consult stakeholders, leading to consultative contraction. The Commission's consultation pattern evolved from broad stakeholder consultations to a narrower consultation pattern, with both established and new stakeholders being consulted in the second stage of the Consultation process. Stakeholders prioritized to take part in the consultation process from the start, by providing feedback in the open online consultations and reaching out to

Commission officials from both DGs. Early involvement also made it more likely for stakeholder groups to be subsequently involved in the later stage of the consultation process.

As predicted, the first consultation stage was characterized as consultative detraction. We do find that Commission officials from both DG ENV and DG Grow interact with stakeholders (#1). Stakeholders stressed the importance of reaching out to Commission officials from both DGs and to take part in the consultation process from the start. This includes, but is not limited to, taking part in open online consultations. In the beginning, stakeholders reached out to Commission officials to make themselves known and alert Commission officials of their available policy expertise. This was a fairly open and transparent part of the consultation process that also served to legitimize the policy-making process within the Commission. Thus, taking part in the early stage is seen as a prerequisite, but does not guarantee further involvement in the consultation process.

The second consultation stage was characterized by consultative contraction. A contraction of stakeholders, such as grouping stakeholders together in the EBA, also resulted in a contraction of the Commission's consultation process (#2). Stakeholder collaborations allowed for a contraction of the Commission's consultation pattern, enabling Commission officials to engage with fewer, larger, and more established stakeholder groups. In addition, the perceived temporal urgency of the legislation proposal constrained the Commission officials' opportunities to broadly consult stakeholders (#3). Commission officials were under pressure to submit a regulatory proposal on time and had to turn stakeholders down already in the beginning of the policy-making process. Even if the second stage was characterized by consultative contraction, new stakeholders were also able to participate in the later

consultation stage. In other words, we both observe stability in stakeholders' involvement across the two stages of the consultation process, yet with the possibility of new stakeholders also being included in the consultation process over time. Involving Commission officials from two DGs in the consultation process led to a change in policy focus and allowed for the inclusion of new stakeholders.

The study thus suggests a temporal variation in the consultation pattern of the Commission over time in which the initial stage featured consultative detraction followed by a stage of consultative contraction. The first stage legitimized the consultation process and made Commission officials aware of the external policy expertise available. The second stage involved developing technical details and resulted in a narrower set of stakeholders being consulted. It serves as an instrumental part of the consultation process. The contraction of the Commission's consultation regime at this stage was made possible partly by stakeholder collaboration through stakeholder alliances established by the Commission and was accelerated due to the temporality of the consultation process. However, having two DGs involved increased the scope of stakeholders consulted at both stages of the consultation process. Importantly, by studying stakeholder involvement in the policy-making process, this does not necessarily convert into actual stakeholder influence. Avenues for future research should include, but not limit to, studying the Commission's consultation behaviour more carefully across time, and also study the consultation behaviour of the Commission in less urgent policy domains.

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