

**Public Consultation on the  
OECD Anti-Corruption and Integrity Guidelines  
for State-Owned Enterprises**

**31 January 2019**

- *Business at OECD* (BIAC) has consistently underlined the importance of an ambitious, cross-cutting, and integrated approach to the issue of state-owned enterprises (SOEs), identifying areas of unequal treatment of SOEs, analyzing their impact, and considering possible solutions to level the playing field. In this respect, we welcome the close cooperation between the Working Party on State Ownership and Privatization Practices and the Working Group on Bribery on the Anti-Corruption and Integrity (ACI) Guidelines and call upon other relevant OECD committees and experts to actively contribute to future work in this area.
- We reiterate our strong support to the OECD for the development of the ACI Guidelines and congratulate the OECD on the excellent background report, which was prepared in 2018 based on a survey and which underlines the significant corruption risks in SOEs. By providing evidence of the risks facing SOEs and suggesting options to help governments fight corruption and promote integrity in SOEs, the report presents an important foundation for OECD guidance and future work in this area.
- The ACI Guidelines should provide constructive guidance to SOEs and governments as they address corruption risks and foster integrity. As such, they should help create trust and transparency, and support a level playing field between SOEs and the private sector in investments both at home and abroad. We support the overarching objectives of the Guidelines, underlining the importance of sound corporate governance, a strict liability regime for corporate officers and the responsibility of the Board in corporate risk management as key priorities to be addressed in this context.
- The draft refers to the broad definition of SOEs consistent with the SOE Guidelines as defining ownership or control to include “otherwise exercising an equivalent degree of control”. We would like to underline that there should also be a focus on state-championed enterprises, regardless of their formal ownership structures.

- The role of the private sector is mentioned at the end of the Guidelines in the context of “inviting inputs of civil society, the public, the press and the business community.” We strongly believe that the role of the private sector should be further highlighted. The private sector has developed and implemented strong anti-corruption programs, and SOEs could benefit from cooperation and sharing of best practices. In this particular area, which focuses on encouraging SOEs to adapt standards to best practice in the private sector, close cooperation and dialogue with the private sector are particularly important.
- Specific areas of cooperation could involve setting up a platform for exchange of experience with the private sector on best practice, capacity building programs, the promotion of integrity pacts as well as high-level reporting mechanisms. SOEs might also wish to establish and implement a stakeholder engagement policy, which should include integrity as a major component.
- We would like to underline that one of the key recommendations in the area of integrity of the Argentina B20 anti-corruption and integrity task force was the need to implement high standards of ethics and integrity with a focus on SOEs. We have been actively involved in these discussions and have underlined the important work of the OECD in this context (see B20 report on the [B20 website](#) for further details). We call upon the OECD to give due consideration to the B20 recommendations and reflect them in its work going forward.
- The ACI Guidelines should also include clear language that requires states to not take actions that directly or indirectly benefit an SOE at the expense of non-SOE competitors (e.g., tariffs on imported goods to benefit the SOE). In addition, they should include language that prohibits employees of SOEs from sharing competitive industry data with the state that the state could then use to enact laws, regulations, or policies that benefit the SOE or harm the SOE’s competitors.
- The Guidelines refer to the need for strong and transparent external audits. We would recommend mentioning the International Financial Reporting Standards and International Standards of Auditing as appropriate standards for SOEs. This would help promote a level playing field for SOEs internationally and in comparison with private/listed companies. It would also provide a more comprehensive framework to address the specific disclosure and reporting matters mentioned in the report. SOEs would benefit from defining key performance indicators for integrity mechanisms implementation.

- The issue of “reputation and trust” could be further highlighted in the draft, as a lack of trust implies a high risk. This could be addressed through practical steps, such as disclosure of the company’s commitment to integrity and the existence of internal procedures to make the process effective, preferably based on a bottom-up approach to give concrete support to the dissemination of business ethics and to prevent illegal behavior.
- The draft should also clearly call for the implementation of an “anti-bribery compliance function”, which should supervise the wide range of corruption-sensitive issues as well as coordinate and manage the reputational checks system and a comprehensive anti-corruption compliance program.
- Considering OECD guidance and best practice in the area of due diligence, we recommend giving due attention to due diligence reviews related to business relationships of SOEs, including their integrity procedures and checks to verify their “reputational history” in the field of integrity and business ethics.
- We appreciate the inclusion of the recommendation that politicians who are in a position to influence materially the operating conditions of SOEs should not serve on their boards and that a “cooling-off” period could be applied to former politicians. Consideration should be given to the opposite situation, i.e. when SOE officers are applying for positions within the owner.
- Finally, we strongly underline the need to focus on implementation and encouraging change. The Working Party should therefore already now reflect on how the Guidelines will be implemented, whether non-OECD countries can adhere, and what follow-up process should be in place to verify how countries live up to their commitments. A clear and ambitious implementation plan will be essential to achieve progress in this important area. *Business at OECD* stands ready to actively contribute to follow-up work in this important field.