



REMEDYING THE OVERSIGHT DEFICIT IN PRE-LEGISLATIVE CONSULTATION POLICY

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EXECUTIVE SUMMARY

The normative structure of participatory lawmaking in India is the Pre-Legislative Consultation Policy (PLCP), 2014, which mandates every Ministry to publish draft legislation in the public domain for at least 30 days. The requirement is to attach a simple explanatory note and a summary of the feedback received. (Section 6 PLCP). However, ministries often contravene the last obligation. Ministries invite input, but are under no obligation to record or explain how they used it. The evidentiary chain from public comment to the final rule does not exist, and no one monitors whether it does.

The government has addressed earlier that the Pre-Legislative Consultation Policy has not been evaluated comprehensively. This analysis is not new. The gap lies in identifying the evidentiary chain instead. What is missing is an operating instrument that links public comment to the implemented rule.

The reform is modest: instead of new consultation, the brief proposes building on existing infrastructure.

The reform is an accountability tool in the form of a PLCP Compliance Register, which records the inputs each Ministry receives on a draft and the suggestions accepted. It will also track the disposition of suggestions and whether it includes a clear rationale. The suggestions are to enable the Ministry of Law and Justice, along with a standing committee and the Digital Sansad dashboard, to oversee and ensure the information is publicly visible.

To comprehend the evidentiary chain linkage, a case study in this brief identifies two ministries – the Ministry of Corporate Affairs (MCA), which implements a structured consultation cycle but targets organised professional bodies; in contrast, the Ministry of Electronics and Information Technology (MeitY) reaches broadly but publishes no disposition of the comments it receives. Both fail to establish the chain of evidence. A single, efficient compliance register tracking every Ministry’s records would.

The problem in five numbers

Figure	What it shows
~89%	Proposed bills between 2014-2019 with no or incomplete pre-legislative consultation (H. Yadav, NLU Jodhpur Law Review).
227 of 301	Bills presented without any prior consultation from the PLCP’s inception to mid-2021 mark about 75% (PRS Legislative Research). Of the 74 drafts that were published, at least 40 missed the 30-day deadline.
1.59 / 5	Mean ‘transparency’ score – whether a response to feedback was ever published – across 286 consultations assessed on a 10-criteria methodology (Civis).
0	Times the PLCP has been formally evaluated, and compliance records maintained by the Law Ministry (Government reply, Lok Sabha Unstarred Question No. 2110, December 2025).
71% → 16%	Fall in the share of Bills referred to parliamentary committees from the 15th to the 17th Lok Sabha – scrutiny-climate context, distinct from PLCP consultation (PRS).

These symptoms point to an accountability flaw: consultation is invited but never accounted for.

OBJECTIVES

This brief sets outto:

- 01 Assess how India’s pre-legislative consultation process functions currently, and identify where accountability breaks down.

- 02 Establish why a duty to respond to inputs is a legitimate obligation for effective legislation.

- 03 Comparative Analysis through an illustrative case study of the Ministry of Corporate Affairs and the Ministry of Electronics and Information Technology.

- 04 Recommend an effective, viable PLCP compliance register as the primary reform.

- 05 Propose oversight of the compliance register by a standing committee and a public dashboard to publish the report of the committee.

CONTEXT AND BACKGROUND

The Constitution of India establishes a representative democracy, but representation alone has proved insufficient to surface the concerns of those a law will affect. In 2014, the PLCP was adopted on the recommendations of the National Commission to Review the Working of the Constitution and the National Advisory Council, to create an institutional space for public participation before a Bill reaches Parliament. Sections 2, 3, & 5 require every Ministry to publish the draft legislation for at least 30 days and give directly impacted groups an opportunity to review it and provide comments. Section 6 states that an explanatory note in plain language must be attached, and that a summary of the feedback received must be provided.

Three stages of scrutiny

PRE-LEGISLATIVE STAGE The PLCP, at the executive drafting stage.	PARLIAMENTARY COMMITTEE REFERRAL After a Bill is introduced.	POST-ENACTMENT REVIEW After a law is in force.
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This brief focuses on the Pre-legislative stage.

Broader scrutiny data show a fall from 71% of Bills referred to a Parliamentary Committee in the 15th Lok Sabha to 25% in the 16th and 16% in the 17th, recovering to roughly a quarter in the current 18th.

The failure of PLCP lies in its strategy-to-implementation gap and lack of consequence for non-compliance. To make it efficient, the requirement is to make the process measurable and visibly disclosed on a public platform. The Manual of Parliamentary Procedure could function as the regulatory framework to facilitate such a mechanism’s structure.

CURRENT LACUNAE

For most of India's legislative history, no single, rigorous pre-legislative review process has been established, and objections have often been bypassed in the name of urgency. Research observes that from the PLCP's inception to mid-2021, out of the 227 of the 301 Bills introduced in Parliament, about three in four came without any prior consultation, and that of the 74 drafts published for comment, at least 40 did not observe the 30-day window. The pattern is not incidental; it follows from the fact that, unlike in several other obligations, ministries are not bound to provide details pertaining to the consultation process.

The PLCP directs ministries to invite comments and even to publish a feedback summary, yet imposes no duty to state what was accepted or rejected, or why. The major concern is the lack of transparency, not the failure to collect inputs. This could be resolved by answering four questions, applied to any consultation:

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| 01 Whether the inputs received are published? | 02 Are any reasons provided for acceptance or rejection? |
| 03 Is there a retrospective liability cycle which revisits the rule? | 04 Are the comments which framed the draft traceable to the consultation process? |

The next section applies these questions to two ministries - the Ministry of Corporate Affairs and the Ministry of Electronics and Information Technology and highlights the need for a tracking mechanism.

TWO ILLUSTRATIONS, ONE FLAW: MCA AND MEITY

Ministry of Corporate Affairs – a structured review with narrow reach

The MCA places concept notes, data and draft formulations in the public domain, giving citizens, legal experts, academics and corporate practitioners the material to form reasoned views. Its standing Company Law Committee periodically recurs and revisits the law. For example, the 2019 report, set out to analyse the functioning of the insolvency framework and identify issues affecting its efficiency, and the 2021 and 2023 reports similarly drew on expert input. A formal comment window, typically 30 days, and a sense of stakeholding tend to improve acceptance of the final rule. This was set out in all three instances, allowing stakeholders to participate in drafting. However, the limitation lies in the extent of the consultation cycle, where the Ministry engages professional and industrial bodies far more than the general public, and even then the Ministry does not publish a line-by-line account of which comments it accepted or rejected.

Ministry of Corporate Affairs – a structured review with narrow reach

MeitY actively publishes consultations but rarely provides information on what was accepted or rejected in the final rule. The prominent example being its handling of synthetically generated information (SGI). In October 2025, the Ministry issued a public consultation for draft amendments to the IT Rules on deepfake labelling. Civil society organisations objected to the limited consultation window, prompting the Ministry to extend the deadline. They also raised reservations about including a rule requiring a watermark across 10% of the content. When the final Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026 were notified on 10 February 2026, the 10% rule had been omitted, which clearly shows that the consultation process shaped the final rule. However, no data was published to show what was accepted, what was rejected, and why. The public could see that inputs mattered, but it could not see how.

The pattern recurred when MeitY released a further draft amendment in April 2026 — proposing to bring user-generated ‘news and current affairs’ under the Ministry of Information and Broadcasting’s code — the comment window again fell short of the PLCP’s 30-day minimum; even after an extension again as a result of objections from civil society organisations, the deadline was moved only to 7th May 2026. This highlights the disposal of inputs, or the failure to prioritise them. High volumes of input, as with the Draft Digital Personal Data Protection Rules, 2025, have forced revisions in the original draft, but the record of how they were weighed is not made public.

Applied to the four diagnostic questions, the contrast is stark:

Diagnostic question	MCA — structured loop, narrow reach	MeitY — broad reach, no loop
Are inputs published?	Yes - committee reports placed on mca.gov.in with a dated online comment facility.	Yes - drafts routinely published for comment (MyGov / ministry site), with wide circulation.
Are reasons for accepting or rejecting given?	Partially - the revised Bill and report reveal changes, but there is no line-item disposition of public comments.	No - comments are invited, but no disposition is published; advisories and SOPs are layered outside the statute.
Is there a retrospective review loop?	Yes - a standing Company Law Committee recurs and revisits the Act periodically.	No - amendment by amendment, on short windows, with no institutional review cycle.
Is the design traceable to consultation?	Slightly traceable to expert and industry input, less so to the general public.	No — the outcome cannot be traced to any recorded input, which limits civil-society reach.

MeitY consultation practice, 2022–2026

Date	Measure	Consultation note
Oct 2022	Intermediary Guidelines Amendment Rules, 2022	Established Grievance Appellate Committees for content-moderation appeals.
Apr 2023	Online gaming & fact-checking amendments	Due diligence for real-money gaming; proposed a government Fact-Check Unit.
Jan 2025	Draft Digital Personal Data Protection Rules, 2025	Very high volume of public submissions; little published disposition.
Oct 2025	Draft SGI (deepfake) labelling amendment	Short comment window; IFF filed detailed objections (Nov 2025); the contested 10% watermark rule was later dropped — with no disposition published.
Feb 2026	IT Amendment Rules, 2026 (notified 10 Feb; in force 20 Feb)	Regulates synthetically generated information; labelling and shortened takedown windows.
Apr–May 2026	Further draft amendment (news & current affairs under the MIB code)	Window being below the 30-day minimum, received objections from civil society organisations

Both ministries fail the second question — the reasoned-disposition question — for opposite reasons. That common failure is what the register is built to fix.

THE STANDARD - WHAT A DUTY TO ANSWER LOOKS LIKE

The standard the register aspires to is not novel. It rests on four ideas that recur across democratic governance: participation confers legitimacy. Legitimacy requires a duty to respond, not merely to listen; reason-giving makes a decision accountable; and a published disposition of feedback is the record that ties the three together. Scholars of administrative law have consistently emphasised that consultation-based legislative process is efficient only when officials respond to comments as an obligation. The Supreme Court of the United States, in *Ohio v. Environmental Protection Agency* (2024), has also noted that the failure of an agency to provide a legitimate reason for a significant input could raise doubts about a rule's legality. In South Africa, the duty is therefore built into procedure, where the Constitution requires pre-legislative review for key laws. The United Kingdom issues consultation papers before publishing a draft Bill. International bodies like the UN Department of Economic and Social Affairs' framework for 'good practice' in stakeholder engagement measures exactly whether feedback (including grievances) is received and addressed.

1 **Participation**

Participation confers legitimacy.

2 **Response**

Legitimacy requires a duty to respond.

3 **Reasons**

Reason-giving makes a decision accountable.

4 **Disposition**

A published disposition ties the three together.

India's own precedent points the same way, but stops short. The Supreme Court held in *S.N. Mukherjee v. Union of India* (1990) that authorities must record reasons for their decisions, so that review is possible and the parties can see that the points in issue were considered. That duty, however, attaches to quasi-judicial and administrative action and it generally does not apply to subordinate legislation or rule-making. The proposed register enables tracking of the inputs referred to and public comments that were disregarded. This increases transparency and reinforces the legislation-making procedure.

RECOMMENDATION: A PLCP COMPLIANCE REGISTER

The government's implied responsibility to review how a statute works in practice is part of the rule of law. This is generally part of post-legislative scrutiny, which checks arbitrariness and ensures constitutional compliance under Article 14 of the Constitution of India. Similarly, this register provides a practical form of pre-legislative consultation to be a framework for good governance. The recommendation is a single administrative reporting duty, with a light oversight layer.

THE RECOMMENDATION IS A SINGLE ADMINISTRATIVE REPORTING DUTY, WITH A LIGHT OVERSIGHT LAYER

How it works.

1 Duty - For every consultation, the sponsoring Ministry publishes (i) the inputs received and (ii) a reasoned disposition of each *relevant comment* — accepted, rejected or modified, with a brief reason.

3 Timeline - The Ministry will publish the reason for disposition within a fixed period after the comment window closes.

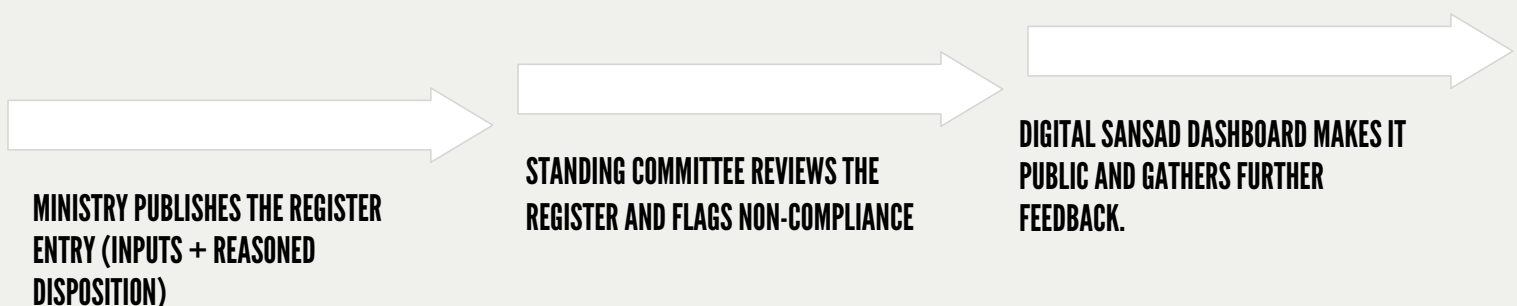
2 'Relevant Comment' test - A comment is 'relevant' if it is raised with enough specificity that, were it adopted, it would require a change to the draft (the standard drawn from *Ohio v. EPA*); de minimis or duplicate comments may be grouped and answered together.

4 Central register - The Ministry of Law and Justice maintains a single, searchable register of these entries across ministries, so compliance is visible at a glance.

5 Oversight - A standing committee for subordinate legislation reviews the register periodically, flags non-compliance, and publishes its findings on the *Digital Sansad* platform, which also collects further public feedback, promoting a cycle that keeps pace with changing social, economic and technological conditions.

Evidently, there is no need for a new statute. The pre-drafting steps already exist in Chapter 9 (paragraphs 9.2(a)–(d)) of the Manual of Parliamentary Procedure; the gap is not in the provision but in implementation and record-keeping. Inserting the register duty into the Manual and publishing it through platforms the Government already runs—Digital Sansad and MyGov—makes this a low-cost administrative reform rather than a legislative project. The proposed recommendation is an administrative reform rather than a statutory amendment, as it would be cost-effective and streamlined.

RESPONSIBILITY STRIP



ILRF'S ROLE AND CONCLUSION

The Indian Legal Research Foundation (ILRF) is an independent legal and policy research organisation working on access to justice and the governance of laws and policies. The accountability gap in India's pre-legislative consultation process — the absence of any record linking public input to final rules — has persisted for more than a decade without an institutional owner. ILRF proposes the PLCP compliance register as a durable, low-cost framework to close it.

ILRF publishes original research on its own platform and works alongside other policy-focused organisations to strengthen public policy and legal research. On this reform, it offers to be a partner rather than only a commentator. It proposes to co-design the register with the Ministry of Law and Justice, to help pilot it with a willing ministry (the MCA is a natural first candidate, given its existing consultation loop) and to convene the oversight framework around it. The aim is a working model that any ministry can adopt, not a one-time assessment.

CONCLUSION

Parliament and the executive need better tools for scrutinising the pre-legislative stage, and the most useful of them is also the simplest: **a record**. A published, reasoned disposition of public feedback would turn consultation from a mere formality into a procedure for strengthening deliberative democracy, improving the quality of legislation and making the relationship between citizen and state credible. The Right to Information Act is a fine example of a product of extensive stakeholder engagement before its enactment and remains the standing proof that laws built with the public tend to command broader legitimacy. The register would make that kind of law-making the rule rather than the exception.



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