

**RECOMMENDATIONS for the ANNUAL REVIEW of the
EUROPEAN COMMISSION REGISTER of INTEREST
REPRESENTATIVES**

General remarks

- Transparent EU lobbying requires more than just a set of rules and regulations. It is equally essential to create a spirit and an understanding of the importance of transparency and openness among all stakeholders involved.
- It can be considered an achievement that – after one year in existence only – the voluntary European Commission register has already stimulated the debate and raised awareness related to the importance of transparency in EU lobbying affairs.
- Further, the roughly 1500 entries (beginning of June 2009) in the register offer valuable insights into who is lobbying the EU institutions, as well as the interests and funding behind lobbying efforts.
- However, certain types of lobbyists are still missing. Although the Commission has stated rightly and clearly that it takes a broad view of 'lobbying', including public affairs consultancies, corporate lobbyists, law firms, NGOs and think tanks, many major players from all categories are missing. It is essential to address all actors which have not signed up yet and which lobby the EU institutions.
- Particularly, law firms hired to act as lobbyist on behalf of their clients, should not be allowed to hide behind client confidentiality. The latter being only needed when dealing with legal proceedings and not when - as some law firms openly state on their websites – lobbying activities are carried out on their behalf.
- As already outlined in previous statements, TI believes that a mandatory register is better suited to achieve a high number of registered entities while ensuring data accuracy and reliability. Making the registration a requirement for entities that carry out lobbying activities should thus remain the mid- to long-term aim of the EU institutions – as it was called for by the European Parliament and reiterated by the EP-EC High Level Working Group on 22 April 2009.

Specific remarks and recommendations¹

- Making registration quasi-mandatory:

- Until a mandatory inter-institutional register is set-up, the Commission could explore ways to make registration quasi-mandatory by fully exercising its discretionary powers and adopting the according staff rules. A quasi-mandatory character can be very effective as it will urge lobby entities to join the register.
- 'Quasi-mandatory' would basically mean that for interacting (e.g. meetings, consultations, events, etc) with EC officials, a lobby entity would need to prove that it has registered in the register. Registration would become a *de facto* requirement for interacting with the EC.
- More concretely, this would mean:
 - When a meeting request from a lobby entity is received, EC staff should only grant an appointment if the entity can be found in the register. This requirement has to be addressed with the individual entity as soon as an inquiry for a meeting is received.
 - When an invitation to an event that is hosted or attended by lobbying entities is received by an EC official, it should only be accepted if the organizers and the participating lobbying entities are registered.
 - Consultation meetings across all EC DG's and agencies (DG Trade's example should be followed) can only be attended by entities that have registered.

- Quality of financial data:

- The presentation of the financial data that entities need to provide is currently not optimal. There is for example no function that allows a proper comparison - e.g. annual lobbying expenses – of data across or even within one category. Such a function would also help to verify the accuracy of financial data – it would do so by contrasting lobbying expenses of different types of entities (NGOs, consultancies, etc.), thus being able to draw conclusions whether the provided data can be trusted.
- Information about e.g. how much a consultancy earns from its clients to lobby EU policy and legislation is currently not detailed enough. Stating that a particular client represents less than 10% of the total lobbying turnover is too vague. More detailed information – in absolute figures and in the range of €10k – should be required.
- What further complicates things is the fact that individual companies do not disclose their expenses for hiring public affairs consultancies. It is up

¹ TI's remarks and recommendations are only related to the Commission's register as it is too early to judge on a common EC-EP register. However, TI's recommendations can be easily applied to a register that contains two or more EU institutions.

to the consultancy to disclose the income by client based on e.g. the “less than 10%” range. The actual amount spent by an individual company for lobbying EU legislation and policies thus remains nebulous.

- Under the category ‘Companies’, entities should be required to disclose their lobbying expenses in a range of €10K rather than €50k. The Commission can in this respect assist/guide with the calculation of what should be counted under ‘lobbying expenses’ (see below point on ‘Guidance’).
- The financial disclosure required is often inconsistent and not detailed enough. For example: NGOs are asked to provide their annual overall budget, whereas companies their budget they spend for lobbying – this is misleading. Therefore, it would be necessary to adapt the type of information that are entities such as NGOs are required to disclose.
- It would be very user friendly if there also could be function that allows for listing the entries according to their date of entry/last up-date. This would immensely help the public, press and NGOs in staying informed about changes and new entries.

- Guidance:

- As mentioned above, a high degree of reliability of financial data is important. The Commission should make use of its experiences gained through assisting entities prior to signing-up to the register and publish ‘Guidelines’ on how to register and what falls under lobbying expenditure.
- Recent guidance developed by the Civil Society Contact Group² can for this purpose serve as a good starting point.

- Individual names:

- In order to hold individual lobbyists accountable for their activities, the register should also include individual names of the lobbyists and not only the legal representative of an entity.
- In some cases, public affairs consultancies explicitly – proudly – mention that their employees had previously been working in the EU institutions. It would therefore be important to name staff – ideally with their previous occupation - that is carrying out lobbying activities in order to mitigate risks related to ‘revolving-doors’ scenarios.

² <http://www.act4europe.org/code/EN/back.asp?Page=253>

- Code of conduct and independent monitoring and reporting

- The present code of conduct is formulated weakly and no detailed mechanisms to monitor code compliance are known.
- The Commission should work towards establishing an independent monitoring and enforcement body that handles complaints and decides on sanctions.
- This body should also establish a regular reporting mechanism about the register, containing information about progress, violations, sanctions, etc. This reporting should be based on before-hand agreed performance benchmarks.

- Information about areas of lobbying activities

- So far, there is no information available on which individual pieces of legislation lobby entities are aiming their activities at. To understand the impact of lobbying activities and practices – i.e. to shed light into how decisions are taken at EU level – it is necessary to have this information available. Making it a requirement to disclose the individual pieces of EU legislation – and not only the broad area of interest – an entity is working on will result in a much better understanding about the impact lobbying has on EU legislation. Ultimately, this is a question of accountability of the EU institutions towards its citizens.

About Transparency International

Transparency International (TI) is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide (i.e. in almost every EU Member State and in many countries worldwide) and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption and works with partners in government, business and civil society to develop and implement effective measures to tackle it.

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