



Mr Siim Kallas
Vice-President of the European Commission

cc: Ms Catherine Day
Secretary General of the European Commission
By email

Brussels, 4 June 2009

Dear Vice-President Kallas

on behalf of the Alliance for Lobbying Transparency, ALTER-EU, I am sending you our report 'The Commission's Lobby Register One Year On: Success or Failure?', which we published today.

We hope that you will find this report useful for your evaluation of the register, and that you will appreciate the critically yet constructive spirit in which we wrote it.

As you know, we share your objective of bringing transparency to EU lobbying, and we appreciate the role that you and your cabinet have played in making lobbying transparency an issue for the European Commission. We regret that, so far, your services as well as the Secretariat General have not taken on board our practical suggestions on how to set up an effective transparency register, but we remain hopeful that, following your review, there will be new opportunities to discuss with you how to advance lobbying transparency in the EU.

We very much look forward to your evaluation of the register, which we hope will lead you and the European Commission to propose further, more effective measures for advancing transparency. Please consider our report, and in particular its recommendations, as a formal contribution to your evaluation of the register. I copy this letter to the Secretary General, since her services have been involved in setting up the current register.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jorgo Riss". The signature is fluid and cursive, with a prominent initial "J" and "R".

Jorgo Riss
Director, Greenpeace European Unit (jorgo.riss@greenpeace.org)

on behalf of the Alliance for Lobbying Transparency and Ethics Regulation in the EU (ALTER-EU)
www.alter-eu.org

Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU)

The Commission's Lobby Register One Year On: Success or Failure?

June 2009



This report is part of our ongoing research into the European Commission lobby register. It builds on ALTER EU's preliminary analysis of the European Commission lobbyists register, which we published in January 2009. We concluded our research for this report on 25 May 2009.

For clickable links to all referenced documents and web pages, see the on line version of this report, available at: <http://www.alter-eu.org>

The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) is a coalition of over 160 civil society groups, trade unions, academics and public affairs firms calling for: EU lobbying disclosure legislation; improved code of conduct for European Commission Officials; the European EU Commission to terminate cases of privileged access and undue influence granted to corporate lobbyists. The ALTER-EU founding statement of and a list of signatories are available on www.alter-eu.org

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Executive summary

In June 2008, the European Commission launched the voluntary EU lobby register. The Commission committed to evaluate this register after one year, to assess whether the levels of compliance are satisfactory and the register contributes to the aim of improving transparency about EU policy-making.

In this report, we have analysed compliance with the current register, as well as the quality of the information provided by registrants. Our research clearly shows that the voluntary approach is failing to secure adequate coverage. While the number of registrations has increased over the past 12 months, the overall compliance rate for Brussels-based lobby groups is far too low, at less than 23%, and some categories of interest representatives are boycotting the register altogether. At the same time, the quality of information disclosed in the register is questionable, especially where it concerns financial and client disclosure. Furthermore, key information such as names of lobbyists is missing completely.

This leads ALTER-EU to the conclusion that the Commission's voluntary approach is a failure, and that the register needs a fundamental overhaul. To restore the credibility of its transparency agenda, the European Commission must address the flaws in its lobby register. Our main findings as well as detailed recommendations for improvement are laid out below.

Low levels of compliance

By 25 May 2009, only 1488 organisations had registered. Only 593 of them have offices in Brussels. This means that **only 22.8% of Brussels-based lobby entities have registered so far**, based on the European Parliament's estimate of 2,600

lobby groups with offices in Brussels in 2000. Registration levels are low for all categories of "interest representatives". **Many of the major lobby firms, corporations and industry lobby groups with offices in Brussels are still missing from the register.** Large law firms which provide lobbying services and most Brussels-based think tanks are boycotting the register completely. This is a very serious problem for the credibility of the register that cannot be overcome without a mandatory approach.



Recommendations to improve compliance

1. Tackle non-compliance

Immediately introduce effective measures to make non-compliance as hard as possible, including for law firms and think tanks. For example, access to formal meetings, advisory bodies and consultation processes in the EU institutions should be made conditional to fulfilling lobbying disclosure obligations. Linking the Commission register to the Parliament register will not make the system de facto mandatory, contrary to what has been suggested. The Parliament scheme allows thousands of lobbyists to enter on day passes without registering.

2. Take steps to develop a mandatory register

Develop a mandatory system to replace the current voluntary one, as requested by the European Parliament in its May 2008 resolution.

Financial disclosure rules too vague

The Commission's reporting requirements are too confusing and misleading. **Lobby consultancies can avoid meaningful financial disclosure and hide the size of the lobbying work** they undertake for clients. The option to report clients in ranges of 10% of consultancies' turnover conceals the size of the activities, favours large firms over smaller ones and is not transparent. The highest expenditure range now is ≥ 1 € million, making it impossible to assess the size of the lobby activities of larger lobby firms and to estimate total lobby expenditures in Brussels.

It is currently **impossible to find out how much a company is spending on lobbying** in Brussels. Their financial contributions to registered lobby consultancies are listed in wide and vague ranges. Contributions to unregistered lobby groups often go unmentioned with the excuse that it 'avoids double-counting' and, therefore, they do not appear at all. Contributions to various industry lobby federations are generally not reported either. A similar problem exists with corporate contributions to think tanks that are not required to specify their income sources. A consistent approach is needed.

The absence of a clear definition of what to include when calculating lobby expenses allows **lobby firms, corporations and business lobby groups** to register amounts that are almost certainly lower than their real spending.

Currently registrants in different categories are instructed to calculate data in different ways. While industry lobbyists are asked to give a "good faith estimate" of their lobbying expenditure in Brussels, public interest organisations are asked to disclose their total budget. This creates confusion and makes **comparisons of spending in different categories impossible**.



Recommendations to improve the quality of financial information

1. Make financial disclosure requirements more precise

Establish more precise reporting ranges of €10,000. The 10%-option for lobbying firms should be removed completely. Remove the option to report lobby budgets as " ≥ 1 € million". Consultancies with large lobbying turnover must also provide genuine transparency.

2. Close all loopholes

Develop clear guidelines on double reporting. Contributions to unregistered lobby groups, federations and think tanks must be revealed.

3. Think tanks should list their funders and the respective income figures

4. Provide clear guidelines on how to declare lobbying expenditure

Clarify what should be included in the calculation of lobbying expenditure. Not only should costs related to direct lobbying efforts be declared, but rather all costs of 'activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions', as originally foreseen by the Commission. ALTER-EU and the EU Civil Society Contact Group have developed a comprehensive set of guidelines for financial disclosure which could serve as an example.

5. Make data entries comparable

All registrants should be asked to report financial data according to the same guidelines and in the same format.

6. Introduce the obligation to report more frequently

(twice a year), with official deadlines for when reports need to be filed.

Important information missing

An EU citizen visiting the register will search in vain for **names of individual lobbyists**. Only when the names of individual lobbyists are disclosed will it be transparent who is lobbying the EU institutions and how many lobbyists are roaming the corridors in Brussels. Providing names also makes it possible to identify potential conflicts of interest as, for example, in the case of Commission officials who pass through the revolving door to private sector lobbying jobs. Furthermore, identities of clients often remain a mystery, for example, when they are only listed as an abbreviation instead of their full name.

Currently, the register gives only very general information about areas of interest of a lobby organisation. It does not give any **information on 'issues lobbied on'** - let alone legislative dossiers - making it impossible to assess the strength of a lobby campaign on a given policy area.

The Commission allows **some problematic exceptions**. Currently, "activities in response to the Commission's direct request" are exempted from disclosure, allowing lobbyists and interest groups to hide part of their lobbying activities (and the related expenses). The exception means that interest groups with close relations to the Commission that are frequently invited to committees, hearings and expert groups, are permitted to register lower amounts than other interest groups. Another random exception is for example the option for lobby consultancies to not report activities on competition policy.

These loopholes go against transparency. In its current form, the register is **unfit to answer even the most obvious questions**, such as which are the biggest lobby groups or biggest spenders? How much has an organisation spent on different types of lobbying – in-house, consultancies, lobby groups, think tanks, etc? How many lobbyists are active on any given issue, and who paid for them?



Recommendations to include other essential information

1. Provide transparency over the identity of lobbyists and clients

Names of individual lobbyists must be listed as demanded by the European Parliament in its May 2008 resolution. Information about any previous government employment or parliamentary positions should also be included. Clients should be listed with full name of organisation or firm.

2. Include information on 'issues lobbied on'

Include the obligation to report in specific directives, reports and dossiers lobbied on, and where appropriate, on whose behalf and with which budget.

3. Terminate problematic exemptions

Exemptions granted to specific sectors like competition policy or for specific activities, such as "in response to the Commission's direct request" should be terminated.

4. Improve the search and compare functions of the register

Technical improvements should be made that allow answering basic questions and making comparisons.

Ineffective oversight

The Commission has **not set up a monitoring mechanism that checks unrealistic registrations**. The register increasingly suffers from 'clutter', with registrations by associations from across the EU that do not engage in EU lobbying. There is no oversight body that checks whether the information provided by a registrant is correct, or whether the registrant indeed exists.

At the same time, the Commission's **complaints procedure** for incorrect or misleading registrations **has proved ineffective**. Unrealistic information has not been dealt with appropriately.

No effective sanctions for non-compliance, providing false information or disregarding the code of conduct are foreseen. Currently, the only possible sanction is exclusion from the register. Since exclusion does not prevent a lobby group from lobbying the EU institutions, this sanction is meaningless.



Recommendations for meaningful oversight

1. Establish an independent public oversight body

An independent public body must ensure that all lobbyists register, provide correct and complete information, report regularly and adhere to rules on the conduct of lobbying.

2. Establish a threshold

This would exempt actors that do little or no EU lobbying to simplify the register and keep it focused on those doing regular lobbying work in Brussels.

3. Improve the complaints procedure

The independent oversight body must have the necessary powers to investigate all alleged breaches of the lobbying disclosure system and initiate specific investigations on its own initiative. Any natural or legal person should be able to file a complaint about violations of EU lobby transparency and ethics rules, and must be guaranteed an investigation and complete answer. Complaints and the outcomes of the investigation must be available to the public via the Commission's website.

4. Set up effective sanctions

Offenders should be excluded and publicly blacklisted. In serious cases such as the submission of false or misleading information, further administrative sanctions or fines are necessary. The Commission should consider the option of criminal prosecutions against serious and persistent offenders. This is already the case in the United States.

Background and Overview

The European Commission's Register of Interest Representatives was intended to create transparency around the practice of lobbying in Brussels. The register was launched on a voluntary basis and the Commission hoped that the integrity and public spiritedness of lobbyists would mean that the vast majority would declare their lobbying activities.

After one year of the register the Commission strategy already looks hopelessly adrift. Many lobbyists shun the register. Among those that do disclose there are serious shortcomings in the information placed in the register, as lobbying activities and expenditures are calculated using widely divergent criteria. The overall effect is a piecemeal register that creates the illusion of transparency around the lobbying process: beneath this surface impression there are serious deficiencies that the Commission must repair if this important transparency initiative is not to fall into disrepute.

Some months ago, Commissioner Kallas wrote in [a comment for the EUobserver](#): "We have also clearly announced mandatory registration if our gentle persuasion to join us voluntarily is not heard." The time for taking this step has come.

1. Overall participation in the register – less than 23%

When it launched the voluntary lobby register in June 2008, the European Commission announced that it would evaluate the register after one year of operation, “in particular regarding participation. If it proves to be unsatisfactory, compulsory registration and reporting will be considered”. The Commission did not say what criteria it would use for its evaluation. ALTER-EU criticised the Commission for not setting any criteria, since this risks leading to an arbitrary evaluation of how effective the voluntary approach has been in stimulating lobby registrations. In our view, the register should capture at the very least the 2600 interest groups with permanent offices in Brussels.ⁱⁱ

In December 2008, the Commission claimed that, in the first six months its register had got off to a “good start”, and that registration was “progressing well”.ⁱⁱⁱ The Commission acknowledged that consultancy firms, law firms and think tanks were “still not signing up quickly enough”, but expressed optimism that this would change very soon, anticipating “that all image-conscious interest representatives committed to transparency will register in the coming weeks.”

On 25 May 2009, the total number of registrants had reached 1488, including irrelevant registrations and register clutter (see section 2 below). This is an increase from the 871 organisations that had registered by 23 January 2009 (the time of our previous assessment). The increase comes from all categories except lobbying law firms and think tanks, which remain almost totally absent from the register. Overall, the number of registered lobby firms remains very low, and most members of SEAP (the Society of

European Public Affairs Professionals) and EPACA (the European Public Affairs Consultancies Association) have still not registered (see section 3 below).

Almost a year after the launch of the register, it is clear that the voluntary approach is not successful in stimulating full participation of EU lobby organisations.

A lack of transparency from SEAP and EPACA

The failure of the voluntary register is confirmed by focusing on some of the arguably most “image-conscious” of all EU lobby actors: SEAP and EPACA, the two lobby groups defending the interests of commercial lobby consultants.

Both have had a high profile in the four-year debate around the European Transparency Initiative, consistently denying the need for regulation. SEAP was a firm defender of self-regulation and a voluntary register, so one might expect its members to take the lead in making the Commission’s voluntary approach a success.

The figures after almost one year are sobering. SEAP’s members are individual lobbyists, who work for 162 firms and organisations. Of these 162 firms and organisations, just 55 - about 34% - have joined the register. This means that almost two-thirds of the companies in SEAP haven’t registered.

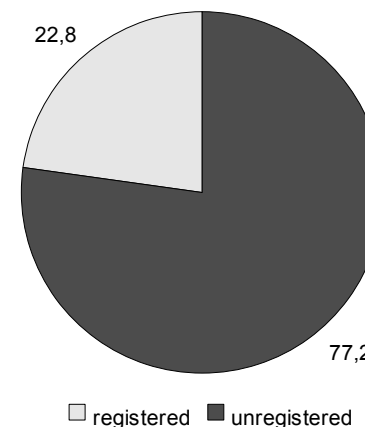
This low registration rate is even worse than the findings of an EurActiv survey, [What do EU Actors think of the European Transparency Initiative?](#), which found that 55% of federations, 53% of consultancies and 41% of businesses do not intend to participate at all in the voluntary lobbyists register. Of EPACA’s 36 corporate members, 21 are in the register: about 58% of its membership.

How many lobby organisations are there and how many have registered?

In a working paper published in 2003,^{iv} the European Parliament's Directorate-General for Research estimated that "in 2000, about 2,600 interest groups had a permanent office in downtown Brussels". Over the last nine years, the total number of Brussels-based lobby entities is likely to have increased substantially. According to the Commission's guidelines, lobbyists targeting EU institutions from offices in London, Paris, Berlin and other capitals across the EU should register, too.

Just 593 of the 1488 total registrants have an office in Brussels, although this is not always their main office. **Based on the European Parliament's figure of 2,600 lobby entities in Brussels, less than 23% of Brussels-based lobby entities have registered so far in the Commission's lobby register.**

The annual European Public Affairs Directory^v lists a good sample of Brussels-based corporate lobby offices, lobby firms, professional and industry associations, think tanks and other actors that try to influence EU decision-making. As with our assessment in January, in the remainder of this report we will compare the number of registrants in the Commission's register with the numbers of "interest representatives" in the different categories listed in the European Public Affairs Directory. Where relevant, we will also compare the register entries with other listings, such as the Agenda Booklets published by European Agenda.



ⁱ European Commission, The Commission's register of interest representatives – frequently asked questions. 23 June 2008

ⁱⁱ The figure is from the year 2000. See [Lobbying in the European Union: current rules and practices](#), Working Paper, Directorate-General for Research, European Parliament, April 2003.

ⁱⁱⁱ [Good start of Commission's Register for Interest Representatives](#), European Commission press release, 22 December 2008.

^{iv} See [Lobbying in the European Union: current rules and practices](#), op.cit.

^v European Public Affairs Directory 2009, Dod's Parliamentary Communications.

2. Problems with irrelevant registrations and 'register clutter'

Of the 1488 lobbying actors having registered so far, many should probably not have registered at all as they seem to do no EU lobbying. For the purpose of transparency, it is unhelpful if the register lists a large number of organisations that are irrelevant, while at the same time many of the biggest players in EU lobbying are missing.

If the register is to give “more visibility” of lobbyists and of “who is doing what”, as Commissioner Kallas stated its aims,^{vi} then the Commission should discourage irrelevant entries in the register. There are hundreds of thousands of businesses, industry lobby groups, think tanks and non-governmental organisations in the 27 EU member states that might add their names to the register, but this is clearly not the point of a lobby register that is supposed to capture those organisations involved in influencing EU policies.

This is not to blame those organisations who have registered even though they do not lobby the EU; the problem stems from the Commission's failure to clarify who is supposed to register (and how). Numerous organisations have registered because they are under the impression that they are supposed to do so, for example, because they receive some EU funding.

When assessing the participation rate in the Commission's lobby register, irrelevant entries should be excluded since they artificially inflate the total number of lobby registrants. The Commission should take an active role in advising groups that register although they do not engage in interest representation, and should discourage such registrations.

The Commission's definition of lobbying

In the Frequently Asked Questions published on the register website, the Commission provides broad, but not precise, guidance on who should register and which activities should be considered “interest representation” (lobbying):

The European Commission requires that: **“All entities engaged in activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions”** are expected to register.

These activities include: contacting members or officials of the EU institutions, preparing, circulating and communicating letters, information material or argumentation and position papers, organising events, meetings or promotional activities (in the offices or in other venues) in support of an objective of interest representation. This also includes activities that are part of formal consultations on legislative proposals and other open consultations. Certain specific activities do not fall within this scope:

1. Activities of legal and other professional advice, when they relate to the exercise of the fundamental right to a fair trial of a client, including the right of the defence in administrative proceedings;
2. Activities of the social partners when they are part of the Social Dialogue;
3. Activities in response to the Commission's direct request.

The register clearly needs a threshold exempting groups that hardly do any EU lobbying from the obligation to register. Moreover, the Commission should clarify that groups receiving EU funding are not obliged to register, unless they are involved in EU lobbying. In the US and Canada, there are thresholds which mean that citizens, community groups, small businesses or entities that are not lobbying on a regular basis and do not have significant budgets are

Examples of entries that 'clutter' the register

The German Erotic Trade Association, [Unternehmerverband Erotik Gewerbe Deutschland e.V.](#), reports estimated lobbying costs of €10.

"[A Micro Level Analysis of Violent Conflict](#)", an EU-funded research project (FP6 Integrated Project), is registered mentioning a total budget of €1,290,508 and estimated lobbying costs <50,000 €.

[SURFRIDER FOUNDATION EUROPE](#) reports a total budget of €770,575, but its estimated lobbying costs are zero. The group once launched an online petition on plastics and other waste in seas, but with a lobby budget of zero, it is questionable whether they should register.

"[SYLLOGOS MANIATON KALLITHEAS](#) is a Greek cultural NGO that receives EU funding, but seems to do no EU lobbying at all. It reports a total budget of €72,140, while its estimated lobbying costs is zero.

There are many tiny, local NGOs in the register, all with EU lobby budgets of zero or next to nothing, for instance: [Volontari d'Europa](#): total budget €140, estimated lobbying costs: none; [Ze Mazatl \(Mexico\)](#): total budget: €1,000, estimated lobbying costs: none; [Associazione "amicizia senza confini" \(Italy\)](#): total budget: €10,000, estimated lobbying costs: none; [Associazione Meklaie-Onlus O.n.g. \(Italy\)](#): total budget: €1,441, estimated lobbying costs: <50,000 €.

exempt from disclosure obligations. ALTER-EU recommends introducing such a measure for the EU lobby register.

In February *EUobserver* published a series of articles about dubious or even false entries in the Commission's register. One article focused on one Gennaro Ruggiero who registered a string of seemingly fake companies and NGOs, including "Fares Bank Ltd" of Harley Street, London.^{vii} Ruggiero claimed this firm had spent €250 million on lobbying EU institutions in 2008, which – if true – would have made it the biggest spender of all listed in the register. As a result of the embarrassing media coverage, the Commission has since removed the entries of Fares Bank Ltd and several other of Ruggiero's from the register.

Another *EUobserver* article revealed that the Cheerleading Federation of Ireland had registered and "reported that it had spent up to €50,000 lobbying the EU executive institution on cheerleading policy".^{viii} In fact, the group had not done any EU lobbying at all. A representative of the group commented that "It's just a misunderstanding. We only signed up in the hope of getting some recognition and funding, thinking we could apply for grants."

The cases highlighted in the *EUobserver* articles are unfortunately far from unique, as the examples in the box (left) show. With all respect for the activities of these organisations, they do not seem to belong in the European's Commission register of lobbyists.

^{vi} "EU Lobby Groups Under Fire", EUPolitix.com, by Brian Johnson, 19 July 2005

^{vii} "Italian prankster spams EU lobbyist register", *EUobserver*, Leigh Philipps, February 13 2009, <http://euobserver.com/9/27602>

^{viii} "Irish cheerleaders mistake lobby registry for grant application", *EUobserver*, Leigh Philipps, February 19 2009, <http://euobserver.com/?aid=27644>

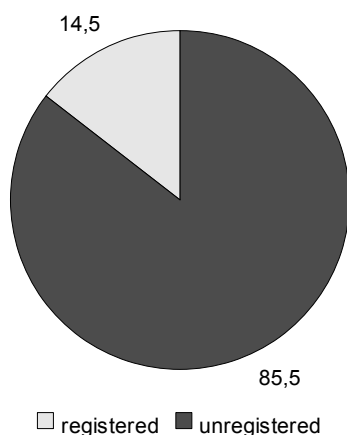
3. Participation according to categories of organisations

In this section of the report, we analyse compliance levels.

Lobby firms – less than 15% have registered

To date 48 lobby firms have registered, 29 of which have Brussels offices. Many of the major Brussels lobby firms are still missing from the register, including Clan Public Affairs, DLA Piper, Edelman, Grayling Political Strategy, Kellen Europe, Ogilvy, Pleon and Weber Shandwick.

lobby firms registration



The European Public Affairs Directory lists 165 consultancies in Brussels. Only 24 of these have joined the Commission’s register, putting the compliance rate for this crucial category at less than 15%.

Lobbying law firms – boycott continues

Among the 1488 entries in the European Commission’s lobby disclosure register on 25 May 2009, only six are listed in the law firms category. Just one of them (FIDAL) has an office in Brussels; the rest are based in Spain, Italy and Denmark. None of the big lobbying law firms are listed.

Given that the Commission expects all law firms providing lobbying services to register and to disclose their lobbying turnover and the names of their clients, the lack of registrations by lobbying law firms is remarkable. Almost a year after the launch, the Commission is facing a coordinated boycott on the part of the law firms. This boycott follows fierce lobbying in 2007-2008 by them to avoid being covered by EU lobby disclosure obligations.

The role of law firms in corporate lobbying is often underestimated. In the US, the top five biggest lobbying firms are all law firms. In Brussels, law firm lobbying is also a booming business, partially as a result of large US law firms expanding into Europe and the arrival of new European ‘lobbying law firms’ like Alber & Geiger. Law firms provide strategic lobbying advice, draft legislative wording for their clients to present to decision-makers and engage in direct

lobbying on their clients' behalf. In providing such services, law firms are often directly competing with Brussels-based public affairs consultancies.

An academic study published in 2002 found that law firms dominate the EU-related consultancy market in Brussels, with over 47% of the turnover (312 million out of 663 million euro in 1998) and 46% of staff; far more than both PR and lobby consultancies.^{ix} Brussels-based law firms, the survey shows, employ on average 18-20 employees.

The European Public Affairs Directory includes no less than 110 "law firms specialising in EU matters". Not all of them offer lobbying services, but many do, as can be seen on the websites of the Brussels offices of DLA Piper, Mayer Brown, Freshfields Bruckhaus Deringer, Clifford Chance and WilmerHale.

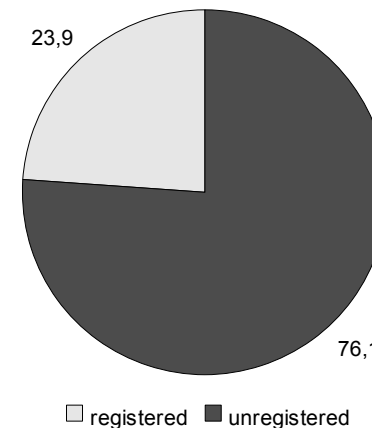
The US move from a voluntary to a mandatory lobby disclosure system in the mid-1990s was partially the result of law firms refusing to disclose their lobby activities. The Brussels-based law firms are giving the European Commission every reason to follow the US example.

Companies – largely absent

One of the most striking – and disappointing – features of the current register is the continued boycott of the lobbying registration process by a massive majority of large companies, who are at the core of public concern regarding undue corporate influence over the public policy process. To date only 206 companies have registered their in-house lobbying. This is considerably less than the number of in-house lobbyists currently featured in a widely used European Public Affairs Directory (EPAD) trade directory.

Of the 330 companies listed in the EPAD, just 79 feature in the Commission's register, well below 25%. In the last few months the number of large corporations registering has increased, but the compliance rate remains low. Numerous large firms with EU lobbying offices in Brussels have not registered.

companies registration



A quick comparison of the company declarations in the EC register and the entries in the Agenda Booklet 'What's on in Political Brussels' (published by European Agenda in July 2007) is revealing: over 60% of the published company representations in Brussels (pp 1-33) have not entered the European Commission's register. This appears to be a very public rebuke to the Commission – many leading corporations who are clearly actively lobbying in Brussels have declined to voluntarily register.

Among the companies appearing in the Agenda booklet, but not registered with the Commission are: AIG; Alcan; Apple; AstraZeneca; AT&T; BAE Systems; Barclays; Bertelsmann; Boeing; British Airways; Caterpillar; Cisco; E-on; Electrabel; ebay; EDF; Eli-Lilly; Ericsson; Fortis; Heinz; Hewlett Packard; Honeywell; HSBC; Mastercard; Merck Sharp & Dohme (MSD); Mediaset; Monsanto; Morgan Stanley; Nestle; Nokia; Pioneer; Rolls Royce; Syngenta; UPS; Vattenfall; and Vodafone. At the very least one would expect that the salaries, office costs and associated resources devoted to lobbying by these companies, whose own lobbyists and business addresses are published in trade directories, should be declared in the EC register.

Lobby consultancy giant Burson Marsteller's lobbying declaration lists 63 different clients, all of whom fall in the 0-10% declaration category. Only 12 of these clients have their own in-house registration on the EC database. The rest do not have in-house registrations, and are not mentioned anywhere else in the Register of Interest Representatives. This reporting gap includes several politically active corporations on the Brussels lobbying scene. Companies such as British Telecom, Danone, De Beers], Eli Lilly and ICL all fail to declare their in-house lobbying activity on the EC register.

Similarly, 28 of the 42 clients declared by Hill & Knowlton do not declare any in-house lobbying in the EC register. Indeed, the vast majority is not mentioned anywhere else in the register, which could be interpreted to mean that these 28 clients do not undertake any lobbying or political activity of their own and rely solely upon Hill & Knowlton to do their bidding. However, such an interpretation is likely to be very misleading. If the Hill & Knowlton registration is taken to be a true account of lobbying activity then we must believe that major corporations like Alstom, Adidas, American Express,

Cathay Pacific, Hewlett Packard, Kellogg's and Merrill Lynch do not engage any in-house staff in EU interest representation.

Clearly the scope and coverage of the lobbying register is rendered problematic given disclosure avoidance by so many corporations. However, there are also a number of problems with the company disclosures in the current register.

The picture that emerges from an analysis of the in-house registrations by companies is complicated by the different reporting regimes employed. It should be noted that there appear to be some examples of full and frank disclosure of lobbying activity, but these are outnumbered by numerous entries that are minimalist, and sometimes evasive, in terms of disclosure and transparency.

Business associations

With 510 entries, the participation of business associations in the register is above average, although it is hard to estimate the total number of trade associations and other industry lobby groups with Brussels offices. But many of the most well-resourced and powerful industry lobby groups are still missing from the register. Examples include the European Roundtable of Industrialists (ERT), CIAA – the lobby umbrella of food and drink corporations, Croplife International, European Construction Industry Federation (FIEC), European Seed Association and CEMBureau.

Business Associations registration

Union européenne de l'Artisanat et des petites et moyennes entreprises, aisbl	1,561,000 EUR	HOTREC, Hotels, Restaurants & Cafés in Europe	700,000 EUR
Deutscher Industrie- und Handelskammertag e.V.	1,500,000 EUR	International Swaps and Derivatives Association	650000 EUR - 700000 EUR
European Banking Federation	>= 1000000 EUR	Verband der Chemischen Industrie, e.V.	650000 EUR - 700000 EUR
European Farmers	>= 1000000 EUR	European Broadcasting Union - Union Européenne de Radio-Télévision AISBL	650000 EUR - 700000 EUR
European insurance and reinsurance federation	>= 1000000 EUR	Bureau International des Producteurs d'Assurances et de Réassurances	600000 EUR - 650000 EUR
Federation of European Securities Exchanges	>= 1000000 EUR	Association des Constructeurs Européens d'Automobiles	550000 EUR - 600000 EUR
Federazione Italiana dell'Industria Alimentare	>= 1000000 EUR	BUSINESSEUROPE	550000 EUR - 600000 EUR
Fédération des Experts comptables Européens	>= 1000000 EUR	EFET	550000 EUR - 600000 EUR
European agri-cooperatives	>= 1000000 EUR	UNIFE	560,000 EUR
Associazione Italiana Intermediari Mobiliari	>= 1000000 EUR	European Tyre & Rubber Manufacturers' Association	500000 EUR - 550000 EUR
Zentralverband des Deutschen Handwerks e.V.	1,000,000 EUR	Motion Picture Association	500000 EUR - 550000 EUR
National Association for Consumer Protection in Hungary	947,928 EUR	European Newspaper Publishers' Association	500,000 EUR
EUROPEAN COMMUNITY SHIOWNERS' ASSOCIATIONS	942,714 EUR	Association Française de la Gestion financière	500,000 EUR
Bundesverband der Deutschen Industrie e.V.	900000 EUR - 950000 EUR	European Federation of National Associations of Water and Waste Water Services	498,500 EUR
Bundesvereinigung der Deutschen Arbeitgeberverbände e.V.	900000 EUR - 950000 EUR	Bundesverband deutscher Banken e.V.	450000 EUR - 500000 EUR
Gesamtverband der Deutschen Versicherungswirtschaft e.V.	900000 EUR - 950000 EUR	Bundesverband Informationswirtschaft, Telekommunikation und neue Medien e. V.	450000 EUR - 500000 EUR
Association avicole du Gers	850000 EUR - 900000 EUR	Confederation of Danish Industry	450000 EUR - 500000 EUR
Deutscher Sparkassen- und Giroverband	850000 EUR - 900000 EUR	EuroCommerce	450000 EUR - 500000 EUR
Association of British Insurers	850000 EUR - 900000 EUR	European Committee of Domestic Equipment Manufacturers	450000 EUR - 500000 EUR
Securities Industry and Financial Markets Association	850000 EUR - 900000 EUR	European Plastic Converters	450000 EUR - 500000 EUR
Verband Deutscher Maschinen- und Anlagenbau e.V.	800000 EUR - 850000 EUR	European Wind Energy Association	450000 EUR - 500000 EUR
EuropaBio	750000 EUR - 800000 EUR	Foreign Trade Association	450000 EUR - 500000 EUR
International Association of Oil & Gas Producers	740,000 EUR	Fédération Française des Syndicats de Fabricants d'Articles de Papeterie	450000 EUR - 500000 EUR
Bundesverband Öffentlicher Banken Deutschlands	700000 EUR - 750000 EUR	National Farmers' Union	450000 EUR - 500000 EUR
Investment Management Association	700000 EUR - 750000 EUR	CLECAT	450000 EUR - 500000 EUR

Think tanks refuse lobby transparency

One of the strongest aspects of the Commission's register is that it "takes a broad view of 'lobbying', including public affairs consultancies, corporate lobbyists and law firms to NGOs and think tanks."

The Commission estimates that there are 63 Brussels-based think tanks that should register. But hardly any of the major Brussels think tanks have so far registered. Most of the 25 registered think tanks are not based in Brussels and many are not actually think tanks at all but would fit better in other categories.

The reality is that the Commission is facing a boycott from most Brussels-based think tanks, including high-profile Brussels institutes like **Friends of Europe**, the **Center for European Policy Studies** and **Bruegel**. In March, *Het Financieele Dagblad* quoted Matt Dann of the think tank Bruegel: "We object to the fact that the Commission places us in the same category as lobbyists. Our aim is to contribute to the quality of policies by delivering research, debate and analysis based on facts. This is a matter of principle. We are not lobbyists, so we will not register in a lobby register."

European Commissioner Kallas deserves praise for his insistence that think tanks must join the register as their activities are aimed clearly at influencing EU decision-making. In a speech in April, Commissioner Kallas restated this very clearly and highlighted the example of Friends of Europe. The events organised by this Brussels-based think tank are routinely sponsored by corporations and are clearly intended as lobbying opportunities. Kallas mentioned the example of the Friends of Europe debate on investing in Africa's growth and health, which involved the EU Development Commissioner, MEPs and other decision-makers, and was sponsored by French oil giant Total.

In return for its sponsorship, two company speakers appeared as panelists.

Kallas' remarks sparked an angry reaction from Friends of Europe boss Giles Merritt, who stated that think tanks have "major reservations about volunteering to classify themselves as lobbyists when they so clearly are not". In fact, however, most Brussels-based think tanks are involved in "activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions" (which is the Commission's definition of lobbying).

Some think tanks are themselves promoting specific political agendas, sometimes on behalf of or in cooperation with corporate funders. This is most clearly the case with radical free-market think tanks like the **Centre for a New Europe**. Other think tanks are acting as service providers for their wealthy corporate membership, providing them with a platform for influencing EU decision-makers. This is the case with Friends of Europe and other think-tanks founded by Mr Merritt, such as **Forum Europe** and the New Defence Agenda (later renamed Security & Defence Agenda).

The proximity between think tanks and the lobby consultancy sector was illustrated by the merger last year of Forum Europe and Epsilon Events, creating "the largest EU affairs-dedicated events management outfit in Brussels".

Commissioner Kallas responded with a letter to Mr Merritt, in which he argued that "It would surprise me somewhat if you would equally object to the qualification of Friends of Europe as an 'interest representative', considering the claim on your own website that paid membership of 'Friends of Europe' offers 'maximum visibility' and 'a genuine opportunity to have a stake in the EU's future direction'. Such

indirect representation must be captured for the register to be taken seriously.”

For large corporations, sponsoring think tank activity is one of numerous channels available in their lobbying strategies, in addition to in-house lobbying, working via industry coalitions, hiring a lobby consultancy etc. The Commission is therefore completely right that think tanks must join the register so their role in EU lobbying becomes visible. The voluntary approach, however, is again not working here.

In the US, think tanks are not covered by lobby disclosure legislation, but transparency campaigners are advocating that this massive loophole is closed. [J. H. Snider from the New America Foundation](#) proposes to "require think tanks - like lobbyists and political candidates - to disclose their donors; the disclosure rules for think tank lobbyists should be subject to at least the same standards as their non-think-tank colleagues, with the resulting lobbying information integrated into a single, easily accessible lobbyist disclosure database".

NGOs and trade unions

There are 329 NGOs on the Commission's register. The European Parliament estimated that there were 260 NGOs with offices in Brussels in 2000. (Some business associations have also registered under the Commission's 'NGO' category, whereas the European Parliament figure refers to non-commercial public interest groups only.) There are a number of irrelevant registrations in the NGO category, and there are also still a number of public interest groups with EU lobbying activities that are not on the register.

44 trade unions have so far registered, more than a doubling since January. A closer look shows that many national unions have registered, whereas the European federations have often not.

^{ix} "Commercial consultancies in the European Union: the shape and structure of professional interest mediation", Journal of European Public Policy, 9:5 October 2002, page 695-714.

4. Quality of information in the register

Gplus temporarily suspended from the register for hiding clients

Gplus, one of the largest Brussels-based lobby consultancies, joined the register in December listing 36 clients, but stating that three clients had declined to be included. On 15 January, Gplus' registration disappeared from the register website. The Commission explained that: "The registration of GPlus Ltd. has been suspended, as it had not been completed yet."

By not naming three of its clients, Gplus obviously violated the Commission's requirements for registration: firms "must publish a full list of all customers on behalf of whom you have lobbied EU institutions. If you do not do so, your registration cannot be accepted". It appears that GPlus tried to ignore this rule and the Commission deserves praise for taking immediate action. A few weeks after the suspension, GPlus was allowed back on the register after having disclosed four previously unnamed clients. The confidentiality agreements between GPlus and these clients proved to be less sacrosanct than suggested initially.

By following up on this case and forcing publication of unlisted clients' names, the Commission has set an important precedent. The GPlus case, however, was perhaps unique because the firm explicitly mentioned that it had excluded clients from the registration. It is impossible to know, however, whether Gplus is the only registrant that violated the rules. Last autumn, a number of spokespeople from Brussels-based lobby consultancies made it clear that they would not disclose the names of clients who did not want to be identified. Jose Lalloum, the head of EPACA, said: "If the contract with the client stated somewhere that they did not want their name to be disclosed to the outside world, then the [company] cannot do so." This underlines the need for the Commission to pro-actively assess in how far consultancies have indeed listed all their clients.

Completeness of information

Full disclosure of clients? One of the ways in which the register has contributed to improved transparency around lobbying is that the registered lobby consultancies now disclose their clients. Consultancies often refuse to disclose this information, arguing they have promised their clients confidentiality. This secrecy should in principle now stop. At least for those consultancies that have joined the register, it is now possible to find out who they are lobbying for. The question remains, however, as to whether the client lists submitted to the register are complete and accurate.

Quality of financial information

Insufficient and misleading financial data: While many clients are now disclosed, it is impossible to know how much these clients pay and what they pay for. The key questions for the EU lobby disclosure system are: who lobbies on whose behalf, on which issue and with what budget. Only the first of these three questions is answered under the current system and only for the minority of lobby consultancies which have voluntarily registered.

When designing the reporting requirements, the Commission chose to allow consultancies to effectively hide the scale of their work for each client. Consultancies can choose to list clients according to the share of the clients' fees compared to the

consultancy's total turnover. This results in almost all major lobby consultancies listing all their clients in the "<10% category". Clearly the current requirements for consultancies do not result in meaningful financial disclosure. Far more precise bandwidths – in ranges of €5,000 or perhaps €10,000 – are needed to ensure that meaningful financial data is made available.

Even more problematically, there is no clear guidance on how to calculate lobbying expenditure, making the financial data in the register even less transparent. Because the Commission has failed to provide clear guidelines, consultancies can use whatever interpretation of the figures they choose. This has led to a wide range of different interpretations of what 'lobbying' involves.

At a November 2008 conference in Brussels, Catherine Stewart, chairman of Interel Cabinet Stewart and vice-president of the Society of European Affairs Professionals (SEAP), said that in her view only 20% of a fee should be counted as lobbying. For lobby firms, whose primary function is to help clients achieve political influence, this is an unreasonably low estimate. The Commission has made it clear that it defines lobbying in a broad sense – including preparation work, as well as any actual lobbying – but unfortunately it has failed to provide specific definitions. This enables consultancies to use whatever interpretation of the figures they choose. The result is, of course, a register where no comparisons can be made, creating confusion rather than clarifying who lobbies for whom, on which issues and with what budget. The Commission, when designing its register, has allowed the lobby consultancy firms to escape meaningful financial disclosure. This becomes clear from the examples of Hill & Knowlton and Burson Marsteller.

Hill & Knowlton

Judging from the data declared for 2007, the giant PR and lobbying firm Hill & Knowlton (H&K), appears to be the biggest lobbyist in Brussels in terms of self-declared turnover devoted to lobbying. This amounted to €8,143,400 according to the EC voluntary register. While this is an eye-catching figure it is worth unpicking the data to see what it really tells us about lobbying in Brussels and what degree of transparency there is in relation to the activities paid for by over €8 million in corporate cash.

With 42 clients declared, we could guess or assume that the average Hill & Knowlton contract is worth some €194,000. However, such an average is likely to be quite misleading. Under the current disclosure system it is possible that some of the contracts may be worth up to €800,000 (which would be less than the 10% of turnover threshold that the EC has implemented). So, this disclosure regime does not really add much transparency to the crucial question of the resources devoted to lobbying effort – in effect a tiny lobbying contract for say €5000 is declarable in the same category as a significant lobbying effort of up to €814,339.

What other forms of transparency does the register deliver? Still with the Hill & Knowlton registration, we learn the names of their 42 clients in the reporting period of 2007. Twenty of these clients are already declared on the Hill & Knowlton website, which also mentions a further 17 clients that do not appear on the EC register. Part of the reason for this could be that these may be new clients and new business since the 2007 accounting period. This would illustrate another problem with the voluntary register – the information it brings into the public domain is outdated. Quarterly or half-year mandatory disclosure would address this problem, and make visible to anyone interested what lobbying is

ongoing and how much is being spent on efforts to influence the European institutions.

Burson Marsteller

A similar analysis of the Burson Marsteller registration reveals that, according to self-declared figures, this consultancy is one of the major lobbying organisations in the EU. With a declared turnover of €6,963,000, and representing 63 different clients, Burson Marsteller is a significant player on the EU lobbying scene. But again, there is limited transparency around how such lobbying takes place and what precise issues Burson Marsteller's lobbying focuses on. It is not possible to tell from the registration which of Burson's clients spends only small amounts on lobbying, and which are the big spenders – the category declarations all fall within €0 - €696,300.

Burson Marsteller also deducted "revenue generated by lobbying EU Member State governments where it was distinctly identifiable as such (as we understand the Commission has said this is not covered by the register)." In some respects we have to take this on trust, as from the disclosure it is not obvious whether the lobbying of EU member states governments was on EU policy or EU public affairs. The distinction between EU lobbying and lobbying in Brussels can be hard to draw, but clearer guidance on what to declare, and how to declare it, especially in relation to pan-EU public affairs campaigns is urgently needed. This is especially so as most EU member states lack lobbying transparency laws and lag well behind the OECD guidelines on best practice in lobbying disclosure. This is an important flaw in the current disclosure system.

Inconsistent data from companies: Among the companies that have joined the register, there is a remarkably wide variation in

reported lobbying costs. BASF, Bayer, GlaxoSmithKline, and Telefónica report EU lobbying costs of between €750,000 and €1,000,000 each. Oil giant BP, car makers BMW, Fiat and Renault claim to spend between €200,000 – 250,000 each, while Air France KLM reports just €50,000 – 100,000. The difference is striking and most likely reflects a far too limited interpretation of what should be reported. BP's EU lobbying operations includes an office at the prestigious Rond-Point Schuman, as well as lobbying activities run from London and elsewhere.^x Can this really be done for less than €250,000 per year? In the US, with its more stringent lobby disclosure requirements, BP reports having spent close to US\$ 8 million on lobbying in 2008.^{xi}

When asked to clarify the low number, **BP's** Howard Chase responded: "In order to provide a timely response to the Commission initiative, we registered during the second half of the 2008 financial year. As explained in our submission under 'Financial Data', we have consequently reported on the basis of first half 2008 actual expenditures and we have not sought to forecast for the entire year of 2008. Our view remains that in future such reporting should also be on a historical (and not forecast) basis in line with standard financial reporting practice."

Chase also elaborated on the methodology used for calculating the expenditure: "We have analysed the use of time by my team (four staff including myself) on the basis of our electronic diaries and attributed our total direct costs (staff employment plus office facilities) in the proportion of time used 'for the direct lobbying of all the EU institutions'. It is our understanding that all of this is in line with Commission intentions."

What the Commission expects firms to report, however, is broader than 'the direct lobbying of all EU institutions'. The Commission's definition of lobbying is 'activities carried out with the objective of

influencing the policy formulation and decision-making processes of the European institutions’.

It is unclear whether BP plans to update its registration with the figures for the whole of 2008 any time soon. In any case it can never be the intention of the register that different lobbying actors report for different time periods, such as six months instead of a full year. This kind of arbitrariness is yet another element that makes it impossible to compare figures. The Commission seems not to monitor whether registrants engage in this type of improvisation.

The core of the problem is that the Commission has failed to issue clear instructions about what to include when calculating lobby expenditure. Instead, firms invent their own wildly diverging approaches. Norwegian oil firm Statoil estimates its lobbying expenditure as €65,000 – €70,000. The company also discloses that the total budget of its liaison office in Brussels (staffed with 4 permanent employees and 3 trainees) in 2007 amounted to €1,978,000. In other words, Statoil estimates that a third of the costs of running its lobbying headquarters in Brussels should be considered lobbying costs. French beverages company Pernod reports €460,000, but this includes the rent of its offices, insurances and parking, costs that most other firms exclude from their calculations.

Are small businesses really the biggest lobby spenders?

One would expect that **BusinessEurope**, the European umbrella organisation of business associations, is among the biggest business lobby groups in Brussels. Interestingly, BusinessEurope only reported lobbying expenditure of €550,000 – €600,000.^{xii} This ranks BusinessEurope in only 32nd place among all business associations in the register.

The figures reported by BusinessEurope are far lower than those reported by UEAPME, the umbrella organisation of small and medium sized companies, and also lower than the figures reported, for instance, by the German industry federation BDI (by €900,000 – €950,000), or the hotel owners lobby HOTREC (€700,000). Eurochambres, another major pan-European industry lobby association, but smaller than BusinessEurope in membership and staff, reports a lobbying budget of “>=1 million €”.

The figures disclosed by BusinessEurope certainly seem very low for a pan-European coalition of business organisations, with some 45 staff working in its large Brussels headquarters, plus its enormous amount of working groups involving some 1,200 industry lobbyists from across Europe. It seems that BusinessEurope has not included all of its activities aimed at influencing EU decision-making in the calculations of its lobbying budget and the group's registration is very likely at odds with reality.

The **chemical industry lobby CEFIC**, which employs more than 140 staff at its Brussels headquarters, registered an even less realistic looking figure (<€50,000). However, it added to its October 2008 registration that it “will wait for further guidance” from the European Commission about which activities should be included in the calculation.^{xiii} More than six months later, the registration remains unchanged. For CEFIC, the chemical industry association, to claim to spend less than €50,000 of their €37.9 million annual budget on lobbying is rather provoking. Is CEFIC really spending 0.1% or less of its budget on lobbying? From what is known about current lobbying practice in Brussels, often involving ‘evidence-based’ policy making through information subsidies from outside interests, the core activities of CEFIC clearly count as lobbying. Yet CEFIC pretends that it is simply in the business of producing disinterested scientific reports

The Association shall pursue mainly a scientific purpose by promoting all issues of interest to the chemical industry, in the widest sense, in Europe and in the countries where it operates, and its contribution to sustainable development. The Association shall put in place the following activities in order to fulfil [its aim](#):

- the study of and possible solution for all issues of interest to the chemical industry in the widest possible sense, in particular those of a scientific, technical, environmental, economic, statistical, legal, documentary and institutional nature together with the issues relating to international and European co-operation, as well as research.'

While on [its website](#), one reads the claim that 'CEFIC has grown to become one of the largest and most efficient advocacy network amongst the industry trade organizations in Europe and in the world.' All this for less than €50,000 per year?

The 'Double reporting' trick and other loopholes

When judging the effectiveness of the register as a tool for lobbying transparency, there are several other major flaws that should be mentioned.

Procter & Gamble's in-house registration estimates its lobbying expenditure at €200,000 – €250,000. However, this 'estimate is based on the financial year 2007/2008 and does not take into account industry association membership fees and payments for consultancy services'.^{xiv} Procter & Gamble also appear in the register in the entries for the European Intermodal Association, Hill & Knowlton International Belgium and Informationsforum RFID e.V.

P&G are declared clients of Hill & Knowlton and, as mentioned above, the registration of payments for consultancy services is declared in very broad categories, so one cannot know how much Procter & Gamble directly spend on lobbying consultancy services. All one can deduce from the Hill & Knowlton registration is that payments from Procter & Gamble are not more than €814,339. They could be a lot less. But again, the limits of the registration system mean that you simply cannot build an accurate overview of a company's various lobbying activities based on the reporting criteria set by the Commission.

There are 19 industry associations mentioned in the P&G's registration, including CEFIC, Business Europe, AIM, World Federation of Advertisers, AMCHAM EU, Society of European Affairs Professionals, Club D'Europe, EFPIA (European Pharmaceutical Industry Association) and the European Policy Centre. The combined membership fees of these organizations are likely to run to many thousands of euro, and would appear to be a significant element of P&G's lobbying activity.

Yet one cannot know the relative resources these associations devote to lobbying. Less than half of the industry associations disclosed in P&G's registration – only 9 of 19 – have themselves registered on the Commission database. Interestingly, and rather typically of the inconsistencies across the voluntary register, P&G are also mentioned in the European Intermodal Association registration as a member organization, a disclosure not reciprocated on P&G registration. Moreover, of the ones that have registered, the information provided appears somewhat unreliable.

So what emerges from this disclosure system is an incomplete and imprecise glimpse of Procter & Gamble's lobbying activities. The register does not tell us who is lobbying on behalf of Procter &

Gamble, how much in total P&G spend on all their various lobbying activities, and which pieces of legislation and policy P&G are working to influence. All of this type of information is necessary for a register to be truly effective in making lobbying in Brussels more transparent, and therefore more accountable.

The Commission has recently suggested that the introduction of the register now means that it is possible to see who is spending what to influence the policy process. This claim does not bear scrutiny and a quick check of the data in the register – not to mention the data missing from the register – shows that this claim is simply untrue.

The Commission has recently suggested that the introduction of the register now means that it is possible to see who is spending what to influence the policy process. This claim does not bear scrutiny and a quick check of the data in the register (not to mention the data missing from the register) shows that this claim is simply untrue. Let's take the case of **Novartis**. Until 27 April 2009 there was no in-house registration for this company (which is surprising given that the Novartis International AG entry in the Agenda booklet in July 2007 reveals the address for Novartis public affairs at Rue du Trône 108, 1050 Brussels, and identified Meni Styliadou as the company's European Public Affairs manager).

In the wake of the European Commission and European Parliament joint-register initiative Novartis registered as an interest representative. The in-house declaration states that the company spends between €650,000 and €700,000 on lobbying the EU institutions. Membership of the following organizations is also declared: EFPIA, PhRMA, EBE, EVM, EuropaBio, EGA, AESGP, EUROM-CONTACT, CEFIC, BusinessEurope. In addition, the Novartis declaration mentions that the services of three separate lobbying con-

sultancies are retained: APCO, Burson Marsteller and Hill & Knowlton. So, how much is Novartis spending to influence EU legislation and policy? Well, the aggregate declarations for Novartis means that the lobbying spend is somewhere between €650,000 and €2,802,027. This clearly shows that the banded declarations used by lobbying consultancies can actually obscure how much is being spent on lobbying, rather than adding any meaningful transparency. There are many other examples of this kind of aggregate confusion: for example F. Hoffmann-La Roche also recently registered (20 May 2009), declaring an in-house spend of between €350,000 and €400,000 on lobbying, in addition to retaining three different lobbying agencies: based on the registrations of Roche and the registrations of APCO, Burson Marsteller and Interel Cabinet Stewart, the aggregate potential lobbying spending ranges up to €1,787,689. Based on such data it is impossible to make a fair 'guesstimate' of Roche's lobbying expenditure - the register is clearly not delivering transparency in the terms that the Commission had hoped.

Unilever's in-house registration declares €400,000-€450,000 lobbying expenditure for 2007, and states: 'We have based our calculations on the guidelines developed by the Society of European Affairs Professionals (SEAP). We have chosen for the range to ensure that we capture all costs. The costs are based on the financial year 2007, and do not include trade associations' membership fees. Nor do they include payments to agencies as we have requested these to provide this information in their own registration entries.'^{xv}

The agency declarations for Unilever include APCO, Blueprint Partners and LOGOS public affairs. So, on top of the in-house declaration there could be a further €800,000 spent on lobbying via payments to agencies. Moreover, Unilever declare some 22

memberships, but only 7 of these have in turn registered. In effect, the information declared about Unilever's lobbying is incomplete.

Clearly the lobbying expenditure is considerably more than the in-house declaration, but one cannot be certain how much resource Unilever actually devotes to lobbying. The agency declarations are far too broad and information about membership fees and lobbying via trade associations is insufficient when declared, and very often not captured at all in the current register.

While most declarations from in-house and agencies avoid the problem of double counting, the case of biotechnology company **Amgen** illustrates that under-reporting (i.e. non-counting) is an issue too.

The Amgen in-house registration declares €500000 – €550000 lobbying expenditure for 2008: 'Estimates of our activities connected to direct lobbying of European Commission and European Parliament for specific purposes are approximately €500,000. We have declared a higher figure above in order to err on the side of transparency by including areas which could by a wide definition have a relationship to such lobbying. Estimates do not include payments to third parties such as trade associations, think tanks or consultancies which we understand will be accounted for by the organisations concerned'.^{xvi}

One of the third party consultancies concerned is Fleishman-Hillard. The Fleishman-Hillard entry, however, contradicts the Amgen in-house entry, as it states: 'Clients who have registered on their own are listed below in order to avoid "double accounting" as specified by the European Commission's terms'.^{xvii} Amgen are then listed as a client of Fleishman-Hillard, but it appears that the agency declaration does not include fees from Amgen.

In the Commission's transparency register, **British American Tobacco (BAT)** estimates its costs directly related to representing interests to EU institutions as €150,000 - €200,000 for 2008. Research by Corporate Europe Observatory (CEO) shows that this amount is grossly underestimated.^{xviii} BAT currently has 12 registered lobbyists with passes for the European Parliament.

CEO has found that the company has spent at least another €527,000 on undisclosed contributions to associations lobbying the EU institutions on its behalf, including the Confederation of European Community Cigarette Manufacturers (CECCM), the European Smoking Tobacco Association (ESTA), the European Smokeless Tobacco Council (ESTOC), the European Business and Parliament Scheme (EBPS) and the Freedom Organisation for the Right to Enjoy Smoking Tobacco (FOREST).

The actual amount provided to lobby groups or front groups active in Brussels might be even higher. We estimate BAT's real lobbying budget to be at least five times higher than what is disclosed in the voluntary register. This is a very conservative estimate that does not take into account lobbying budgets spent in member states that are being used to influence EU decisions.

BAT is exploiting the ambiguity of the Commission's instructions about how to avoid double-counting of lobbying costs. Double-counting would, for instance, occur if a trade association lobbying on behalf of member companies disclosed amounts that were also reported by the individual companies. To avoid this, the Commission states in its guidelines for registration, registrants "are encouraged to agree with their partners and clients who reports what".

BAT has clearly failed to ensure that some of its contributions to the above-mentioned lobby groups are being disclosed by these lobby groups. In fact, some of these associations – ESTOC, FOREST, EBPS – have not registered, and therefore BAT should have disclosed these financial contributions itself.

BAT has also failed to report its expenditure on activities labeled as ‘corporate social responsibility’ (CSR), which were in fact lobbying activities. In 2006-2007, under the banner of a so-called ‘EU stakeholder dialogue’, the company secured direct access to at least 42 EU policymakers. The company delivered them with political messages directly related to pieces of legislation then being discussed in Brussels.

BAT argued that it was ‘CSR’ and not ‘lobbying’, but this is at odds with the Commission's definition: “all activities carried out with the objective of influencing the policy formulation and decision making process of the European institutions”. BAT refused to disclose the budget of this important two-year campaign, which involved in-house personnel, two external lobbying firms and one communication agency. According to CEO’s conservative estimates, such a campaign may well have cost around €200,000.

^x [BP – Extracting influence at the heart of the EU](#), Corporate Europe Observatory, January 2009

^{xi} Subsidiary BP America spent \$7,940,000. See [BP Client Profile, Summary, 2008](#), opensecrets.org, accessed 23 January 2008.

^{xii} [Profile of interest representative: BusinessEurope](#), Register of Interest Representatives, date of last update: 13-01-2009 9:56:14 AM.

^{xiii} [Profile of interest representative: European Chemical Industry Council](#), Register of Interest Representatives, date of last update: 10-11-2008 1:51:16 PM.

^{xiv} <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=5519077766-10>.

^{xv} <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=6200524920-25>.

^{xvi} <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=9682853933-80>

^{xvii} <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=56047191389-84>

^{xviii} "Obscured by the smoke - British American Tobacco's deathly lobbying agenda in the EU", <http://www.corporateeurope.org/lobbyocracy/content/2009/06/obscured-smoke>

Lobbying on competition cases excluded from the register?

Surprisingly, it appears that the Commission has explicitly advised agencies not to declare lobbying work they are undertaking in relation to competition issues – one of the most politically and economically salient of all the lobbying activities that takes place in Brussels.

The Burson Marsteller entry on the register clearly states: ‘We have also excluded from our list of clients those for whom we have worked exclusively on EU competition cases, as the Commission has suggested a specific exclusion for them.’^{xix}

A similar exemption is mentioned in other registrations. For example, Blueprint Partners declare: ‘We excluded those clients for whom we have worked exclusively on EU competition cases as per the specific Commission exclusion. We also excluded those clients where our work was not connected with advocacy or the EU institutions such as media training, crisis management, local market (non EU related) services.’^{xx}

The reason for this particular exemption is not clear, but it is very worrying that the Commission would sanction and encourage non-disclosure of such important lobbying activity. This raises serious questions about the purpose and scope of the lobbying register.

Firstly, why are competition issues not subject to disclosure? Does this reporting restriction apply indefinitely, or is there an embargo, and such lobbying can and should be retrospectively declared? How does the Commission publicise and communicate the guidance it offers to registrants? How does it ensure consistency and accuracy?

Without clear answers to such questions the efficacy of the register remains in serious doubt. The unnecessary complexity of the register is clearly illustrated in relation to in-house company registrations.

No voluntary disclosure of issues and funders

Secrecy prevails about issues lobbied on: As mentioned, it remains impossible to know how much the lobby consultancies are paid by their clients and what they pay for. Given widespread concerns about the financial crisis and how regulation of banks and financial services is to be organized – particularly since taxpayers across Europe are paying for the bail-out of banks – the public might be interested to learn a little more about some of the lobbying taking place.

Take, for example, the claims on the Hill & Knowlton website that they ‘advised a leading investment bank on a business-critical issue, namely the review of the asset management framework in Europe’. H&K also ‘assisted a leading rating agency with its approach of EU and some national policymakers at a time of intense pressure by regulators to introduce regulation for the sector. Hill & Knowlton coordinated campaigns in each of the countries concerned in order to neutralize attempts to introduce stringent rules’.^{xxi}

The information presented on the Hill & Knowlton website is a rare exception to the general secrecy that prevails among lobby consultancies. Unfortunately, no such details need to be disclosed as the EC register does not explicitly require lobbyists to state which

issues, legislation, or initiatives they are lobbying on. The broad areas of lobbying work must be declared, but nothing else. So, the register does not really add much transparency in this area either, which is precisely the kind of information that is disclosed in the US system. It is the sort of information which would help the media and the public begin to make some sense of what is actually happening in EU regulation and policy making.

Funding sources of think tanks remains undisclosed: The only major exceptions to the boycott of the register by Brussels-based think tanks are the Lisbon Council and the European Policy Centre, which reports a lobbying budget of “< 50,000 €”, out of a budget of close to €2.7 million.

Unfortunately, when designing the register the Commission has been too lax on reporting requirements. Think tanks are only asked to declare their sources of income in very broad categories – 'public financing', 'donations', 'programme support'. In this way, funding by individual companies remains invisible, when this should be one of the main purposes of including think tanks in the register. This is a serious flaw that must be addressed in the review of the register.

NGO transparency: Those NGOs following the guidelines provided by the EU Civil Society Contact Group and the Alliance for

Lobbying Transparency and Ethics Regulation in the EU^{xxii} are proactively disclosing far more detailed information than is required by the Commission, including the names of lobbyists and figures for lobby expenses based on clear criteria and in ranges of €10,000.

The Commission's disclosure requirements treat different categories of interest groups in different ways, making it impossible to compare the data. Industry lobbyists, for example, are asked to give an estimate in “good faith” of their lobbying expenditure in Brussels, while NGOs must disclose their total budget.

Far better would be to create a uniform set of disclosure requirements, as the overall budget tells you very little about the EU lobbying activities of an NGO.

^{xix} <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=9155503593-86>

^{xx} <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=2792381976-76>

^{xxi} http://www.hillandknowlton.be/Creds/Finance_Creds.pdf p. 5

^{xxii} [How to make a transparent registration in the European Commission Register of Interest Representatives](#), EU Civil Society Contact Group in cooperation with the Alliance for Lobbying Transparency and Ethics Regulation in the EU (ALTER-EU) , 29 October 2008.

5. The failure of 'soft pressure' and the complaints procedure

Soft pressure doesn't work

Since it launched its voluntary register twelve months ago, the Commission has claimed that a combination of incentives and soft pressure would result in high levels of registration. This included equipping Commission staff with 'transparency cards', which they could hand to unregistered lobbyists.

The Commission has refused to take more forceful measures, such as withdrawing its cooperation with and participation in conferences and other high-profile events organised by unregistered companies and lobby groups. The ineffectiveness of the soft pressure approach became very clear with the case of the European Business Summit (EBS) in March 2009.

Friends of the Earth Europe complained to the Commission that it was providing strong support to the EBS at the same time that a majority of the firms and groups that were listed as official Summit partners were not registered. Commissioner Kallas replied that he had written to 13 unregistered EBS partners and asked them to register.^{xxiii} However, by the end of May 2009, only two of the 13 companies have acted on Kallas' appeal and registered.^{xxiv}

In response to criticism of its feeble approach, the Commission has indicated that it might start classifying written contributions from non-registered entities in stakeholder consultations as individual contributions, rather than official organisational ones.^{xxv} This threat, however, has not been implemented. For such a sanction to have

any effect the Commission would probably need to ignore the consultation response of non-registered stakeholders. However; this too is an unsatisfactory position: it would be far better if all lobbyists are mandatorily registered and can participate in debates openly and transparently.

Complaints procedure lacks teeth

The Commission has added a complaints mechanism to the register which enables EU citizens to file complaints about incorrect information in the register or about breaches of the code of conduct.^{xxvi}

Unfortunately, the Commission is not treating complaints received very seriously. Friends of the Earth Europe (FoEE), for instance filed a complaint against BusinessEurope, which has entered a remarkably low estimate of its lobbying expenditure, as noted on page 21. FoEE provided a detailed argument for why the figures reported by BusinessEurope are not by any standards credible and that the organisation thus violates the requirement in the code of conduct to provide information that is 'unbiased, complete, up-to-date and not misleading'.

A month after the complaint was filed, the Transparency unit of the Commission's Secretariat-General replied as follows: "Having carried out the necessary verifications internally, as well as in

contact with BusinessEurope, we have no grounds to establish a violation of the Commissions Code of conduct. Consequently no sanction will be applied.”^{xxvii}

No further clarification was provided. This leaves FoEE guessing why the Commission reached the conclusion that the detailed critique of BusinessEurope’s registration – and the very low estimate of lobby expenditure – was unjustified. The Commission’s response gives the impression that it is not seriously committed to scrutinising the reliability of the data in the register.

The complaints mechanism clearly needs an overhaul, with much clearer criteria for how the Commission will assess complaints about information in the register. An independent body would be able to fulfill this role far more convincingly.

6. Conclusions and recommendations

The Commission's voluntary register is not only a failure due to the low levels of compliance – less than 25%, there are very serious problems with the quality of the data disclosed by those who have registered.

The reliability and comparability of the data is fundamentally undermined by the arbitrariness of how lobby expenditure is being calculated. There appears to be significant under-reporting, and mis-reporting.

In addition to underestimating in-house lobby expenditure, the register contains a wide range of loopholes that prevents real visibility around the size and nature of the lobbying activities of large firms. Not many registrations offer anything approaching full disclosure of the kind that should reasonably be expected of companies and industry groups engaging in lobbying in Brussels.

This is an unacceptable situation and one that the Commission must act swiftly and decisively to remedy, otherwise the whole European Transparency Initiative process, geared towards restoring trust and confidence in the EU institutions, will be seen as a cosmetic charade.

The Commission must issue strict guidance on how to comply with the register, close the loopholes, and follow this up with testing and analysing the information provided.

Furthermore, the soft 'pressure' approach should be abandoned in favour of an ambitious approach (including clear oversight and

enforcement) for achieving a register that comprises all lobby groups active in Brussels.

Concretely, ALTER-EU recommends the following measures:

Recommendations to improve compliance

1. Tackle non-compliance

Immediately introduce effective measures to make non-compliance as hard as possible, including for law firms and think tanks. For example, access to formal meetings, advisory bodies and consultation processes in the EU institutions should be made conditional to fulfilling lobbying disclosure obligations. Linking the Commission register to the Parliament register in a joint register will not make the system de facto mandatory, contrary to what has been suggested. The Parliament scheme allows thousands of lobbyists to enter on day passes without registering.

2. Take steps to develop a mandatory register

Develop a mandatory system to replace the current voluntary one, as demanded by the European Parliament in its May 2008 resolution.

Recommendations to improve the quality of financial information

1. Make financial disclosure requirements more precise

Establish more precise reporting ranges of €10,000. The 10%-option for lobbying firms should be removed completely. Remove the option

to report lobby budgets as “>=1 million €”. Consultancies with large lobbying turnover must also provide genuine transparency.

2. Close all loopholes precisely

Develop clear guidelines on double reporting. Contributions to unregistered lobby groups, federations and think tanks must be revealed.

3. Think tanks should list their funders and the respective income figures

4. Provide clear guidelines on how to declare lobbying expenditure

Clarify what should be included in the calculation of lobbying expenditure. Not only should costs related to direct lobbying efforts be declared, but rather all costs of ‘activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions’, as originally foreseen by the Commission. ALTER-EU and the EU Civil Society Contact Group have developed a comprehensive set of guidelines for financial disclosure which could serve as an example.

5. Make data entries comparable

All registrants should be asked to report financial data according to the same guidelines and in the same format.

6. Introduce the obligation to report more frequently (twice a year), with official deadlines for when reports need to be filed.



Recommendations to include other essential information

1. Provide transparency over the identity of lobbyists and clients

Names of individual lobbyists must be listed as demanded by the European Parliament in its May 2008 resolution. Information about any previous government employment or parliamentary positions should also be included. Clients should be listed with full name of organisation or firm.

2. Include information on 'issues lobbied on'

Include the obligation to report in specific directives, reports and dossiers lobbied on, and where appropriate, on whose behalf and with which budget.

3. Terminate problematic exemptions

Exemptions granted to specific sectors like competition policy or for specific activities, such as “in response to the Commission’s direct request” should be terminated.

4. Improve the search and compare functions of the register

Technical improvements should be made that allow answering basic questions and making comparisons.

Recommendations for meaningful oversight

1. Establish an independent public oversight body

An independent public body must ensure that all lobbyists register, provide correct and complete information, report regularly and adhere to rules on the conduct of lobbying.

2. Establish a threshold

This would exempt actors that do little or no EU lobbying to simplify the register and keep it focused on those doing regular lobbying work in Brussels.

3. Improve the complaints procedure

The independent oversight body must have the necessary powers to investigate all alleged breaches of the lobbying disclosure system and initiate specific investigations on its own initiative. Any natural or legal person should be able to file a complaint about violations of EU lobby transparency and ethics rules, and must be guaranteed an investigation and complete answer. Complaints and the outcomes of the investigation must be available to the public via the Commission's website.

4. Set up effective sanctions

Offenders should be excluded and publicly blacklisted. In serious cases such as the submission of false or misleading information, further administrative sanctions or fines are necessary. The Commission should consider the option of criminal prosecutions against serious and persistent offenders. This is already the case in the United States.

References

^{xxiii} http://ec.europa.eu/commission_barroso/kallas/doc/news07_02_03_09_en.pdf

^{xxiv} ArcelorMittal, Brussels Airlines, Cisco, Heineken, **Hitachi**, INSEAD, **Roland Berger**, Shell, Alcatel Lucent, Ecologic, Eurid, Temsa Bus & Coach Masters.

^{xxv} Answer of Mr. Barroso on behalf of the Commission (1.4.2009) to a question by Erik Meijer (MEP) with the subject: Cutting the privileges of lobbyists who refuse to register voluntarily and the scope for more transparent registration arrangements
<http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&language=EN&reference=E-2009-0791>

^{xxvi} Complaints can be filed online via

<https://webgate.ec.europa.eu/transparency/regin/infos/submitcomplaint.do>

^{xxvii} Letter from Gerard Legris, Secretariat-General, European Commission, May 5th 2009