

From: Birgit Beger [mailto:beger@ccbe.eu]
Sent: Friday, June 12, 2009 6:02 PM
To: SCHMIDT Kristian (CAB-KALLAS)
Subject: FW: .comments on register for lobbyists- query

Dear Mr Schmidt,

With reference to our latest e-mail exchange, we would like to come back to the Commission's consultation process as follows:

The Council of Bars and Law Societies of Europe (CCBE) is aware that a review of the public and voluntary register for lobbyists will take place shortly and would like to contribute to the Commission's consultation.

Whereas the CCBE fully supports the idea of transparency in all aspects of EU law-making, lawyers and law firms have serious difficulties with aspects of the European Commission's register. The legal profession is already highly-regulated and bound by strict ethical standards, backed up with sanctions. As such, client confidentiality is a fundamental rule, designed to safeguard the rights of the individual that can be dispensed with only in restricted circumstances.

The CCBE looks forward to improvements that will take into account those serious concerns regarding the public disclosure of information related to clients' names and financial data.

While discussion continues as to the scope of interest representation, when done by lawyers such work will usually be incidental to legal work. **Binding ethical rules on professional secrecy in many European countries prohibit the disclosure of clients' names and/or financial information by the lawyer, even when a lawyer is only exercising a lobbying activity.** In other countries, disclosure is permitted only with a client's consent, but clients are at liberty to refuse such consent.

Furthermore, multi-jurisdictional law firms face additional difficulties since, according to directives 98/5 and 77/249, their lawyers will have to comply with different deontological rules on professional secrecy stemming from various jurisdictions. The CCBE is happy to work with the Commission to improve the register in a way that these concerns are tackled. For instance, clients could register and declare any law firm engaged.

The CCBE supports the definition adopted by the European Parliament resolution of 8 May 2008 on the development of the framework for activities of interest representatives in the European institutions (20072115 (INI). (10 " (...) *lawyers when their purpose is to influence policy rather than to provide legal assistance and defence in legal proceedings or to give legal advice*") Hence, inserting that definition on the Register's web-site, and having all information – also the one on the FAQ - in one place easy to find on the web-site, would be clearer.

Instead of disclosing clients' names and financial information, the CCBE would also propose to use the "legislative footprint technique" suggested, and in the case of the report on transparency used, by the European Parliament, i.e. that any report or proposal lists the stakeholders and parties involved in its development.

The CCBE is of course available for further discussion on the suggestions made. Please do not hesitate to get in contact with us.

Best wishes,

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Senior Legal Advisor/ Conseillère juridique senior

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