



EUROPEAN UNION

Delegation of the European Commission to Switzerland and the Principality of Liechtenstein

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## **Lobbying: The Case of the European Union**

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Lobbying sometimes has a bad connotation as if it were something illegal, or filthy. However, the premise is that there is nothing wrong with lobbying. **Lobbying** or **'interest representation'** is a natural part of democratic decision-making processes. By providing policy-makers with information from different angles and with specialist ideas, lobbying also contributes to better policies. Lobbying is therefore also an important and legitimate part of the EU decision-making processes.

However, sometimes lobbying practices go beyond the legitimate representation of interests, and methods can be deceptive. Since lobbyists can have considerable influence on legislation persons lobbied and citizens alike have the right to know who these lobbyists are, what they stand for, how they are financed and what their relationship with the institutions looks like.

So what is **lobbying** or a **lobbyist** in the understanding of the EC?

A rather broad definition for "lobbying" and "lobbyists" was chosen. Lobbying refers to all activities carried out with the objective of representing special interests and influencing the policy formulation and decision-making processes of the European institutions. Accordingly, the concrete steps apply to all engaging in such activities: to public affairs consultancies, corporate lobbyists and law firms as well as to NGOs and think-tanks and representations of regional interests.

When looking at the EU, this is currently not the case. It is estimated that 15 000 lobbyists work in Brussels, and while the great majority are fighting nobles causes, there is precious little overall information accessible to the general public on who they are and what they do. Luckily, and because there is no political financing in our Brussels setting, there has not been any Abramoff-style scandal. But there is suspicion and very often rumours about undue influences, bias, conflicts of interest and shady contacts. This need not be the case, and these rumours unfairly damage support for the project of European integration.

Against this background, the question of lobbying became **one of the key components** of the **European Transparency Initiative (ETI)**, a Green Paper published by the Commission in 2006 to launch a wide-scale public consultation on three key areas:

- Whether and how to regulate lobbying;
- Feedback on whether the Commission has applied its minimum standards for consultation in a satisfactory manner;
- Whether and how to organise disclosure of beneficiaries of Community funds.

The consultations took place during 2006 and triggered a large response. From this consultation resulted two main actions:

First, the Commission increased transparency in publicising amounts and beneficiaries of EU funds both by the institutions and the Member States. In October 2006, for example, the Commission launched two new web-pages on its EUROPA site that contain information on end-beneficiaries of grants and public contracts awarded directly by the Commission. This is a major step forward in improving access to information that was already publicly available but scattered in several places.

Progress has also been made regarding the obligation of Member States to publish the information on beneficiaries of funds under shared management.

This corresponds to the Common Agricultural Policy and the Structural and Cohesion Funds, and thus more than 75 % of the entire budget. Until then there was no obligation for the Member States to publish the beneficiaries of these funds. Some did do it on their own initiative, the majority, however, not. The Commission made proposals to have a uniform publicity on how this money is used and who benefits from it. End of 2006 Member States agreed to an annual ex-post publication of beneficiaries of money received from the Structural Funds as from this year on and of money received under the Common Agricultural Policy as of 2009.

Secondly, the Commissioner in charge of administration, Mr. Kallas, undertook to strengthen work on **professional ethics in the European institutions**. Not everything can be entirely regulated by rules and guidelines. For example, common sense demands some flexibility regarding regulation and monitoring the acceptance of gifts or avoiding conflict of interests. All administrations are scrutinised by the taxpayers, but the European institutions are under particular scrutiny. Staff is composed by people coming from many different backgrounds thus developing a common culture is a challenge in itself.

Based on this consultation the College adopted a **follow-up proposal** on 21 March 2007<sup>1</sup> to the Green Paper, the European Transparency Initiative, in which the Commission has decided:

First, to create and launch a new voluntary **register** for interest representatives – it should become operational very soon. This register serves to provide for public accountability. It should be a **web-based registration system for all lobbyists**.

The registration system would entail disclosing facts about who the organisations represent, what their mission is and how they are funded. The organisations in the register would also have to subscribe to the common code of conduct. There should be an incentive for those representing interests to register. In return, registered organisations would be automatically alerted to consultations in their specific areas.

With regard to **financial disclosure** required to join the register, the Commission demands that registrants declare relevant budget figures and breakdown on major clients and funding sources.

This principle is then applied to the different categories of actors, taking into account their different nature:

- For professional consultancies and law firms, the turnover linked to lobbying EU institutions, as well as the *relative weight* of the clients in this turnover, should be declared. ‘Relative weight’ means round percentage figures.

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<sup>1</sup> [http://ec.europa.eu/civil\\_society/docs/com\\_2007\\_127\\_final\\_en.pdf](http://ec.europa.eu/civil_society/docs/com_2007_127_final_en.pdf)

- For "in-house" lobbyists and trade associations active in lobbying, an estimate of the cost associated with the direct lobbying of EU institutions should be provided.
- For NGOs and think tanks, the overall budget and breakdown per main sources of funding should be declared.

These principles are rather straightforward. The lobbyists themselves have to estimate the cost of their lobby effort – privacy is respected as there is no requirement to declare fees or events. The Commission would like to know from the public affairs consultancies an estimate expressed in relative weight per client, on behalf of whom they lobbied in the past year.

This more in line with self-regulation compared to the reporting requirements that some of same companies are subject to when lobbying in Washington DC.

Second, to reinforce the application of the Commission's **consultation standards** using a standard website for internet consultations linked to the register;

Thirdly, to draft the above mentioned **Code of Conduct for Interest Representative**<sup>2</sup> for relations between interest representatives and the EU institutions; the consultation period ended yesterday, February 15, 2008. The code will be a requirement for inclusion in the mentioned register and will be monitored by the Commission. This common code of conduct for lobbyists enhances the credibility of the lobbying profession. In the Green Paper, the Commission suggested the lobbying society of Brussels itself develop a common code of conduct, since there is a need for strong ownership for it to become operational.

The code should also include a system of monitoring and sanctions to be applied in case of incorrect registration and/or breach of the code of conduct.

Thus, the Commission is trying to find the right balance and it is moving into new territory with the "representation of interests' package". Lobbying and consultancy services is a growing business and a widely unregulated one. There is a widespread agreement that something must be done to bring in transparency, and the debate is spreading across Europe. In European Member states the situation with regard to lobbying rules varies widely.

Also the OECD is working on the topic under the heading of "Open and Inclusive Policy Making". The US Senate has also started serious work, not only on a public integrity office, but also on disclosure of lobbyists fund-raising and financing of grass root pressure groups. Various scandals contributed to this development.

Transparency is neither a threat nor a judgement. It simply ensures that the activities of lobbyists are open to public scrutiny and that somebody can be held accountable. This can enhance credibility, also in shedding light on dark spots which should contribute to get rid of them.

In disclosing the beneficiaries of EU funds, European citizens learn how money is used and how policies are implemented. More transparency about lobbying clarifies the decision-making process in Brussels. Both are necessary to increase the trust of the public in the European institutions. Finding the middle way is not easy as demonstrated by the critic voiced by Alliance for Lobbying Transparency and Ethics Regulation which

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<sup>2</sup> [http://ec.europa.eu/transparency/consultation\\_code/docs/gp\\_en.pdf](http://ec.europa.eu/transparency/consultation_code/docs/gp_en.pdf)

asks for more stringent rules like publication of the names of the individual lobbyist and more precise information on the amount of money spent<sup>3</sup>. However, the Commission's intention is not to provide a tool for pursuing individuals but to provide transparency about activities of companies.

The consultation and drafting processes are not yet terminated and there is room for further adaptations. An issue of particular relevance are efforts to device in due course a system which applies to all European institutions, the Commission the European Parliament alike. This is the more relevant as the Parliament is currently preparing a revision of its own rules (Stubb Report). However, finding a common legal basis and/or concluding an inter-institutional agreement might take some time<sup>4</sup> and the European public expects some measures to be taken.

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<sup>3</sup> <http://www.alter-eu.org/en/media/2007/10/09/brussels-told-take-tougher-line-lobbyists>

<sup>4</sup> <http://www.europeanvoice.com/current/article.asp?id=29813>

## **Annex 1**

### **DRAFT CODE OF CONDUCT FOR INTEREST REPRESENTATIVES**

Interest representation is a legitimate part of the democratic system. The European Commission, as part of its effort to enhance public confidence and trust, has established a voluntary register to bring more transparency to interest representation, its actors and their activities.

The present Code of Conduct contains a set of basic rules, specifying how interest representatives should behave when representing their interests. For the purposes of this Code, "interest representation" is defined as the activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions. This definition excludes activities performed by independent members of professions providing legal advice, such as lawyers, in so far as such activities relate to the exercise of the fundamental right to a fair trial of a client, including the right of the defense in administrative proceedings.

#### **PRINCIPLES**

Interest representatives are expected to behave in line with the principles of openness, transparency, honesty and integrity, as expected of them by the citizens in a democratic system.

The Commission considers that those who register in its public register accept to comply with these principles.

Similarly, Members of the Commission and the staff of the European institutions are bound by strict rules ensuring their impartiality. The relevant provisions are contained in the Treaty establishing the European Communities and the Staff regulations.

#### **RULES**

In their representation activities as defined above, interest representatives shall:

1. identify themselves by name and by organization;
2. declare the clients and the interests they represent;
3. ensure that information provided to the EU institutions is accurate, complete and up-to-date to the best of their knowledge;
4. not obtain or try to obtain information dishonestly from the EU institutions;
5. not induce EU officials to contravene standards of behavior applicable to him or her.
6. if employing former EU officials, respect their obligation to abide by the rules and confidentiality requirements which apply to them.















#### **OTHER PROVISIONS**

- **Registration:** Registration implies the acceptance of this Code.
- **Breaches of the Code:** Registrants are informed that breaches of the above rules may lead to suspension or exclusion from the Register.
- **Complaints:** Signatories should be aware that the citizens have the possibility to lodge a complaint about a suspected breach of the rules set out in this Code.
- **Publication of contributions and other documents:** Interest representatives are informed that their contributions to public consultations will be published on the internet together with the identity of the contributor, unless the contributor objects to publication of the personal data on grounds that such publication would harm his or her legitimate interests. Upon request on the basis of Regulation (EC) No 1049/2001 on access to documents, the Commission may have to disclose correspondence and other documents surrounding the interest representatives' activities.

## Annex 2

### Links

#### Europäische Union

- European Commission: [Consultation on a Code of Conduct for Interest Representatives](#)  [FR]  [DE] 
- European Commission: [Draft Code of Conduct for Interest Representatives](#)   [FR]   [DE]  
- European Commission: [Transparency Initiative](#)  [FR]  [DE] 
- European Parliament: [Draft Report on the development of the framework for the activities of interest representatives \(lobbyists\) in the EU institutions](#)   (31 October 2007)

#### Stellungnahmen von EU-Akteuren

- ALTER-EU: [Benchmarks for the EU lobbying transparency register](#)  (4 February 2008)
- ALTER-EU: [Letter to Commission President José Manuel Barroso on the implementation of the Commission's lobbying register](#)  (13 February 2008)
- ALTER-EU: [Press release: ALTER-EU rings alarm bell over European Commission backtracking on lobbying transparency](#)  (13 February 2008)