



RECOMMENDATIONS ON LOBBYING TRANSPARENCY AND ETHICS IN THE EUROPEAN UNION

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The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) recommends the following components to rules and guidelines for transparency and ethics in lobbying in the European Union:

Registration and disclosure rules

ALTER-EU believes that it is necessary to establish a mandatory system of electronic registration and reporting to ensure transparency in EU decision-making. We have the following recommendations:

- A reliable and transparent system of registration and reporting of lobbyists and their activities needs to be developed, so that legislators and citizens know who is attempting to shape EU policies. Transparency means that information should be made available to the public (in the form of a user-friendly online database). The database should be fully searchable, sortable and downloadable to enable detailed research and analysis.
- Registration should be mandatory for all lobbyists¹ (individuals and companies) representing a certain amount of money and time for lobbying². All lobbyists who earn or spend above a certain threshold (for instance €5000 per quarter) on lobbying activities have to register. This threshold should enable small groups, companies or individuals that spend very little time or money on lobbying activities to continue to do so without having to comply with registration and reporting demands. The body overseeing the registration and reporting system should be able to adjust the threshold to ensure that it fulfills the above-stated purpose.
- Upon registration, the following information should be disclosed:
 - name(s) of lobbyist(s), contact information, employing/contracting associations or individuals
 - the name of clients (in case of consultancies and law firms)
 - lobbying coalition/association should disclose on behalf of whom they are lobbying

¹ A lobbyist can be defined as a person designated by an interest group or interest to facilitate influencing public policy in that group or interest's favor by performing one or more of the following: (1) directly contacting public officials; (2) monitoring political and governmental activity; (3) advising on political strategies and tactics; (4) developing and orchestrating the group's lobbying effort. (Phil Harris and Craig S. Fleisher, *Handbook of Public Affairs*, London, 2005)

² Lobbying can be defined as 'the specific effort to influence public decision making either by pressing for change in policy or seeking to prevent such change. It consists of representations made to [and/or policy relevant discussion with], any public office holder on any aspect of policy, or any measure implementing that policy, or any matter being considered, or which is likely to be considered by a public body' (from Institute of Public Relations and Public Relations Consultants Association proposed Register of Professional Lobbyists, p.1, 31 October 1994).

This information should be updated in regular reports (e.g. every six months) and amended with:

- specific issue areas or legislative proposals lobbied on and how much was spent on them
- disclosure of “grassroots” lobbying expenditures³.

ALTER-EU welcomes the Commission’s adoption of the strategic E-Commission 2006 – 2010 framework, with its aims of efficiency and transparency. We believe online registration and databasing should be used for the lobbying register as they have proven to be an effective way of providing timely, accurate information to the general public at a low cost. The administrative burden for registering and maintaining the database should be kept to the minimum possible whilst providing the necessary level of information in a timely and meaningful fashion for the public scrutiny and accountability of lobbying. Using an electronic system with preformatted data entry forms also allows for a simple compliance process for the lobbyists registering. Experience from Canada and the US, especially from some disclosure systems at state level, show that a database fulfilling these standards can be set up with fairly low costs. These models should be learnt from, as well as experiences with existing online EU databases such as CONECCS.

Rules of Conduct for Lobbyists and EU Officials

ALTER-EU recommends the establishment of (new) rules of conduct for lobbyists and European Commission officials. Our main recommendations are listed below. Some of these issues are partly covered by existing frameworks such as the Staff Regulations or the Code of Conduct for Commissioners. We recommend expanding these rules as well as the creation of a new framework for lobbyists that should be overseen by a public body (see section “Oversight and Enforcement”).

Revolving Door

- Former senior officials should be prohibited from lobbying the EU institutions for a period of three years following public service. This prohibition would not include lobbying on one’s own behalf without compensation or at the invitation of the institutions itself.
- When officials leave their office, they need to lay out a binding revolving-door exit plan that sets forth the programs and projects from which the former decision maker or staff member is banned from working during the cooling off-period. These reports should be available to the public on a web site.
- For former corporate staff and lobbyists appointed to policymaking posts in the Commission, recusal⁴ should be mandatory for all matters directly involving an appointee’s former employers and clients during the 24-month period prior to taking

³ Grassroots lobbying is targeting decision-makers indirectly, by mobilising the general public to directly contact decision-makers on a specific issue. Examples of grassroots lobbying are co-ordinated e-mail or phone campaigns.

⁴ Recusal is the act of a public official refraining from exercising any official power or performing any official duty or function with respect to a matter that would give rise to a conflict of interest, while also refraining from attempting to influence that matter in any way.

office. The employment histories and financial disclosure records of all members of the European Commission, senior Commission staff and relevant other Commission officials, as well as any recusal reports, should be made public on a web site.

- In order to safeguard the integrity of public service from too close inter-relationships between the private and public sectors, senior Commission officials should be required to disclose their occupations and employers for the six-year period prior to public service. Officials must also disclose any employment outside the EU institutions that they undertake while on temporary leave.

Personal Financial Interest

- Immediate family members of a covered official should be prohibited from lobbying for compensation the agency on which the covered official serves.
- EU officials should not participate in any official action in which the official or employee has a vested financial interest and stands to benefit personally and substantially.

Gifts and Contributions

- Lobbyists and their clients should be prohibited from offering gifts with a value of more than €150, including travel, food and beverages, to a covered official, unless that official is a family member.
- Lobbyists and their clients must declare all reimbursements for travel and lodging to covered officials, e.g. when they invite an official to speak at an event.

Equal Access

ALTER-EU believes that it is necessary to ensure equal access for all stakeholders to the European decision making process. Cases of privileged access and undue influence granted to corporate lobbyists must be terminated.

We welcome the general principles and minimum standards for consultations adopted by the Commission as of January 1st 2003.⁵ These require that consultation processes run by the Commission must be transparent, both to those who are directly involved and to the general public. It must be clear:

- what issues are being developed
- what mechanisms are being used to consult
- who is being consulted and why
- what has influenced decisions in the formulation of policy.

⁵ Communication from the Commission: Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission. http://europa.eu.int/comm/secretariat_general/sgc/consultation/index_en.htm (09/01/06)

We call on the Commission to strive for efficient implementation of these principles and standards. In order to achieve this, we recommend the following:

- All formal consultation processes should be publicly announced and reported on regularly and transparently. This includes a description of mechanisms that are being used to consult and who is being consulted and why.
- In order to improve the transparency and accountability of the European decision making process, and to prevent prevent cases of privileged access, we propose that:
 - for each policy proposal the European Commission should publish a list of organisations that it has consulted on this proposal
 - each Commissioner publishes a register of correspondence (incoming and outgoing) every month and an agenda of meetings, usually in advance, on their website.
- Special working groups (like for example the Cars21 High Level Group, which consists mainly of MEPs, Commission and national government officials and representatives from the car industry, with hardly any representatives from civil society groups) should involve all relevant stakeholders, not only industry interests.

Oversight and enforcement

Without efficient mechanisms for implementation and enforcement of EU lobby transparency and ethics rules, it will be impossible to ensure compliance and foster public trust. ALTER-EU therefore recommends to establish an independent public body with the necessary powers to act as a public guardian of lobbying transparency and ethics. For example a separate new lobbying transparency unit in the office of the European Ombudsman could be considered.

- This public body must ensure that all lobbyists (above the threshold) do register and report regularly as well as adhere to rules on the conduct of lobbying. It should have the necessary authority to publish regular reports on the implementation and success of the lobbying disclosure system, and make recommendations for revisions that would increase visibility and ethics in EU lobbying.
- The public body must have the necessary powers to investigate all alleged breaches of the lobbying disclosure system and initiate specific investigations on its own initiative.⁶
- There must be clear and effective incentives as well as sanctions. Access to formal meetings and consultation processes in the EU institutions could be made conditional to fulfilling lobbying disclosure obligations (again, this would only apply to lobbyists above the threshold). Letters of reprimand or public listing of offenders are other options for encouraging compliance.

⁶ For example, this body could conduct audits in cases where a lobbyist claims to be below the threshold but seems to lobby quite intensively.

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.

- Any natural or legal person should be able to file a complaint about violations of EU lobby transparency and ethics rules.
- Both the plaintiff as well as the lobbyist(s) accused of the misconduct should have the right to apply for revision.
- The complaints and the outcomes of the investigation must be made available to the public through a fully searchable database that is accessible through the internet.

Suggestion for the way forward

The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) believes that enhanced visibility and ethics in EU lobbying and equal access to decision makers for all stakeholders is of crucial importance and that an EU regulation would be the most effective way to ensure progress.

In order to make quick progress in EU lobbying transparency and ethics, ALTER-EU suggests that as a first step, the European Commission should adapt its current rules with respect to lobbyists, including a revised and extended code of conduct/ethics, and a transparent registration and reporting system (all with efficient enforcement mechanisms). The other EU institutions should be encouraged to do the same, aiming for compatible rules and mechanisms that reduce bureaucracy and ensure optimal visibility. This could be facilitated through an inter-institutional agreement, which could for example designate a single body for oversight.

This intermediate solution should then be used as the basis for the establishment of an EU Lobbying Disclosure Regulation, covering mandatory registration and reporting, coupled with a code of conduct/ethics for all lobbyists and measures to ensure equal access to decision makers for all stakeholders.