

Lobbying to Preserve Secrecy in Brussels – a Who's Who

CEO Update - May 2005

Commissioner Kallas' announcement in March 2005 that a 'European Transparency Initiative' is on the way has sparked intense lobbying by interest groups representing professional lobbyists in Brussels. These lobbyists for hire are particularly upset by the proposal to introduce transparency obligations that would require them to disclose which issues they lobby on, for which clients and with what budget. Mandatory lobbying disclosure would be a powerful tool allowing European citizens, parliamentarians and journalists to scrutinise the role of lobbyists in EU decision-making processes, but groups like SEAP, EPACA and Eulobby.net are struggling to prevent this scenario. Competing amongst themselves to be seen as the most legitimate representative of lobbyists in Brussels, they all advocate "self-regulation", voluntary codes of conduct and other pseudo-solutions that in effect would preserve the existing secrecy around lobbying towards the EU institutions. Follows a brief introduction to the main players in this lobbying offensive.

Society of European Affairs Practitioners (SEAP)

The Society of European Affairs Practitioners (SEAP) has reacted very hostile towards the ETI from the beginning, especially regarding Mr. Kallas' proposal to introduce mandatory disclosure of clients and lobbying budgets. This is hardly surprising, as SEAP's *raison d'être* since it was founded in 1997 has been to prevent any form of binding regulation around lobbying.

After Kallas' surprise speech on March 3rd, SEAP's Rogier Chorus told the media that he was "a bit puzzled" by the move. SEAP had launched a revised lobbying ethics code only a few weeks before.¹ This voluntary code is still very weak and lacks any form of external transparency obligations, but SEAP argues that there is no need for regulation.² And even if SEAP's code would be far stronger and mandatory, it would still not be a solution. SEAP only has 150 members and even the 500 members the group hopes to have by the end of 2005 would be just a tiny minority among the total 15,000+ Brussels-based lobbyists. About Kallas' call for lobbying disclosure obligations, Chorus commented "I wouldn't accept that at this stage", while adding that the Commission should "do its homework" and clean its own house first by making officials "less vulnerable to bribes". "The important thing is that money is not used to bribe people," Chorus said, thus accusing the European Commission of suffering from corruption. Chorus may have elaborated on this theme on April 21st when he and Catherine Stewart (representing SEAP) met with Commissioner Kallas.

SEAP floats many flawed arguments against mandatory lobbying disclosure, for example that it would introduce "bureaucratic controls and reporting requirements" and "make it harder for smaller interests to make themselves heard".³ In fact a system of electronic filing would not require a lot of resources: using state-of-the-art technology it could be easily and efficiently administrated by a small secretariat.⁴ For the lobbyists, registering and reporting electronically 2-4 times per year (frequency to be determined) should not constitute any significant problem. As is the case in the US and Canada, reporting requirements should only apply to those lobbyists who spend more than a minimum threshold within a reporting period, which would ensure that smaller and less wealthy interest groups can make their voices heard at the EU institutions without facing any additional obstacles.⁵ Coming from professional lobbying consultants whose services are unaffordable for 'smaller interests', such arguments ring particularly hollow.

SEAP has close links with the European Training Institute, led by veteran lobbyist Daniel Guéguen, who is also the CEO of CLAN Public Affairs. From this year on, all SEAP members need to follow a course at the European Training Institute on the SEAP code of conduct. Also Guéguen has spoken out "against

establishing a US-style Lobbying Disclosure Act in Europe whereby every sum and every client has to be disclosed on a public register available online".⁶ Instead Guéguen proposes to "create a professional public affairs body in the same way as there is a professional body for lawyers or architects." This proposal seems wholly inadequate in the light of Guéguen's predictions of lobbying tactics becoming increasingly aggressive. In a recent interview, he said that "in the future [...] we will tend to adopt ever tougher lobbying strategies and ever more sophisticated approaches to economic intelligence that will probably involve practices such as manipulation, destabilisation or disinformation."

British Chamber of Commerce

Also the British Chamber of Commerce in Belgium (BCCB) has close links to the SEAP, as many professional lobbyists and PR consultants are members of both organisations. A few weeks after Kallas presented the ETI, lobbying consultant Graham Austin wrote an article expressing the BCCB's "concerns about the approach seemingly adopted and some of the terminology used."⁷ In his article, Austin wrote that the BCCB "is seeking an early meeting with Commissioner Kallas to discuss his initial plans and to define the issues involved in order to ensure a framework for a balanced debate on this issue; with self-regulation at the heart of any proposals, rather than starting with the notion of formal EU regulation." This meeting took place on April 27th.⁸

According to Austin, who is 'senior counsellor' for Blueprint Partners, one of the larger public affairs firms in the EU quarter, "the plans, as presented, could significantly distort the growing debate by the inference that lobbying practices are not operating transparently - and at one point Kallas even seemed to be linking his observation to fraud!" Interestingly, Austin seems to consider transparency obligations as a form of punishment: "Although, from a private sector perspective, the vast majority of lobbyists act responsibly and have incurred costs already to present a transparent view of their activities, this regulation would cover reporting or registering lobby activities."⁹ According to Austin, lobby firms are "concerned that Kallas' plans are essentially old style central regulation - punishing the vast majority of the good for the sins of a few." He warns against "the increased burdens and costs these proposals would bring" and "the potential competitive impact on this market". Proposals for ending secrecy around lobbying, Austin seems to imply, are a threat to the competitiveness of public affairs firms. He even warns that Kallas' call for mandatory transparency is "out of place in the modern approaches being called for and adopted to meet the aims of the Lisbon agenda."

Except for the British Chamber of Commerce, corporate interest groups have been fairly quiet until now, although a spokesperson for the EU employers' federation UNICE was clearly not amused. "All proposals that aim for more regulation are nonsense", UNICE's Christian Feustel commented on Kallas' proposal.¹⁰

EULobby.net

Veteran lobbyist Christian de Fouloy welcomed Kallas' initiative while at the same time promoting his own commercial registers and voluntary codes of conduct as an alternative to regulation.¹¹ De Fouloy, a former senior research fellow at the neoliberal European Enterprise Institute and former chair of Republicans Abroad Belgium, is the proud founder of Eulobby.net, a "voluntary registration system" which most of all resembles a sort of very incomplete yellow pages for professional lobbyists.¹² Maybe because the number of registered lobbyists on Eulobby.net remained embarrassingly low, De Fouloy also recently established the Association of Accredited Lobbyists to the European Parliament (AALEP).¹³ One of de Fouloy's first moves under this new umbrella was to express AALEP's support for the ETI, arguing that the group's dispute settlement system is the best way to uphold ethical standards among lobbyists.¹⁴

On 15 March, Commissioner Kallas (who is the former prime minister of Estonia) presented the 2005 EU Lobby Citizen Award at an event in the Estonian capital Tallin. Christian de Fouloy was the "master

of ceremony" at the event, which was extensively covered by Estonian media. Was it a mere coincidence that Kallas was invited to present this new award or a rather very clever move by Mr. de Fouloy to influence the lobbying transparency debate in Brussels?

In correspondence with Corporate Europe Observatory in November 2004, Mr. De Fouloy showed himself a staunch defender of voluntary codes of conduct,¹⁵ despite the fact that only two years before he concluded in a written contribution to the European Constitution debates in the Convention that "self regulation has not worked and is not working" and proposed a EU "Lobbyist's Registration Act", modelled on the Canadian Lobbyist's Registration Act.¹⁶

European Public Affairs Consultancies Association (EPACA)

Another major player on the Brussels lobbyist's scene is EPACA, a new organisation launched in January 2005, but based on a pre-existing group called the Public Affairs Practitioners (PAP). EPACA has 26 members, all of them PR/PA and lobbying consultancy firms.¹⁷ The initiative to launch EPACA came from the Brussels branches of leading American lobbying companies (Weber Shandwick, Hill & Knowlton, Burson Marsteller and Fleishman Hillard). Contrary to SEAP, the new group (chaired by John Houston of Houston Consulting Europe) does not allow individual members and also excludes lobbying staff of multinational corporations. There is quite some overlap with SEAP, Cabinet Stewart and Blueprint Partners are for instance represented in both clubs. EPACA also includes PR giant Burson-Marsteller, which has been sending out contradictory signals on lobbying transparency. In December 2004, Jeremy Galbraith, the CEO of Burson-Marsteller Brussels, wrote to Corporate Europe Observatory (CEO) that "for the record, we have no objection to registration of lobbyists as currently occurs in Washington."¹⁸ A few months later, however, after the launch of the European Transparency Initiative, the Managing Director of Burson-Marsteller Brussels rejected mandatory lobbying disclosure. David Earnshaw claimed "lobbying firms are perfectly capable of regulating themselves".¹⁹ Earnshaw also argued "If you regulate strictly, the people who get hurt are the little people – the people who do not have a voice -- not the people who can bend the rules." It is particularly unconvincing to hear such reactions coming from Brussels-based consultants from firms whose Washington D.C. offices have for over a decade fulfilled the disclosure requirements of the US *Lobbying Disclosure Act*.

The positive exception: Westander PR

Luckily, there are also PR/PA firms supporting Commissioner Kallas' call for mandatory transparency around lobbying, for instance the Swedish consultancy Westander. The company's CEO wrote to Mr. Kallas to support the call for "tighter regulation of lobbyists in Brussels".²⁰

Notes

¹ "Brussels lobbyists to come under tighter scrutiny", EurActiv.com, March 7 2005. <http://www.euractiv.com/Article?tcaturi=tm:29-136454-16&type=News>

² Already the day after the open letter to Barroso was sent, SEAP reacted with a letter in which it argued that its own voluntary [Code of Conduct for Lobbyists](#) is sufficient and that there is no need for EU legislation on lobbying transparency and ethics. "SEAP rejects NGOs request for registration and reporting requirements", 26 October 2004, <http://www.corporateeurope.org/SEAPreaction.html>

³ "Fighting funding fraud", Rogier Chorus, European Voice, Vol. 11 No. 9 : 10 March 2005. <http://www.european-voice.com/archive/article.asp?id=22386>

⁴ The submitted reports could then very easily be made available in a fully searchable, sortable and downloadable database on the internet. In the US, the costs related with establishing and maintaining lobbying disclosure systems have proven to be negligible.

⁵ Under the US rules, organisations spending less than \$22,500 (€17,000) on lobbying during six months are exempted from the filing requirements.

⁶ "Lobbying PA veteran calls for professional body to scrutinise Brussels lobbyists", EurActiv.com, 5 May 2004.

⁷ "Lobbyists Under the Spotlight", Graham Austin, EU Reporter, 14-18 March 2005.

⁸ "CALENDRIER du 25 au 30 avril 2005", European Commission, MEMO/05/138, 22/04/2005. Retrieved from RAPID database.

⁹ Austin expressed his concern that Kallas "plans to extend his initiative to organisations, groups or persons that offer advice, represent clients, provide data or defend public causes at the European institutions- as he believes that citizens should be allowed to know who they are what they do and what they stand for."

¹⁰ "Die Lobbyisten werden untersucht", Die Welt, 11 March 2005.

¹¹ See for instance "Lobbyists mustn't fear the European Transparency Initiative",
<http://www.eulobby.net/eng/Modul/Abstract/ReadAbstract.aspx?Mid=1516&ItemID=668>

¹² <http://www.eulobby.net>

¹³ <http://www.eulobby.net/eng/Modul/Abstract/ReadAbstract.aspx?Mid=1533&ItemID=657>

¹⁴ "AALEP - Association of Accredited Lobbyists to the European Parliament supports the European Transparency Initiative",
<http://www.eureporter.co.uk/mediacenter/release.cfm?r=112>

¹⁵ <http://www.corporateeurope.org/EUlobbystatement.html>

¹⁶ http://europa.eu.int/futurum/forum_convention/documents/contrib/acad/0108_c_en.pdf

¹⁷ <http://www.corporateeurope.org/docs/EPACA%20responds.pdf>

<http://www.corporateeurope.org/docs/EPACA%20members.doc>

¹⁸ Letter from Burson-Marsteller CEO Jeremy Galbraith to Corporate Europe Observatory, 21 December 2004.

<http://www.corporateeurope.org/bm20041221.html>

¹⁹ "Reining in EU lobbyists", Washington Times (United Press International), March 08, 2005.

<http://www.corporateeurope.org/washtimes080305.html>

²⁰ Letter from Patrick Westander to Commissioner Kallas, 18 March 2005.

<http://www.westander.se/pressrum/Letter%20to%20Siim%20Kallas%202005%2003%2018.pdf>