



Public Consultation on a proposal for a mandatory Transparency Register

Responses prepared by ALTER-EU, summaries by Democracy International

The European Commission has launched a consultation on the EU lobby transparency register.

The consultation can be found [here](#)

(http://ec.europa.eu/transparency/civil_society/public_consultation_en.htm),

the already existent lobby transparency register can be found [here](#)

(<http://ec.europa.eu/transparencyregister/public/homePage.do?redir=false&locale=en>).

The text below has been drafted by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) to help European citizens in preparing their response to the consultation. Of course all participants should complete all questions according to their own views and experiences, but hopefully this briefing provides some useful suggestions for input.

1.1 The EU institutions interact with a wide range of groups and organisations representing specific interests. This is a legitimate and necessary part of the decision-making process to make sure that EU policies reflect the interests of citizens, businesses and other stakeholders. The decision-making process must be transparent to allow for proper scrutiny and to ensure that the Union's institutions are accountable.

a) Do you agree that ethical and transparent lobbying helps policy development?

We will respond "fully agree" to this question.

Summary of comments:

- In general this is true, but transparency in lobbying is more than just the lobby register.
- All EU decision-makers should be banned from meeting with unregistered lobbyists and should oblige them to publish online lists of all meetings held with lobbyists (existing rules should apply for all 30,000 employees, not only 300 senior officials)
- Meetings with big business lobbies should be limited in number and better balanced with interactions with other stakeholders including civil society organisations

In general, ethical and transparent lobbying helps policy development and it is important to make sure that the processes to secure ethical and transparent lobbying are as robust as possible.

Transparent lobbying is about more than just the EU's lobby transparency register. The Commission should extend the wider transparency rules (which currently only apply to commissioners, cabinet members and directors-general or 250 individuals) so that no Commission official meets an unregistered lobbyist and so that all lobby meetings held are recorded online. This would ensure a further 30,000 or more individuals are covered including

those with high interactions with lobbyists and those with serious input into the policy drafting process.

Meanwhile, the European Ombudsman has seriously criticised the Commission for its poor implementation of the World Health Organisation's Framework Convention on Tobacco Control and the Commission should immediately publish details of all meetings with tobacco lobbyists online.

However, it should be pointed out that lobbying which is transparent is not always ethical. Lobbyists may make full disclosures according to the rules, but if certain interests outnumber and outspend others, and if they receive greater or privileged access to decision-makers, and then manage to secure policies or rules which are contrary to the public interest, then arguably this is not ethical lobbying and it will not help the quality and legitimacy of policy development. Lobbying is not ethically neutral.

b) It is often said that achieving appropriate lobbying regulation is not just about transparency, i.e. shedding light on the way in which lobbyists and policy-makers are operating. Which of the below other principles do you also consider important for achieving a sound framework for relations with interest representatives?

We will respond "other" to this question.

Summary of comments:

- Meetings with big business lobbies should be limited in number and better balanced with interactions with other stakeholders including civil society organizations representing the public interest
- Tougher rules should not only apply for lobbyists but also the institutions. Strict codes of conduct in the European Parliament and Commission should prevent conflicts of interest (such as receiving gifts), lobby-related side jobs and the revolving door between the EU institutions and the lobby industry

To achieve a sound framework for relations with lobbyists, the following would also be important:

Stopping the privileged access by business interests: Lobbyists representing businesses and trade associations make up 75 per cent of all high-level Commission lobby meetings and more than 80 per cent in certain areas such as financial regulation or the internal market, according to analysis conducted by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) in 2015. Yet the Commission has committed to deliver balance in stakeholder representation. The most effective, and ethical, way to stop privileged access to the Commission by business interests would be by introducing a reduction overall in the amount of lobbying that goes on, and clear limits to the number of meetings and other kinds of interactions with big business lobbyists, so as to bring parity with access by other stakeholders, including civil society organisations.

Stopping lobbying on behalf of 'toxic' industries: An ethical approach to lobbying would ensure that the World Health Organisation's Framework Convention on Tobacco Control is fully implemented, as recently demanded by the European Ombudsman, and that contacts with the tobacco industry are really kept to an absolute minimum as is required under this regulation.

Ethics rules for those in the institutions: It is not just about rules for lobbyists, but there need to be far tougher codes of conduct and rules for individuals with the institutions and those who have recently left. Such rules would, for example, prevent MEPs having lobby-related side jobs and/ or block the revolving door between the EU institutions and the lobby industry.

c) In your opinion, how transparent are the European institutions as public institutions?

We will respond "no opinion" to this question

Summary of comments:

- Much more can and must be done to boost transparency
- A mandatory lobby transparency register should require all EU lobbyists to register, disclosing accurate and up-to-date information and with adequate sanctioning capacities in cases of fraud
- All EU decision-makers should be banned from meeting with unregistered lobbyists and should oblige them to publish online lists of all meetings held with lobbyists (existing rules should apply for all 30,000 employees, not only 300 senior officials)
- "Trilogue" talks, by which 90% of EU law is decided in fast-track mode behind closed doors, must be made to the exception in decision-making, and must have greater transparency with a timely publication of documents
- Membership of expert and advisory groups of the Commission must have full transparency to prevent privileged access and corporate capture
- Open data must be implemented to ensure that EU documents and information are published online and made easily available to citizens

The EU institutions have introduced some important transparency measures although transparency varies between them. There is much that could be improved across the EU institutions to boost transparency.

Lobby register: As mentioned elsewhere there should be a legally-binding register, with comprehensive disclosure requirements, and active monitoring, enforcement and sanction capacities, which covers lobbying in all the EU institutions and executive agencies.

Proactive meetings transparency: All EU institutions should only meet with registered lobbyists, lists of meetings should be pro-actively published by Commission officials and reports of lobby meetings held by EU officials should be kept and should be releasable under access to documents. On-line lists of meetings should be held in a centralised, searchable database for each institution.

Trilogues: These informal inter-institutional meetings between the European Parliament, the Council of the European Union and the European Commission have become an established feature of EU decision-making, but often undermine accountability and transparency of the EU legislative process. Very little information is available to the public because these meetings take place behind closed doors and only well-resourced lobbies have access to trilogue documents. The publication of all documents should be required and in a timely and systematic manner. Furthermore, there should be public access to meetings, and access to any reports or notes discussed over the course of the process, in line with the procedures for normal Parliament committee meetings.

Access to documents: Reforms to bring the Access to Documents regulation 1049/2001 into line with the Treaty of Lisbon by widening its scope to encompass all EU institutions, bodies, offices and agencies currently not covered are to be welcomed. Such reforms should recognise the fundamental nature of the right of access to information, and to ensure harm and public interest tests apply for all exceptions.

European Ombudsman: All European Ombudsman decisions on transparency should be binding for EU institutions.

1.2 The Transparency Register provides information to politicians and public officials about those who approach them with a view to influencing the decision-making and policy formulation and implementation process. The Register also allows for public scrutiny; giving citizens and other interest groups the possibility to track the activities and potential influence of lobbyists. Do you consider the Transparency Register a useful tool for regulating lobbying?

We will reply "somewhat useful" to this question.

Summary of comments:

- The existing lobby register is highly flawed and this consultation must lead to serious changes
- A lobby register should no longer be voluntary but mandatory and legally binding. It should require all EU lobbyists to register, disclosing accurate and up-to-date information and with adequate sanctioning capacities in cases of fraud

The idea of a lobby register as a tool to bring transparency to EU lobbying is very important. However, the present register is highly-flawed and serious changes must result from this consultation and review process if it is to become the very useful tool which is needed.

A lobby register which is no longer voluntary, but which is backed by the force of law, is essential if all lobbyists are to sign-up and if the register is to contain data which provides an accurate snapshot of lobbying in the EU institutions so that citizens can see who is influencing EU decision-making, on which issues, on whose behalf, and with what budgets.

As a result, a commitment to start negotiating a legally-binding lobby register should be in place by 2017. A legally-binding lobby register would give the authorities the opportunity to levy fines or other real sanctions (including refusing to hold lobby meetings) on those who refuse to register or on those who post inaccurate information or who otherwise break the rules. A legally-binding lobby register should be introduced alongside a clear threshold for registration which clarifies what constitutes 'lobbying' and which contacts with decision-makers do not eg. citizens contacting their local MEP.

In the meantime, before a legally-binding lobby register is introduced, it will be important to continue to introduce further incentives to encourage registration now, and this will be discussed further below.

2.1 Activities covered by the Register include lobbying, interest representation and advocacy. It covers all activities carried out to influence - directly or indirectly - policymaking, policy implementation and decision-making in the European Parliament and the European Commission, no matter where they are carried out or which channel or method of communication is used. This definition is appropriate?

We will reply "fully agree" to this question.

Summary of comments:

- Very strong definition. All efforts should be made to resist any demands to weaken it.

The definition of lobbying / interest representation in the lobby register is one of the strongest elements of the present set-up. All efforts should be made to resist any demands to weaken it.

2.2 The Register does not apply to certain entities, for example, churches and religious

communities, political parties, Member States' government services, third countries' governments, international intergovernmental organisations and their diplomatic missions. Regional public authorities and their representative offices do not have to register but can register if they wish to do so. On the other hand, the Register applies to local, municipal authorities and cities as well as to associations and networks created to represent them.

We will reply "Changed to include certain types of entities" to this question.

Summary of comments:

- All actors that undertake lobbying or that are representing their own interests should register. Citizens should know what lobbying all of them are carrying out
- Also law firms, PR firms and think tanks should be included in the mandatory lobby registry and should be required to declare all their clients.

ALTER-EU considers that all churches and religious communities, political parties, third country governments, and regional public authorities and their representative offices should register if they are undertaking lobbying/ representing their own interests, according to the definition provided. There is no rationale for their exclusion: some of the distinctions (eg between a city and a regional government) are arbitrary, and it is also clear that each of these entities have 'interests' and there is a strong public interest in citizens knowing what lobbying they carry out.

It is also essential that all third country (ie those outside of the EU) governments should also be covered by the register, and required to register. Furthermore, the lobby firms, PR firms and law firms employed to lobby the EU institutions on behalf of third country governments, or to promote their image, should be required to declare all such clients.

Furthermore, the register applies to law firms but many refuse to register correctly, although some do. It is imperative to find a solution so that law firms which lobby join the register. A legally-binding register is the obvious long-term solution.

3.1 What is your impression of the Register web site?

We propose that you complete this table yourself, based on your own experiences.

Summary of comments:

- The website has seen many improvements and has become more user-friendly
- Visitors of the website should be able to view and order the full list of registered lobbyists according to different categories, such as number of lobbyists employed, budget, issues covered.

4. Final comments or ideas on any additional subjects that you consider important in the context of this public consultation

Summary of comments:

- Further important changes beyond the legally binding lobby register are required:
- Improved monitoring of the data entries, as lobbyists frequently enter inaccurate or even frivolous data
- Improved sanctions to punish inaccurate or misleading information, such as through suspension from the registry and from meeting with politicians

- All EU decision-makers should be banned from meeting with unregistered lobbyists and should oblige them to publish online lists of all meetings held with lobbyists (existing rules should apply for all 30,000 employees, not only 300 senior officials)
- Lobby rules should apply also to the European Council, the Council of Ministers and Permanent Representations in Brussels, and not only the European Parliament and Commission

In addition to the above comments, including about the need for the introduction of a legally-binding lobby register, further important changes are required:

Effective data monitoring: The quality of the data in the lobby register is extremely poor and Transparency International estimates that around half of the entries are problematic. This must change if citizens are to have confidence in the system. The human resources and software capacity devoted to the EU lobby register, as well as its investigatory and enforcement powers, need to be totally transformed so that effective monitoring checks are carried out on at least 20 per cent of all declarations each year, and all complaints are dealt with speedily. Particular priority should be allocated to ensuring the accuracy of the financial data within registrations.

Improved sanctions to boost data quality and registrations: Submitting inaccurate and / or misleading information must be specified as an offence, punishable by suspension. Suspended lobby groups should be placed on a public list. Law firms which do not register at all or which do not disclose their clients, are still a weak spot in the register. For as long as the register is not legally binding, other methods of bringing them into the register are required.

Meetings with registered lobbyists: The Commission's lobby meeting policy should be immediately extended so that no Commission official is allowed to meet with unregistered lobbyists. Additionally, if MEPs, their staff and Parliament staff choose to meet with lobbyists, they should first ensure they are registered.

Include the European Council, Council and permanent representations: The European Council and Council are significant EU institutions and the EU lobby register should be extended to fully include the European Council, the Council and permanent representations.

Changes to the lobby transparency register disclosure requirements: A series of detailed changes are required to the rules of the lobby register in order to further boost data quality and to ensure that the register presents a reliable picture of lobbying at the EU level:

- **Financial disclosure:** Lobby turnover should be disclosed to the nearest 10,000 euros and not according to the present system of wide brackets. Lobby spending should be disclosed to the nearest 10,000 euros.
- **Lobby issue disclosure:** All lobby consultancies and law firms should be required to list, alongside the specific lobby revenue received from each client, the precise issues upon which they lobby and / or advise each client.
- **Lobbyists' names disclosure:** All individuals lobbying on behalf of a registrant should be listed
- **Disclosure of lobbying through third parties:** Registrants should specify all third party organisations which it pays through which it conducts its lobbying and indicate how much it pays to them.

You can skip Part B and click on the button “Submit”

Thank you for taking part in the consultation and putting pressure on the European Commission to introduce a mandatory and legally binding lobby register.