

Public Consultation on a proposal for a mandatory Transparency Register

Response prepared by Transport & Environment (T&E)
[EU Transparency Register](#): 58744833263-19

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A. GENERAL PART (7 questions)

1. Transparency and the EU

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?

T&E will respond “fully agree” to this question.

Comments:

We believe that lobbying helps shape policy development, however we believe that this process must be both ethical and transparent, ensure equal access.

Transparent lobbying goes beyond the the EU's lobby transparency register. Wider transparency rules should be applied (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 broaden the scope by an around 30,000 additional individuals, including those who have high levels of interactions with lobbyists such as desk officers (who are typically responsible for drafting legislations).

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?

T&E will respond “other” to this question.

Comments:

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

1. Stopping the privileged access by business interests: Lobbyists representing businesses and trade associations make up 75% of all high-level Commission lobby meetings¹. Yet the Commission has committed to deliver balance in stakeholder representation. The most effective way to stop privileged access to the Commission by business interests would be to introduce a set of clear limits on meetings and any other kind of interaction in order to establish access parity with other stakeholders, including civil society organisations.

¹Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) in 2015

2. Stopping lobbying on behalf of 'toxic' industries: Industries that are in clear breach of EU laws, should have their Transparency Register suspended until a full investigation is undertaken. The recent air quality scandal linked to activities in the vehicle sector demonstrates a clear breach of EU law, certain car manufacturers and their industry association should be sanctioned (see below) including being removed from the Transparency Register and to be granted zero meetings with the institutions.
3. Ethics rules for those in the institutions: Rules should not just focus on lobbyists but also codes of conducts and rules for individuals within the three institutions (Commission, Parliament and Council). Rules should also extend to prevent MEPs having lobby-related side jobs and put an end to the revolving doors syndrom between the EU institutions and the lobby industry.

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

T&E will respond “relatively transparent” to this question

Comments:

While some of the EU institutions have introduced some transparency measures, the scope varies vastly between them.

1. Lobby register: A legally-binding register should be put in place, and should include comprehensive disclosure requirements, be supported by an active monitoring, include enforcement and sanction capacities, and which covers lobbying in all the EU institutions and executive agencies.
2. 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.

3. 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. These meetings are unaccountable, non transparent and undermine EU democracy. Little to no information is made available to the public because these meetings take place behind closed doors. 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.
4. 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.

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?

T&E will reply “somewhat useful” to this question.

Comments:

The present register is flawed and significant changes must result from this consultation and review process if it is to become a useful resource instead of the current system which is nothing more than administrative red tape.

A legally mandated lobby register 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 no later than 2017. A legally-binding lobby register would give the authorities the opportunity to levy fines or other real sanctions including being removed from the register and thus refused meeting 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.

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?

T&E will reply "fully agree" to this question.

Comments:

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.

T&E will reply “Changed to include certain types of entities” to this question.

Comments:

Political parties, regional public authorities and their representative offices must register if they are undertaking lobbying or 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 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 such clients.

Furthermore, the register applies to law firms however many refuse to register correctly. A legally-binding register is the solution for those who are selective with their client information or those who are not registered at all.

3.1 What is your impression of the Register web site?

	Good	Average	Poor	No opinion
Design and structure		X		
Availability of information / documents		X		
Ease of search function			X	
Accessibility (e.g. features for visually impaired persons, ease of reading page)				X
Access via mobile devices			X	

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

Comments:

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.

B. SPECIFIC PART

1. Structure of the Register

1.1 The Register invites organisations to sign up under a particular section, for example, professional consultancies, NGOs, trade associations, etc (Annex I of the Interinstitutional Agreement). Have you encountered any difficulties with this categorisation?

T&E will reply “Yes” to this question.

Comments:

Using clear titles, accompanied by descriptions and example for each categories would stop any confusion, which is currently leading to organisations making errors. For example, professional consultancies should be re-named as 'lobby consultancies' to make it clear that other kinds of consultancies should register in other categories.

2. Data disclosure and quality

2.1 Entities joining the Register are asked to provide certain information (contact details, goals and remit of the organisation, legislative dossiers followed, fields of interest, membership, financial data, etc) in order to identify the profile, the capacity of the entity and the interest represented (Annex I of the Interinstitutional Agreement). The right type of information is required from the registrant?

T&E will reply “too little is asked” to this question.

Comments:

Some detailed changes need to be made to the overall rules of the register to ensure that the quality of the data collected presents a reliable picture of lobbying at EU level. Currently the data does not paint an accurate picture.

1. Financial disclosure: Lobby spending should be disclosed to the nearest 10,000 euros.
2. Lobbyists' names disclosure: All individuals lobbying on behalf of a registrant should be listed
3. 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.

2.2 It is easy to provide the information required?

T&E will reply “fully agree” to this question.

2.3 Do you see any room for simplification as regards the data disclosure requirements?

T&E will reply “no” to this question.

2.4 What is your impression of the overall data quality in the Register:

T&E will reply “poor” to this question.

Comments

Transparency International has estimated that over half of the entries on the lobby register contain factual errors or implausible numbers and it made a

formal complaint about over 4,200 entries! This reflects the scale of the challenge and the current lack of capacity of the secretariat to properly monitor the data in the register.

The human resources and software capacity devoted to the EU lobby register, along with powers of investigation and enforcement, need to be totally transformed so that effective monitoring checks are carried out.

3. Code of Conduct and procedure for Alerts and Complaints

3.1 The Code of Conduct sets out the rules for all those who register and establishes the underlying principles for standards of behaviour in all relations with the EU institutions (Annex III of the Interinstitutional Agreement). The Code is based on a sound set of rules and principles?

T&E will reply “partially agree” to this question.

Comments:

The Code of Conduct covers many important points although some important phrases such as “inappropriate behaviour” remain undefined. This should be remedied, along the lines of the European Parliament's decision of April 2014 on the modification of the interinstitutional agreement on the Transparency Register.

Breaches of the Code of Conduct should be more readily sanctioned; see below for more information.

3.2 Anyone may trigger an alert or make a complaint about possible breaches of the Code of Conduct. Alerts concern factual errors and complaints relate to more serious breaches of behavioural nature (Annex IV of the Interinstitutional Agreement).

a) The present procedure for dealing with alerts and complaints is adequate.

T&E will reply “Disagree” to this question.

Comments:

The present system for dealing with alerts and complaints and the general maintenance of the register is inadequate and the Commission should significantly boost the resources devoted to the register.

Currently, the only real sanction available to the lobby register authorities is removal from the register. This is an important sanction, but one that can and is only be applied in limited circumstances. Under the current rules, those who have been shown to post inaccurate information face no real penalty and can maintain their European Parliament access passes or hold meetings with Commissioners. Submitting inaccurate and / or misleading information must be specified as an offence and new sanctions should be introduced such as the temporary suspension of lobby 'privileges'.

b) Do you think that the names of organisations that are suspended under the alerts and complaints should be made public?

T&E will reply “Yes” to this question.

4. Register website – registration and updating

4.1 How user-friendly is in your opinion the Register website in relation to registration and updating?

	Straight-forward	Satisfactory but can be improved	Cumbersome	No opinion
Registration process		X		
Updating process		X		

(annual & partial)				
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Comments:

Developing a system that would alert the user of possible errors during the updating process, would avoid errors that are most likely accidental or inadvertent. A biannual registration requirement would allow for more precise data collection that could be easily compared.

5. Current advantages linked to registration

5.1 The European Parliament and the European Commission currently offer certain practical advantages (incentives) linked to being on the Register. The Commission has also announced its intention to soon amend its rules on Expert groups to link membership to registration.

Which of these advantages are important to you?

In the European Parliament (EP)				
	Very important	Somewhat important	Not important	No opinion
Access to Parliament buildings: long-term access passes to the EP's premises are only issued to individuals representing, or working for registered organisations	X			
Committee public hearings: guests invited to speak at a hearing	X			

need to be registered				
Patronage: Parliament does not grant its patronage to relevant organisations that are not registered	X			
In the European Commission				
Meetings: organisations or self-employed individuals engaged in relevant activities must be registered in order to hold meetings with Commissioners, Cabinet members and Directors-General	X			
Public consultations: the Commission sends automatic alerts to registered entities about consultations in areas of interest indicated by them; it differentiates between registered and non-registered entities when publishing the results	X			
Patronage: Commissioners do not grant their patronage to relevant organisations that are not registered	X			
Mailing lists: organisations featuring	X			

on any mailing lists set up to alert them about certain Commission activities are asked to register				
Expert groups: registration in the Transparency Register is required in order for members to be appointed (refers to organisations and individuals appointed to represent a common interest shared by stakeholders in a particular policy area)	X			

6. Features of a future mandatory system

6.1 Do you believe that there are further interactions between the EU institutions and interest groups that could be made conditional upon prior registration (e. g. access to MEPs and EU officials, events, premises, or featuring on specific mailing lists)?

T&E will reply “Yes” to this question.

Comments:

The following recommendations should be put in place, during the interim period prior to the establishment of a legally-binding lobby register .:

European Commission:

1. Any lobby meeting with any Commission official

2. Any participation in expert groups, advisory groups, market access groups
3. Any attendance by Commission staff and commissioners at meetings and other events organised by lobbyists

European Parliament:

1. All meetings by MEPs, their staff and Parliament with lobbyists
2. All events in the Parliament's premises organised by lobbyists
3. Any participation by MEPs, their staff and Parliament staff at events and activities organised by lobbyists
4. Any participation in official Parliament intergroups and unofficial cross-party groups which organise events inside the Parliament

European Council, the Council, and Member States:

1. Any lobby meeting held by President Donald Tusk, members of his Cabinet, and staff from the secretariat
2. Any lobby meeting held by the general secretariat of the Council
3. Any lobby meeting held by the permanent representations on EU decision-making matters
4. Any lobby meeting held by staff from the European External Action Services, high-level representative Federica Mogherini and her Cabinet

6.2 Do you agree with the Commission's view that the Council of the EU should participate in the new Inter-institutional Agreement on a mandatory Register?

T&E will reply “Yes” to this question.

Comment:

The European Council and Council are significant EU institutions and important lobbying also occurs towards the member states' permanent

representations in Brussels. The EU lobby register should be fully extended to include the European Council, the Council and permanent representations.

7. Looking beyond Brussels

7.1 How does the Transparency Register compare overall to 'lobby registers' at the EU Member State level?

T&E will reply “No opinion” to this question.

8. Additional comments

Final comments or ideas on any additional subjects that you consider important in the context of this public consultation (Optional)

Comments:

This consultation process is a positive step in the right direction, however it is important that the inter-institutional agreement (IAA) process is also conducted openly; especially since the negotiations around the transparency register are a key component of the final agreement. Meetings of the high-level working group of the European Commission, Parliament and Council that will discuss the new IIA should be open to the public and web-streamed. The draft agreement, proposed changes, agendas and minutes should be made available online promptly.

Finally, all EU institutions should conduct regular reviews of their transparency rules and the way in which they are implemented so as to constantly strive for better and more comprehensive transparency. This would include, but not be limited to, the EU lobby transparency register.