

## **The European Transparency Initiative: Frequently Asked Questions and response from the European Commission**

### **Do you expect lobbyists and interest representatives to agree with your proposals and to register?**

Yes, we expect positive acceptance by professionals of this opportunity to prove their business is clean and legitimate. It is in the best interests of both the sector and the individual actors, to agree to register.

All stakeholders have since the start of the discussions been fully informed of the Commission's plans; indeed they played a key role in the consultations. The Commission's line was coherent and clear since the beginning: advocating a voluntary approach while showing seriousness in terms of the information required.

The proposals are balanced and realistic and enjoy broad support among those consulted. The consultation replies from the profession are encouraging.

A clear majority within the profession accept the direction taken. Those groups also working in the US see the value of taking steps to increase transparency, also in the hope of avoiding more intrusive procedures.

### **Why has the Commission chosen voluntary registration? Why not a mandatory register?**

The Commission is ready to trust the profession. The register offers lobbyists legitimacy and recognition as a profession. In a system of self-declaration, the registrant opts in and takes responsibility for supplying correct information. The Commission believes this trust should first be tested.

The Commission wishes to involve a wide assortment of stakeholders, inviting them to join the register. With legislation, a much narrower definition would apply. This would make the playing field uneven. Given the length of legislative procedures, it would also have meant not having the results during this Commission's term of office.

### **What are the proposed incentives to convince organisations to register?**

The biggest incentive to register is the profession's own desire for respectability, and its desire to avoid more heavy-handed procedures in the future. Both Commission and lobbies have a duty to protect themselves from future scandals.

Lobbyists who register will be given an opportunity to indicate their specific interests and, in return, would be alerted to consultations in those specific areas.

The Commission also intends to combine the voluntary register with a new standard template for internet consultations. When participating, interest groups will systematically be invited by the Commission to register; otherwise their contributions cannot be considered as representative of their sector.

## **How will the Commission deal with non-registered interest groups who take part in public consultations?**

The Commission applies a clear policy of non-discrimination for its consultations. However, having sufficient information about the organisations participating in a consultation is clearly a pre-condition for any meaningful assessment of the relevance and usefulness of the contributions they submit. This means that the contributions received from organisations not registered cannot be regarded as representative of their sector. They will be considered as contributions from individuals.

## **Why financial disclosure?**

The aim is to protect the legitimacy of EU decision-making. Money might not be the exact measure of influence, but without financial disclosure, one cannot fight the myths and prove that decision-making is fair and unbiased. The main source of public suspicion is linked to money. Indeed, if lobbyists and NGOs get themselves involved in public policy-making, they should accept a degree of accountability towards the EU citizen.

Requesting financial disclosure does not imply an anti-business bias. NGOs can be powerful without deep pockets. That is why the register asks NGOs to declare how they are funded, i.e. whether they rely mostly on public funding (including from the Commission) or whether they have real grassroots support and membership fees.

Most lobby firms are actually proud to announce who they work for. It shows others have shown them confidence. The Commission is not prescriptive as to how financial information is presented; the calculation method is left to the lobbyists and no *hourly* fees are requested.

The Commission is only interested in overall amounts.

The lobby industry in Washington has survived although US lobbyists have to report in a more intrusive and detailed way than what the Commission is proposing.

## **How will financial disclosure take place in practice?**

In order to keep the system simple and non-bureaucratic and since the same level of financial disclosure would translate differently to the different stakeholders, the Commission decided to apply different minimum criteria for the main categories of interest groups:

- For professional consultancies and law firms involved in lobbying EU institutions, the turnover linked to lobbying EU institutions, as well as the relative weight of the clients in this turnover, should be declared. Hourly rates are not required.

- 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. Major companies doing their own lobbying would have to estimate themselves what amount is spent on lobbying the EU institutions. The Commission will trust their estimate until otherwise proven.

- For NGOs and think tanks, the overall budget and breakdown per main source of funding (amounts and sources of public funding, donations, membership fees etc.) should be declared.

**Do the rules proposed not create additional red tape for the sector and the Commission alike?**

No, the Commission is careful to avoid unnecessary administrative burden. Indeed, the approach chosen is the least intrusive and least heavy possible. But if the industry does not accept the extended hand with this lighter solution, any mandatory solutions are likely to bring considerably more administrative burden.

**How much will it cost to implement the register?**

While developing the register and drafting the code of conduct will necessarily generate one-off costs, the day to day cost of operating the register is considered reasonable, at an estimated EUR 50 000 per year.

**What will be the Commission's criteria for assessing the register's effectiveness?**

The key criterion will certainly be to evaluate the coverage, i.e. the degree of participation in the register. Has the profession, have the various types of interest groups understood the importance of registering? Have they understood the importance of accountability towards the public; of proving their legitimacy when contributing in consultations and lobbying for their specific interests?

**How will the code of conduct be drafted?**

As suggested during the consultations, the Commission will draw up the code of conduct. It will do so, of course, in close consultation with stakeholders and building on existing earlier standards, in particular the minimum requirements adopted in 1992 and the code of conduct adopted by the European Parliament. It will of course take into account existing codes of conduct developed by public affairs practitioners.

**Who is to monitor compliance with the proposed code of conduct, and what sanctions would be foreseen?**

All factual information provided by interested parties for registration must always be accurate. Monitoring the code of conduct will rely on the self-regulatory capacities of a critical public and of a competitive industry. Complaints brought forward by the public or by stakeholders will be analysed individually by the Commission.

Registrants found to submit inaccurate information will be invited, possibly in a public manner, to correct it. As a measure of last resort, the Commission can exclude from the register lobbyists providing inaccurate information. A similar procedure would apply to breaches of the Code of Conduct.

**Will the register be extended to cover other institutions, particularly the European Parliament ?**

Many of those taking part in the consultation on the ETI Green Paper argued in favour of an inter-institutional approach to lobbying. They called for a future register and Code of Conduct to be common to the Commission and, at least, the European Parliament.

The Commission fully shares this view and believes "one-stop-shop" registration would provide an increased incentive for stakeholders to register. The Commission therefore invites the European Parliament, the Committee of the Regions and the Economic and Social Committee to examine the possibility of closer cooperation in this area.

**Does the Commission think that the rules covering its own staff, and in particular its former staff, are sufficiently strong?**

The staff regulations are crystal clear: Officials shall declare any potential conflicts of interest and shall not accept favours or gifts from third parties without obtaining prior permission.

They must not have an interest in any businesses or organizations dealing with the EU Institutions if this might compromise their independence. Any outside activities must first be approved and the Commission also should be informed whether and how the spouse is employed.

Former staff shall inform the Commission during a period of two years about the nature of new activities taken up. If that activity is related to the work carried out by the official during the last three years of service and could lead to a conflict of interest, the Commission may either forbid him/her from undertaking it or give its approval subject to any conditions it thinks fit.

**What about transparency and the list of special advisers published recently?**

The Commission is fully consistent in its commitment for transparency; the list was published in due course. Specific information on special advisers, their role and conditions of employment is made available without hesitation.

Special advisers are engaged to advise on specific policy issues or to fulfil specific functions for the Institution, usually for a few days only per year. They are hired on the basis of specific expertise in their field and usually pursue other activities in parallel.

Special advisers are not members of the Commission staff but have a formal contractual relationship with the Commission. This includes in particular the obligation to inform the Commission of any potential conflicts of interest arising between the Commission and their outside activities. Their contract may be terminated by the Commission where it considers there is no assurance on the absence of a conflict of interest.