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Busting the spin on lobby transparency

An ALTER-EU media briefing

SCHRÖDINGER'S LOBBYING



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At the end of September, the European Commission will announce its proposal for a mandatory lobby transparency register. This has been heavily trailed as being in the form of an inter-institutional agreement with the European Parliament (already part of the current register) and the Council (which currently only has register observer status). Often, the language used around the lobby transparency register is confusing, if not downright contradictory. This briefing is a guide for journalists looking to decode the Commission's upcoming announcement.

In summary, in the view of ALTER-EU, the EU register cannot be called fully mandatory until the following problems are tackled:

- ▶ All EU lobby players join the register, including law firms;
- ▶ Misleading, vague or inaccurate data is removed;
- ▶ Monitoring capacity and sanctions for breaking the rules are introduced;
- ▶ Lobbying towards permanent representations, alongside the Council and European Council, is included in the register's scope;
- ▶ The register is backed by a legal act.

A “mandatory” lobby register

The Commission is widely expected to introduce a proposal for what it will call a “mandatory” lobby transparency register. But it is important to be clear what this really means in practice:

If the new “mandatory” register is only backed up by an inter-institutional agreement and not a legal act, it will be mandatory in name only. Without a legal act, there cannot be sanctions or criminal prosecutions for serious breaches of the lobby rules and the register will continue to be voluntary, littered with dodgy data, and with unenforced rules.



ALTER-EU and its member groups have made numerous complaints about erroneous data. In almost all cases, registrants were allowed to update their registrations with no penalty or sanction. See, for example, these [complaints](#).

Furthermore, organisations intent on lobbying the EU institutions without registering will remain at liberty to do so.



The major problem remains that many big law firms are actively lobbying at the EU level but without being registered, as this [ALTER-EU report](#) documents.

The Commission’s “mandatory” register will likely be based on a series of incentives aimed at making it more attractive for lobbyists to sign-up; key among these existing ‘carrots’ is that commissioners, their cabinet members and directors-general will only meet with lobbyists who are registered. However, this rule (introduced from 1 December 2014) covers a mere 300 or so officials, leaving a further 30,000 or more free to meet with unregistered lobbyists; if the new rules simply extend this to cover another level or two of Commission staff it will not adequately block lobbying by unregistered organisations.



[ALTER-EU research](#) shows that 20 per cent of lobby meetings held by DG Fisma (between December 2014 and July 2015) were attended by lobbyists representing companies or organisations that were not in the EU’s lobby transparency register at the time of the meeting.



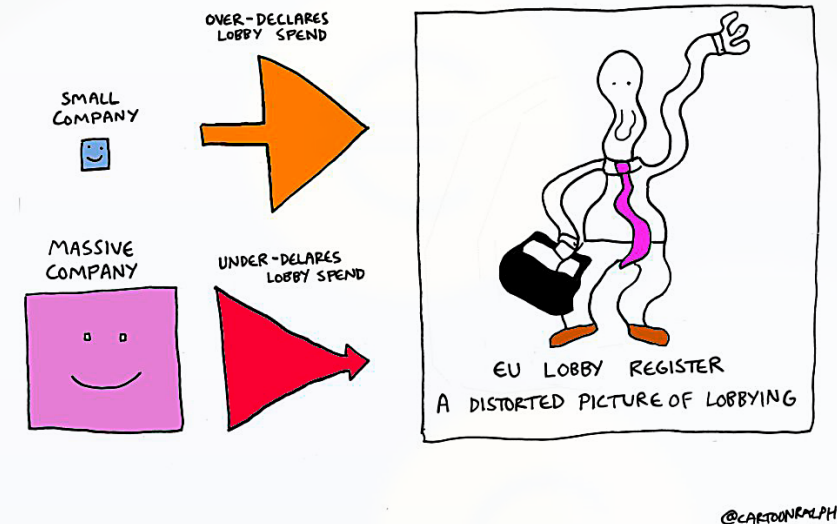
ALTER-EU says: "If there is no legally-binding lobby register announced, nor a timetable to do so in the near future; and if the Commission’s incentives to join the voluntary register continue to allow lobbying by unregistered lobbyists, the use of the word “mandatory” to describe its proposed new lobby register will be highly misleading."

Tackling dodgy data

In 2015, [Transparency International](#) estimated that over half the entries in the EU lobby register contained factual errors or implausible numbers and it is clear that the register authorities lack both the capacity and the powers to challenge inaccurate entries.

Will the Commission seriously invest in tackling the dodgy data problem, so that 20 per cent of entries can be checked each year? The Secretariat for the current EU lobby register with its 9800+ registrations, is staffed by only a handful of people. This is seriously inadequate considering the Canadian register with its 2600+ registrations has 28 staff members to administer and police the system, including a 'Commissioner of Lobbying'.

And will the Commission tighten the disclosure rules? For instance:



- ▶ Will it ensure all registrants submit at least two updates per year?
- ▶ Will it remove the ridiculously broad bandwidths for declaring lobby revenue which become less transparent the bigger the sums involved? All financial disclosures should be as precise as possible and declared to the nearest 10,000 euros.
- ▶ Will it ensure that the names of all individuals lobbying on behalf of a registrant are listed?
- ▶ Will it tackle front groups by ensuring all registrants specify the third party lobby organisations which it pays?

9883 organisations match the above search criteria.
How to use and interpret the statistics table below.

#	Organisation name	Head office in	Lobbying costs	EP passes	Lobbyists (FTE)	Meetings with EC
1	Trafikverket (Swedish Transport Administration)	Sweden	4,232,481,409 €	0	2.5	0
2	RAC Motorling Services	United Kingdom	100,000,000 €	0	1	0
3	Umweltbundesamt Gesellschaft mit beschränkter Haftung	Austria	45,281,855 €	0	427.5	0
4	National Authority for Management and Regulation in Communications of Romania	Romania	35,406,303 €	0	5	0
5	Vytautas Magnus University	Lithuania	29,164,000 €	0	4	0
6	Národné poľnohospodárske a potravinárske centrum	Slovakia	28,102,759 €	0	2.5	0
7	FUNDACIÓ EURECAT	Spain	24,400,000 €	0	28	0
8	European Science Foundation	France	12,770,968 €	0	5.5	0
9	European Chemical Industry Council	Belgium	10,220,000 €	29	44.25	45
10	An tÚdairis um Ard-Oideachas	Ireland	> 10,000,000 €	0	0.25	0
11	CONFEDERACIÓN INTERSINDICAL GALEGA	Spain	> 10,000,000 €	0	10.5	1
12	Fira Barcelona	Spain	> 10,000,000 €	0	18.75	0
13	Fundación ECOLEC	Spain	> 10,000,000 €	0	0.5	0

Lobby-data crunching tool LobbyFacts **recently found** that 76 per cent of the entries at the top of the current EU lobby register were flawed and that of the 51 organisations declaring the highest lobby spend, only 12 were likely to, in fact, be among the biggest lobbyists. There was only one reliable-looking entry among the 30 entries declaring the highest lobby spend.



ALTER-EU says: "Unless there are major new efforts so that 20 per cent of entries are checked per year, with far tighter disclosure requirements, and enforcement of the rules, we will not have confidence that the revised EU lobby register will become a properly useful tool that can tell us precisely who is influencing EU decision-making, on which specific dossiers, on whose behalf, and with what specific budget."

Including the Council

A major element of the Commission's announcement is likely to involve the inclusion of the Council (which currently only has observer status) into the scope of the lobby register, joining the European Parliament. What does it mean to include the Council?

- ▶ In all likelihood the Council's inclusion will be limited to its General Secretariat, a body which (due to its bureaucratic nature) is not likely to be a focus of major lobbying. A Council Legal Services' opinion says that the Secretariat has only "rarely been contacted by interest groups".
- ▶ Major lobbying does take place at the member state level on EU matters, either in national capitals or to Brussels' permanent representations, as a recent **ALTER-EU report** highlighted. However, the Council has repeatedly made it clear that if it were to join the lobby register, all member state level activities, including via the permanent representations, must be excluded.
- ▶ So the question is, what is the transparency value of bringing the Council's General Secretariat into the scope of the lobby register if permanent representations and the European Council are not included? What compromises will have to be made to include the General Secretariat of the Council and will they be worth it?
- ▶ Ultimately, the introduction of a legally-binding lobby register (at least if introduced under EU treaty article 352) would require unanimity at the Council ie the support of all member states. If the Council is brought into the remit of the lobby register, there is a plausible risk that it delivers little new in terms of extra transparency, but makes it that much harder to usher in a legally-binding lobby register in the future.



ALTER-EU says: "An EU lobby register which does not include the Council, European Council and all member states' permanent representations will continue to miss important pieces of the Brussels' lobby influence jigsaw."

Conclusion

The Juncker Commission has repeatedly named lobby transparency as one of its priorities. It remains to be seen whether the upcoming reform of the lobby register will be substantially different from those that have preceded it: will the Commission present a radical transparency agenda, or will it continue to only tinker at the edges, offering strong words but weak delivery? ALTER-EU fervently hopes it will be the former – and will continue to pro-actively hold the Commission to account on its lobby transparency promises.

To find out about the corporate lobby agenda on transparency matters, read this new **blog** by Corporate Europe Observatory.

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