



Autumn 2016– update

EU lobby transparency: time for a stronger lobby register

Introduction

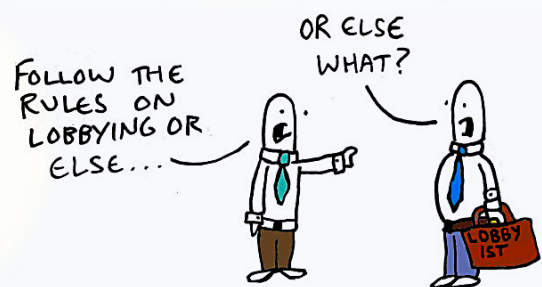
The European Commission has launched a proposal for a reformed (and “mandatory”) lobby transparency register, and the European Parliament and Council are now invited to negotiate an inter-institutional agreement to make this reality.

The current register (jointly coordinated by the Commission and Parliament) is far from ideal. It is voluntary and riddled with inaccurate or misleading information. In 2015 Transparency International estimated that over half the entries contained factual errors or implausible numbers, and it is clear that the register authorities lack both the capacity and the powers to challenge both inaccurate entries and those who lobby yet refuse to sign up.

The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) welcomes any initiative to improve the present transparency register, and the Commission’s new proposal will make it easier to levy sanctions when lobbyists post misleading data, and will improve some elements of data disclosure.

But overall, the Commission’s new proposal lacks ambition to seriously improve the register: the proposal ignores Parliament’s demands from 2008, 2011, and 2014 for a legally-binding register and the Commission makes no further commitments to tighten its own rules to prevent unregistered lobbyists from accessing the Commission.

THE EU GETS
TOUGH ON LOBBYING



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And the proposal goes further than that. In fact the Commission’s proposal threatens to make the new register weaker than the current one, as it proposes a diluted definition of lobbying which would exclude lobby advice and other forms of indirect lobbying.

Lobby transparency is an important tool in the fight for public-interest decision-making at the European level. A comprehensive, legally-binding lobby transparency register which covers both direct and indirect lobbying would tell us who is influencing EU decision-making, on which issues, on whose behalf, and with what budgets.



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In the view of ALTER-EU, MEPs must seize the opportunity presented by the inter-institutional agreement process to demand a far more effective lobby register now. Our priorities for a revised lobby register are below:

1. Retaining the current definition of lobbying which includes both direct and indirect lobbying
2. A legally-binding lobby register in the long-term
3. Effective monitoring of the data and improved sanctions to aide enforcement
4. Officials and MEPs to only meet with registered lobbyists
5. Inclusion of the European Council, Council and all permanent representations
6. Tighter lobby register data disclosure requirements

What can you do?

ALTER-EU asks all political groups to prioritise the inter-institutional agreement (IIA) on lobby transparency to ensure that it delivers a lobby transparency register which is accurate, comprehensive and robust. In particular this means:

- ▶ Ensure that your political group plays a committed and active role on lobby transparency during the IIA negotiations.
- ▶ Ensure the IIA negotiations are conducted in an open and transparent fashion, and demand an active role for civil society.
- ▶ Support the ALTER-EU demands in this briefing when the IIA is voted upon in committee and in plenary.
- ▶ Become an active transparency advocate by refusing to meet with lobbyists (other than citizens or constituents) who are not registered. ALTER-EU also encourages MEPs to publish an online list of all lobby meetings held.

1. Retaining the current definition of lobbying which includes both direct and indirect lobbying

We urge MEPs to reject the Commission's proposal to weaken the definition of lobbying in the transparency register. A weaker definition can only mean less transparency of lobbying activities.

When the Commission launched its proposal in September 2016 it said that, in the recent public consultation, "the Register's broad definition of lobbying activities was deemed appropriate by most stakeholders". Yet buried in the detail of the Commission's proposal is a new definition of what lobbying is, and what activities would therefore require registration. The proposal would only cover direct lobbying, i.e. direct interactions with MEPs, commissioners, or officials which aim to influence the formulation or implementation of policy, or institutional decision-making.

In fact this is very different from the current definition which covers all activities with the objective of directly or indirectly influencing the EU policy-making and decision-making.

The removal of indirect lobbying from the definition would have serious implications. Lobbying is not just direct contacts between lobbyists and officials (phone calls, letters, emails, meetings), it is also indirect work to influence the views of the institutions and their officials: producing research to influence politicians, media campaigns, events and others. These must remain covered.

Furthermore, the work of lobby intermediaries like law firms and lobby firms who earn substantial fees from the provision of lobbying advice eg. advising on who to meet or how to draft amendments, the best arguments and tactics to use etc, must continue to be included. A definition which ignores this form of lobby strategising would ignore probably the bulk of lobby consultancy work.

Finally, at a time when the revolving door is prominent in the concerns of Brussels-bubble watchers, thanks to the high-profile moves of former President Barroso to Goldman Sachs International and former Commissioner Kroes to Uber, as well as other moves, a weak definition of lobbying would be a backwards step in this context too. Any indirect lobbying advice and strategy, including that provided by former commissioners, MEPs and officials who have gone through the revolving door must be included.

COMMISSION'S PROPOSED DEFINITION OF LOBBYING THE COMMISSION THINKS THAT

THIS IS **LOBBYING**



BUT THAT THIS ISN'T ...



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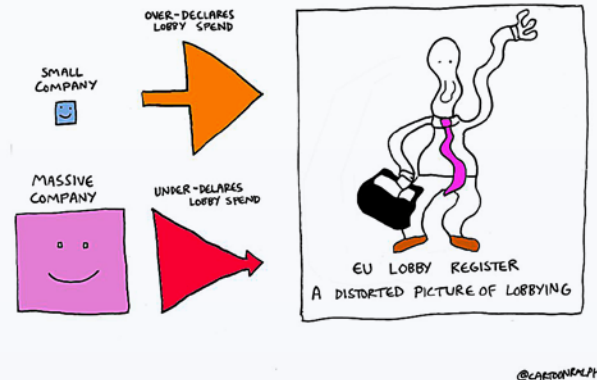
2. A legally-binding lobby register in the long-term

For ALTER-EU, a lobby register which is no longer voluntary but is instead backed by the force of law, is essential if all lobbyists are to sign-up and if the register is to provide an accurate snapshot of lobbying in the EU institutions. The Commission's proposal makes no progress on this and we urge MEPs, in the Parliament's response, to remain committed to a legally-binding lobby register.

Without a legally-binding lobby register, the authorities cannot levy fines, or mount criminal investigations into those who repeatedly refuse to register, who post inaccurate information, or who otherwise break the rules.

As a recent [ALTER-EU report](#) highlighted, some law firms are also major lobby actors which represent their own interests, or those of their clients, to Commission officials and to MEPs. But too many have refused to join the lobby register (and therefore the requirement to declare lobby costs, clients, lobby topics etc) but they escape sanction because the current system is only voluntary.

Law firms and other lobbyists that refuse to register make a mockery of the present system. A legally-binding lobby register is the only way to block this loophole, and could be introduced alongside a clear threshold which clarifies which contacts with decision-makers do not require registration, for example citizens contacting their local MEP.



3. Effective monitoring of the data and improved sanctions to aide enforcement

All institutions should urgently devote new resources to improve the quality of the data in the lobby register so that checks are carried out on at least 20 per cent of declarations each year. Furthermore, tougher sanctions will mean better enforcement.

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 indeed only one reliable-looking entry among the 30 entries declaring the highest lobby spend. There is a huge 'dodgy data' problem in the lobby register and this must change if citizens are to have confidence in the system.

The secretariat for the current (voluntary) EU lobby register, with its 9500+ 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'.

The Commission has proposed some plans for improved sanctions for non-compliance with the lobby register rules. The new register should maximise the sanctions possible under the current voluntary regime. Under a legally-binding register, fines or criminal prosecutions would additionally be possible.

4. Officials and MEPs should only meet with registered lobbyists

The Commission's meeting policy should be extended so that no official is allowed to meet with unregistered lobbyists. Yet the Commission's proposal makes no such commitment. In ALTER-EU's view, the Parliament should demand that the Commission does this immediately.

Currently, no commissioner, cabinet member or director-general is allowed to meet an unregistered lobbyist. ALTER-EU welcomes this rule but is concerned that it only covers the top 250 or so most senior officials in the Commission. In fact, many lower level officials from among the 30,000+ Commission staff regularly meet with lobbyists, including the key TTIP negotiators, but they are not included within the rules.

ALTER-EU believes that MEPs, their staff and Parliament staff should only meet with registered lobbyists. The Commission has now demanded that no MEP meets with an unregistered lobbyist.

While the European Parliament is party to the lobby register, MEPs are not subject to any rules to prevent them from meeting with unregistered lobbyists. This must change, if non-registered lobbyists are to be squeezed out of the law-making process. But this proposal should not place unnecessary restrictions on MEPs. It should not prevent MEPs from meeting with citizens from their constituencies, local civic associations or small-scale entrepreneurs, none of whom would be required to join the register unless they met a minimum threshold requirement for lobbying activity.

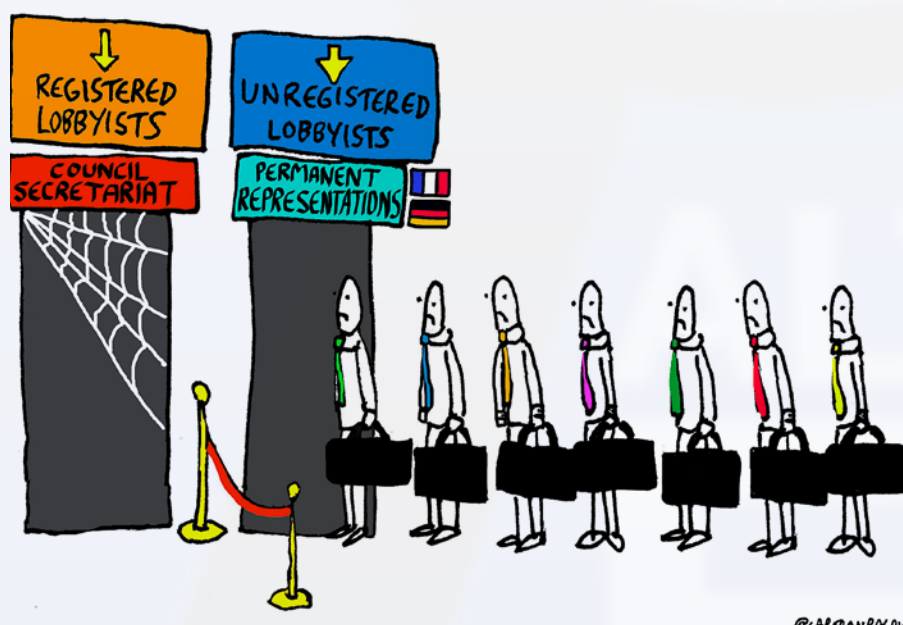
5. Include the European Council, Council and all permanent representations

The Commission's proposal invites the Council to join the lobby transparency register, yet on very limited terms. ALTER-EU supports the extension of the EU lobby register to fully include the European Council, the Council and permanent representations.

The European Council and Council are significant EU institutions, and a recent ALTER-EU report illustrates the significant lobbying which also occurs towards the member states' permanent representations in Brussels – and the huge lack of transparency that surrounds it.

Yet the Commission's proposal only intends to include the Council's Secretary-General and Directors-General and Ambassador and deputy of the current and forthcoming presidency of the Council. This means that permanent representations would be covered by the register for one year out of every 14 years! The other 26 permanent representatives, all other staff at permanent representations, Council staff, national ministers and officials operating via Council, and the European Council will not be covered, allowing a pretty free rein for unregistered lobbyists.

Until a comprehensive EU register comes about, there should be significant improvements to national lobby transparency rules to ensure that lobbying of permanent representations, as well as national governments, is explicitly included there, where it concerns EU decision-making.



6. Tighter lobby register data 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. Yet the Commission's proposal does not include any of the following essential reforms:

Up-to-date registrations: All registrants should submit at least two updates per year, and on shared dates.

Financial disclosure: Currently, lobby consultancies and law firms are required to disclose their lobby turnover but only in some very broad bandwidths which become less transparent the bigger the sums involved. Instead, all client lobby revenue for the previous year should be precisely declared and all client revenue for the current year should be declared to the nearest 10,000 euros. For other organisations, all lobby spending should be disclosed to the nearest 10,000 euros.

Lobby issue disclosure: The register needs to properly enforce rules requiring disclosure of specific dossiers lobbied on. Additionally, 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.



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Lobbyists' names disclosure: The names of all individuals lobbying on behalf of a registrant should be listed.

End funding exemptions: Think-tanks should be required to publish a list of their funders and the sums involved. Additionally, all lobby consultancies and trade associations should declare their full turnover / budget, matching the information that NGOs and think tanks already provide. All registered organisations should specify the expenditure of any Brussels-based offices.

For more information, contact:

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