



The Alliance for Lobbying Transparency and
Ethics Regulation in the EU (ALTER-EU)

Brussels - November 2, 2010

To: Michel Barnier, European Commissioner for Internal Market and Services
Re: Securing balanced representation in expert groups dealing with financial issues

Dear Commissioner Michel Barnier,

We thank you very much for your timely response (dated October 1st 2010) and welcome your intention to achieve a fair balance of non-industry stakeholders' representation in all DG Internal Market's expert groups.

The advisory structure that provides the basis for EU regulation of financial markets must be part of the general financial reform in order to mark a turning point towards a more sustainable financial sector which is beneficial for society at large. We support such change and appreciate your openness towards our contributions.

We also welcome the composition of the separate Stakeholder Groups established to advise the new European Supervisory Authorities. This is surely a significant step forward in comparison with the composition of the expert groups advising DG Internal Market directly.

We have some further suggestions to secure balanced representation on expert groups. We recommend that the quotas provided for the different categories of participants in the Stakeholder Groups should be developed and extended to all expert groups. Currently Stakeholder Groups are to be composed by 30 members, 10 of which will come from the financial industry and five will be independent academics. The remainder comprise trade unions, consumers, SMEs and business users of financial services. It is not clear what the allocation between these categories will be.¹ In order to provide safeguards against the domination and capture of advisory groups by commercial interests, we recommend that it should be specified that actors with commercial interests should always be a minority in any expert group (i.e. under no circumstances should more than half of the total membership should come from this category). Consumers, unions and other civil society representatives should always be the majority among the non-governmental members.

In our view, this is necessary to strike the right balance between special interests and the public interest in DG Market's consultation processes. The public interest cannot be reduced to the sum of private interests.

It is essential that commercial interests - both financial services providers and business users of such services - do not have the majority in any expert group. This is needed in order to implement the Treaty that stresses that 'the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions' and be in line with the spirit of the Commission's own codes of conduct (COM(2002)704, COM(2002)713).

Over the past decade there has been a problem of domination of the advice on financial regulation by the sell side. This should be replaced by a genuinely balanced system taking equal account of all groups in society, not simply a new imbalance where commercial interests (providers and users combined) are again

¹ [Check links in the bottom of this page: http://www.europarl.europa.eu/en/pressroom/content/20100921IPR83190/](http://www.europarl.europa.eu/en/pressroom/content/20100921IPR83190/)

given more importance than all other stakeholders.

In the meeting we had with representatives of your cabinet and DG Market, on June 10, 2010 they explicitly recognised this lack of balance in the financial expert groups. Solutions to this problem do not only include strengthening the involvement of civil society organisations but also providing safeguards against corporate capture. Adding one or two trade union or NGO representatives to the Group of Experts on Banking Issues for example doesn't solve the problem because GEBI remains largely dominated by companies.

This group is also typical of the wider problem of corporate lobbyists participating in expert groups as experts 'in personal capacity'. Through an access to documents request we have obtained the 'written declarations of commitment to act in the public interest'² that have been signed by lobbyists of Goldman Sachs, ING, Pricewaterhouse Coopers, Royal Bank of Scotland, HSBC, Barclays and other corporations. It is not a solution to let these people declare their 'commitment to act in the public interest and certify that no conflict of interests exists that could be prejudicial to' their 'independence'.

Lobbyists and other executives of corporations should only be included in expert groups as stakeholders and with limits to keep their role in proportion, namely not more than half of the total seats. At present the vast majority of corporate representatives sit in expert groups in a personal capacity: 191 corporate lobbyists in eight different expert groups (CESAME2, Clearing and Settlement: Legal Certainty group, EGFE, EGMI, ESME, FISCO, GEBI, PSMEG). The number of industry lobbyists in these groups should be significantly reduced and those that remain should not be there in "personal capacity". Tackling this inconsistency would address a big part of the problem of corporate domination of financial expert groups.

Dealing for several months now with financial markets reform, you will have had the opportunity to see the serious negative consequences of one-sided advice. Your determination to address the problems that exist within DG Internal Market is a very significant development, which we are eager to actively support to help ensure genuine change. However, the problem of one-sided advice is not limited to DG Internal Market, but exists with expert groups across the Commission's DGs. This is why we would like to suggest that you also take up the problem of unbalanced expert groups for the Commission as a whole. This would be extremely timely as new horizontal rules for expert groups are under development [C(2005)2817]. The new horizontal rules should include safeguards against corporate domination and capture of these groups.

Finally, we would like to reiterate our suggestion for a broad critical review of the Commission's practices regarding expert groups on financial regulation over the last years, including an assessment of topics and mandates (as the tendency has been to establish expert groups on issues mainly of interest to industry, while ignoring concerns from groups representing wider societal interests). We would also like to stress that the Commission must offer sufficient financial compensation to enable non-industry experts (academics, civil society groups and other public interest groups) to participate in expert groups, including for capacity building for independent expertise.

We would be delighted to meet you at a time of your convenience to discuss these important issues and explore options for reform. In case this is not possible we would appreciate you confirming a date when you will be able to give a detailed and considered reply on the concrete measures we have proposed

Yours sincerely,

The steering committee of ALTER-EU

Paul de Clerck (Friends of the Earth Europe); William Dinan (Strathclyde University & Spinwatch); Marc Gruber (European Federation of Journalists); Gildas Jossec (AITEC); Monika Kosinska, (European Public Health Alliance); Ulrich Müller (LobbyControl); Jorgo Riss (Greenpeace European Unit); Erik Wesselius (Corporate Europe Observatory).

² Elsewhere cited as 'Declarations relating to possible conflicts of interests' - E-6705/08, E-6706/08