

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



Brussels, May 10, 2011

To: José Manuel Barroso, President of the European Commission

Subject: Code of Conduct for Commissioners and the upcoming decision on the Ethical Committee

Dear Commission President Barroso,

We would like to express our view on the new Code of Conduct, which was agreed by the Commission on Wednesday 20 April. We would also like to present our recommendations for the ad hoc ethical committee's decision that is to follow; a decision that provides an opportunity to strengthen measures to address the widespread concerns about ex-Commissioners going through the revolving door into jobs that involve lobbying.[1] EU citizens deserve this problem to be solved with effective solutions. This is what is needed to create trust.

We note that the final version of the Code of Conduct includes only minor changes compared to the draft text from January. Constructive and workable suggestions for improvements from numerous MEPs and from other stakeholders, including ALTER-EU, have unfortunately not been taken up.

Instead of introducing a clear cooling-off period of several years, the Commission decided on a notification period of only 18 months (compared to two years for UK ministers and the US government). The new Code mentions a ban on lobbying (and 'advocacy'), but unfortunately this appears to be insufficient to avoid conflicts of interest. The Code only covers issues falling within the ex-Commissioner's own portfolio. We fear this will not prevent ex-Commissioners from moving into jobs that involve lobbying and lobbying advice. It would allow ex-Commissioners to lobby on issues that were not strictly within their own portfolio.

Earlier this year ex-Commissioner Verheugen was given green light for his lobby consultancy firm 'The European Experience Company' with similar limited conditions. This means that Mr Verheugen, for instance, is allowed to lobby on behalf of industry clients towards DG Environment and other DG's on issues where he was involved in the decision making but for which he was not directly responsible as commissioner.[2]

A longer notification period of three years would be appropriate, as it is in line with the allowance system for Commissioners and therefore a sensible safeguard to reduce the risk of conflicts of interest. Finally, the Code also includes no definition of lobbying.

We would like to suggest that you review the Code on these and other points after a trial period of one year, with an open mind to increase the notification-period to three years and closing the loopholes, so lobbying jobs effectively become off-limit for ex-Commissioners.

There are still some important decisions to be made regarding the ad hoc ethical committee, which should be given the right powers and remit to be able to fulfill its proper role in preventing conflicts of interest. We would like to reiterate the following recommendations:

- the ad hoc ethical committee must be **fully independent and composed of experts on public administration ethics**, such as academics and national government ethics regulators.
- the committee should **actively scrutinize possible conflicts of interest**, including making contact with the planned employer and taking other pro-active steps. The input from third parties should be included in the assessment process.
- there should be **comprehensive online transparency** around the Commission's decision to approve or reject post-employment requests. Decisions should be available online and be searchable, sortable and downloadable.

We would also like to point out that the conflicts of interest rules for European Commission staff also have several shortcomings that create 'revolving door' problems. We would therefore recommend that you also review the Staff Regulations. Introducing a cooling-off period with a clear ban on Commission staff moving into jobs that involve lobbying or lobbying advice would be a logical step forward.

We would appreciate if you could inform us about the process for reviewing the mandate of the ad hoc ethical committee and the way in which stakeholders can be involved in that process.

Yours sincerely,

On behalf of the ALTER-EU Steering Committee

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William Dinan (Spinwatch)
Marc Gruber (European Federation of Journalists)
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Notes:

1. For more information about ALTER-EU's analysis of the shortcomings of the Commission's current ethics rules and procedures and our recommendations for improvements, see "Revolving door provides privileged access – why the European commission needs a stricter code of conduct", ALTER-EU, February 2011: http://www.altereu.org/sites/default/files/documents/revolving_door_provides_privileged_access.pdf.
2. Verheugen is only barred from lobbying for companies who have benefited directly from a contract or subsidy from his previous directorate (DG Enterprise): <http://www.altereu.org/documents/2011/05/09/restrictions-verheugens-lobby-firm>.