

ALTER-EU Briefing on the review process of the Transparency Register



April 2013

Introduction: What is at stake with the review of the Transparency Register?

Almost two years after the introduction of the Transparency Register, analysis by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) shows that the register does not live up to its name. The tobacco lobby scandal that led to the resignation of former Health and Consumer Affairs Commissioner John Dalli further illustrated the lack of monitoring and enforcement around lobbying practices in Brussels. It is clear that the voluntary approach has failed to deliver a reliable and up-to-date register able to provide an accurate overview of lobbying in Brussels.

1. Current flaws in the Transparency Register

- **Far too many major players missing.** Although the number of registrants has increased, far too many active lobby players are still not on the list. As long as many major lobby players are missing, claims that the register is 'de facto mandatory' are misleading. Law firms involved in lobbying continue to evade disclosure.
- **Incomplete and inaccurate information.** Despite the European Commission announcing it would introduce random spot checks on entries in the register, the quality of the information provided in the register is very questionable. Many loopholes remain in relation to the lobbying activities of major corporations, consultancies, law firms and trade associations. For instance, many of those who are the biggest spenders on EU lobbying activities according to the register are in fact very minor players or may not even be lobbying at all. Widespread underreporting by many large lobbying entities remains a problem.
- **Monitoring.** The Register is not properly audited or monitored. This undermines credibility, and raises questions about its contribution to increased transparency and accountability.
- **Code of conduct for lobbyists.** The current code of conduct is very vaguely worded and treated as little more than a box ticking exercise. The introduction of the code of conduct for MEPs has made it, in its current form, an outdated tool, which also contains loopholes in relation to payments made to MEPS. There is moreover no form of enforcement from the side of the EU institution. As a result, it does not allow for regulating lobbyists' behaviour.

2. What should happen for the review process to deliver?

The review process that has recently begun should prepare the transition towards a fully mandatory registration system, to be put in place by the end of this Parliamentary term, in 2014, at the latest. At a minimum it should include the following:

Upgraded requirements from the registrants

- **Financial disclosure requirements:** all consultancies and law firms should have to declare clients' expenditure in the same way, in bandwidths of €10,000.
- **Transparency on funding sources:** registrants should be asked to name all government agencies, grant-making foundations, companies and other organisations or individuals that contribute to their budget, and specify which amount they receive from each of these. Small private donations from individuals (up to a certain threshold) should be exempt.
- **Lobbyists' identity and revolving door listings:** registrants should be required to list the names of all their lobbyists (not simply those with parliamentary access badges) in the register, as well as **any former public offices that these lobbyists have held (including at the national level)**. This is to enable public scrutiny of the revolving door, whereby public officials become private sector lobbyists, and vice versa, creating a high risk of conflicts of interest.

- **Issues lobbied on:** organisations should provide information on the main legislative proposals they are lobbying on, including a list of official legislative references.
- **Update of the information:** fixed and known dates twice a year for updating lobby entries should be introduced, so that transparency and compliance can be improved.

Commitment by European Commission and European Parliament officials responsible for the system

- **Commission staff should commit to refuse meetings with, and invitations to events organised by, unregistered lobbyists.** Companies and organisations that refuse to sign up to the register, and shirk transparency around their lobbying activities, should not therefore have access to decision-makers. These measures should cover all entities and individuals actively engaged in lobbying activities, but exclude individuals and grassroots groups that contact EU institutions on a one-off basis for information or invitations to grassroots level activities, or citizens engaging on a non-professional basis with their decision-makers.
- **Members of the European Parliament should commit to not organise joint events with, or host events organised by unregistered lobbyists.**
- **Pressure from the Transparency Register secretariat** on lobbies that continue to opt out of the system, by naming and shaming the reluctant players, as well as the continuation and extension of spot checks on registrations. Access passes to the European Parliament should be withdrawn in the case of dubious registrations.
- **Other measures, such as exclusion of unregistered lobby groups from EU subsidies, procurement and other benefits,** should also be considered by the European Commission to bring about compliance with transparency rules and really make the system “de facto” mandatory.
- **Guidelines on disclosure requirements should be upgraded** and combined with spot checks and effective enforcement in order to prevent inaccurate registrations and widespread under-reporting. More comprehensive and effective data checking is urgently needed, including systematic checking for all new entries.
- **A review of the Code of conduct for lobbyists** including: requiring lobbyists to respect a cooling-off period before hiring high-level officials, and to refrain from employing MEPs or their assistants; clarification of what constitutes inappropriate behaviour; open discussion about cash-for-access/influence, in the wake of the Dalligate lobby scandal to input into changes in the code; and, better monitoring and enforcement.
- **Better public scrutiny:** changes in registrations should be documented with a flagging system, enabling proper monitoring to happen and allowing for the public to make comparisons between organisations and over time.

Process

In order for the review to be meaningful and effective, it is absolutely essential that it is carried out in a fully open and democratic manner, allowing for the involvement of all the stakeholders involved. This should include the following:

- Clarification by the TR secretariat to the public about the process and the timeline for the review, as soon as possible.
- In-depth consultation with the European Parliament, to ensure that its views are taken into account and reflected in the outcome of the review.
- Ensuring that the review process enables substantive issues to be addressed, not limiting it to technical changes. This includes re-opening the inter-institutional agreement, where necessary for transition to a mandatory register, and revisions of the code of conduct.
- Building in concrete milestones for future reviews of the register.

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