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and Ethics Regulation in the European Union

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**OBSERVATIONS ON THE COMMENTS OF THE COMMISSION (22-02-2011)
ON COMPLAINT 1682/2010/ANA**

Dear Professor Diamandouros,

We would like to send you our observations on the European Commission's opinion transmitted to us by you on February 25, 2011.

We will comment on the way the Commission answered our five allegations and five claims as requested on October 20, 2010.

For these five points, first, we provide evidence to support our allegation and, then, we put forward our proposal as to how this situation could be remedied.

Allegation:

1. The Register is incomplete: some expert groups' still functioning are not included and the composition of the groups is not always clear.

a) Incomplete Register

The Commission makes contradictory statements on the completeness of the Register. On page 5 of the comments sent to you by the Commission, the latter states: "The Commission considers that the Register is complete". The next paragraph reads: "the transition from the old to the new version of the Register is still ongoing, thus some of the data still need to be validated; transition should be completed over the next few months". Accessing the Register, the following message appears: "The register is being reconstructed and does not include all Commission expert

groups and other similar entities for the time being."

The second and third statements contradict the first. This means that right now the public register is not complete. A member of the public cannot find in the Register or elsewhere in the public domain all expert groups and all their members. The Commission recognises this fact, therefore it should not consider the Register complete.

The fact that the Commission repeats this statement each time it faces inquiries should be considered an act of maladministration, since the Commission is in this way disseminating false information (a typical example of [failure to reply, refusal of information](#)).

In the Annex 1 attached to the Commission's comments, there are a number of active expert groups that cannot be found in the Register, such as:

- **CARS 21**, re-established on 16.10.2010
- **CESAME2**, known to have a active sub-group (the Harmonisation of Settlement Cycles WorkingGroup), which was asked to provide advice for the report on Credit Default Swaps by some MEPs¹.
- The newly formed "**Energy Roadmap 2050 ad hoc Advisory Group**", which is not in the Register.

Many more existing groups are not included in the Register.

It remains unclear whether some groups have been dissolved or whether they are just inactive:

- The **Competitiveness and Biotechnology Advisory Group** (still in the Register, but it appears not have met since 2006).
- **Legal Certainty Group** (it is not clear from the Annex to the Commission's comments on this complaint nor from the [website](#) whether the group has been dissolved or not - it is not in the Register).

The existence of many more groups in the register is unclear.

b) Non-transparent Register

Furthermore, the composition of many groups is unclear, because the affiliations of members who are serving in a "personal capacity" are not disclosed. This is the case for the following groups (indicative examples):

- **Insolvency Law Group of Experts (ILEG)**
- **Comité consultatif pour l'ouverture des marchés publics**
- **European Corporate Governance Forum**
- **Tax Barriers Business Advisory Group**
- **Reflection group on the future of EU company law**

The expert group "**Propriété industrielle**" does not disclose its membership at all.

There is also a transparency problem regarding the allocation of the seats in **DG Agri's "advisory groups"** (a type of expert group) defined in Decision 2004/391/EC but which doesn't correspond with the numbers regarding Consultative Groups that we can find in the Register (accessed May 22, 2011).

¹ See Amendment 402 here:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/econ/am/854/854948/854948en.pdf

In many cases the data provided in the Register are misleading. For example in the *Groupe consultatif "Tabac"* farmers association COPA-COGECA is registered as an 'NGO'. The same goes for big food industry lobby CIAA and the food traders lobby CELCAA. The Commission undermines any attempts to scrutinise the groups by labelling - in many cases - any non-profit legal entity as 'NGO', regardless of the interests it represents. Nonetheless, it is precisely the represented interests that the register is supposed to disclose and this is precisely what the citizens, journalists or civil society campaigners are looking for. Organisations should be categorised by reference to the interest they represent (industry, labour, public interest etc.). Trade associations cannot be categorised as an NGO, as is the practice in DG Agri for instance.

This problem is not exclusive to DG Agri. In other DGs, such as DG Markt, trade associations are categorised as 'associations', such as the French Association of Specialised Finance Companies in the Expert Group "Cross-border redress in financial services", again failing to distinguish between private and the public interest. In DG Enterprise and Industry we find the European Construction Industry Federation (FIEC) categorised as an 'international organisation'. This category should be reserved for international organisations with member states. There are also misrepresentations in the register of the opposite nature: in the "Competitiveness in Biotechnology Advisory Group" (CBAG), the University of Sienna is categorised as 'corporate'.

Misrepresentations are sometimes extreme, as in the case of the Expert Group on Market Infrastructure (EGMI) where the former CESR - today's European Securities Market Authority (ESMA) - is categorised as an 'NGO' as is the main global derivatives lobby group, ISDA.²

These conflicting approaches with different DGs reporting the membership of their expert groups in different ways - makes it impossible for the public to scrutinise and assess the composition of expert groups. The Secretariat-General should introduce a common way of categorising interest groups.

In a meeting we had with the Secretariat-General (30 March 2011) we were told that "the register will never be 100% complete" because expert groups are created and closed down at any time by DGs and "DGs are often messy".

This approach is an administrative irregularity and abuse of power: rules demand full transparency of expert groups. The Commission cannot say that the register will never be 100% complete or that it will never be fully reliable. This would be a clear case of maladministration.

Claim:

1. The Commission should complete the Register

The Secretariat-General has to approve the creation of expert groups. Their approval should not be considered valid and expert groups not authorised to meet if all the information has not been uploaded in the Register within one month of their creation. The Secretariat General should also monitor the interest categories used by DGs and impose a method of homogeneous categorisation. This should reflect the kinds of interests represented: industry, labour, SMEs (for the associations which only represent SMEs), professional (doctors, accountants, lawyers, engineers etc.) public interest (consumer, environmental, human rights, democracy, transparency and more) and academia.

Cases where an expert group was created six months ago and has still not been included in the Register (e.g., CARS21) are clearly unacceptable.

² If the user clicks on CIAA it can see it represents industry. In the case of COPA-COGECA it gets the very general 'agriculture'. But the user has already been misled by seeing the word NGO beside the name of CIAA or COPA-COGECA.

The Commission should publicly announce when the transition of the data is complete.

There would be no excuse after that point for not including all expert groups (including sub-groups) and all of their members in the public register.

Please note, too, that the Register's search engines do not work properly. A simple solution to this problem would be to put everything in one database and not in hundreds of different ones as it the case today. Organisations including Transparency International support such an approach³.

Allegation:

2. The Commission has failed to guarantee adequate transparency in the operation of expert groups

a) To support this allegation we argued that "for the vast majority of expert groups, agendas and minutes are not available on line via links from the Expert Groups Register to the respective DG's web pages".

In its response the Commission states that according to the new framework for expert groups this information is provided by the Register. It remains, though, that in most of the cases the links provided in the Register take the user to web pages with general information on the respective policy and not to minutes or agendas from expert groups' meetings. A random check in the register confirms our allegation.

b) Links are not always available on the Register (for example not in the [Expert Groups on Market Infrastructure](#)).

Not all expert groups have information on DG web pages linked to the Register (examples: Groupe d'experts de la Commission en matière de la politique de normalisation et d'évaluation de la conformité, Groupe de Travail Equipements de Protection Individuelle and hundreds more). When links are provided, the linked page does not always contain copies of agendas and minutes (example: [no minutes available for the Expert Group on conditional access](#)). Under the new rules the Commission says it will provide these documents only when "it is possible". Formulated in such vague terms, this practically gives the Commission the discretion to avoid publication.

The new rules retain a bad administrative practice that goes against the Guidelines on the Use of Expertise (COM(2002)713), which stress that 'the main documents associated with the use of expertise on a policy issue, and in particular the advice itself, should be made available to the public' ([see also the rationale in page 18 of the same document](#)).

c) The Commission is using the fact that there are also other types of consultation as a justification for the unbalanced composition of many expert groups.

But the Commission has failed to give an answer as to how it ensures transparency around the different types of consultation on a given matter. The Commission should address this matter while also introducing safeguards against the capture of specific expert groups by industry interests.

The fact that the Commission does not provide access to the minutes and agendas for the vast majority of expert groups is a case of maladministration ([refusal of information](#) to the public).

3 <http://www.alter-eu.org/events/2011/05/13/alter-eu-workshop-on-expert-groups>

Claim:

2. Publicise agendas, minutes and contributions of members

- a) All these documents should be provided through the links in the Register to the webpages of relevant DGs.
- b) Information on all the consultation methods used in a particular area should be provided on the DGs' websites.
- c) ALTER-EU believes the Commission should always provide access to minutes and agendas except under special circumstances, as provided for in legislation (security, etc.)

The White Paper on good governance (COM(2001)428) stresses that: "Democracy depends on people being able to take part in public debate. To do this, they must have access to reliable information on European issues and be able to scrutinise the policy process in its various stages."

Allegation

3. Industry representatives appointed in personal capacity

New rules on this contradict the Commission's comments on our complaint as well as facts that have been recognised by officials in the Secretariat General and DG Markt in meetings we have had with them (March 30 and March 3, 2011 respectively).

The new rules state that "the selection of experts shall be carried out in a such way as to avoid conflict of interests" and that "by accepting to be members of the [expert] group they [experts in personal capacity] commit themselves to act independently and in the public interest" and that "they may be excluded from the group should a conflict of interest arise".⁴

In its comments the Commission said that "the participation [in personal capacity] of members coming from the industry can be sought in relation to the task of the group has to accomplish". That confirms older statements made by the Commission⁵ and was explained to us more specifically by Martin Merlin of DG Markt saying that if the Commission excludes people that work for industry (from its advisers acting in a personal capacity) it would be difficult to find people with the necessary (technical) requirements.

At the same time both Mr Merlin and Mr Mario Tenreiro of the Secretariat General confirmed - in the meetings we had - our formulation in our original complaint text: "Employees of a company (or lobby group) are bound to support the interest of the company". Mr Merlin said that an expert acting in a personal capacity working for a company will never go against the interests of the company while sitting in the expert group. Mr Tenreiro said that it is just not credible to assume that company staff can put their companies' interests aside.

In an academic study of expert groups, Cécile Robert wrote: "behind the examination of different technical solutions, it is always about confronting distinctive conceptions of what the public policy has to be that correspond more or less to the interests and values of the experts"⁶.

4 FRAMEWORK FOR COMMISSION EXPERT GROUPS:HORIZONTAL RULES AND PUBLIC REGISTER, C(2010) 7649 final - http://ec.europa.eu/transparency/regexpert/PDF/C_2010_EN.pdf

5 "the composition of expert groups is primarily determined on the basis of the tasks to be carried out and of the specific expertise required. Thus the participation of members issued from Industry can be justified in light of the work to be accomplished." and "there can be cases where the selection of members of expert groups is de facto strictly determined by the concrete work to be accomplished". - [Commission to ALTER-EU, 23 October 2009](#)

6 "derrière l'examen de différentes solutions "techniques", il s'agit bien toujours de confronter des conceptions distinctes de ce que doit être la politique publique concerné, lesquelles correspondent plus ou moins aux intérêts et

It is perfectly legitimate and logical that the Commission uses people employed by industry for their technical knowledge but the Commission should recognise that these individuals also represent the interests of their company or lobby group and that it is completely impossible that they act "independently and in the public interest" as stressed by [the new rules](#).

Consequently, the Commission should never appoint industry experts "in a personal capacity" but as experts and stakeholders, taking care to keep balance between different types of interests (corporate, consumer, worker, public interest etc.)

This is why we see a contradiction between the avoidance of conflicts of interests provided by the rules and the Commission's practice of appointing industry representatives as independent members ("in personal capacity") when their knowledge is needed to accomplish a specific task.

The Organisation for Economic Cooperation and Development (OECD) gives the following definition of conflict of interest: "Conflict of interest occurs when an individual or a corporation (either private or governmental) is in a position to exploit his or their own professional or official capacity in some way for personal or corporate benefit".⁷ Being a member of a Commission's expert group in an official capacity puts corporate representatives in a position that they can exploit for the benefit of their company or industry sector. They face a conflict of interests, whether or not they exploit it.

The Commission has previously said that when experts are "appointed in a personal capacity, they are bound to sign a written declaration to act in the public interest, together with a declaration as to whether there is any interest which would prejudice their independence. If the experts refuse to sign these declarations they are excluded from expert groups."⁸

This principle has never been implemented. With our access to documents request GESTDEM 2010/3712 (21 July 2010) we obtained access in the declarations of the members of eight expert groups under DG Markt. The declarations of many members were missing (for instance the Group of Experts on Banking Issues) but these members were not excluded.

We were finally informed by Mr Tenreiro on the 30 March 2011 that the Commission doesn't ask members acting in a personal capacity to sign declarations of commitment to the public interest any more because this "doesn't have any additional value". The Commission now focuses instead in getting a full list of professional and other activities that could compromise their independence.

According to the new rules "by accepting to be members (...), they [automatically] commit themselves to act independently and in the public interest".

In its response, the Commission said that "possible conflicts of interests are tackled either in the selection phase through an in-depth analysis of the past professional experience of candidates, (...) and/or at the appointment through the mandatory disclosure of any interest that might prejudice the expert's independence and the formal commitment to act in the public interest".

First of all, we would like to note that this "mandatory disclosure of any interest..." is not mentioned in the rules. To make sense, any mandatory disclosure should include all the applicant's

valeurs, des experts"

7 Conflict of interest, Glossary of statistical terms, OECD, 23 July 2007 - <http://stats.oecd.org/glossary/detail.asp?ID=7206>

8 [Commission to ALTER-EU, 23 October 2009](#)

professional and pro bono activities (as with Special Advisers declarations) and should be publicly accessible through the Register, including the name of each expert who is serving in a personal capacity. This should also be included in the rules.

Second, Transparency International which is an observer member the Group of Experts on Banking Issues and a full participant in the Expert Group on Market Infrastructures has informed us that their selection process involved an 'in-depth analysis of the past professional experience of the individual candidate' over a series of interviews. However, without greater transparency of selection procedures it is difficult to ascertain whether the process is so rigorous for all applicants. Analysis of past professional experience and assessment of potential conflicts of interests in line with the OECD definition are two different things. The Commission has provided no indication of any serious process for assessing potential conflicts of interests before deciding the composition of an expert group made of 'independent individuals'. The Commission has also failed to provide us with any example that supports its argument.

Third, the Commission should have excluded those experts that did not sign the declaration of commitment. The fact that it didn't is a case of maladministration (abuse of power).

It is quite normal that a large number of experts do not want to sign an **irrational and false statement** that they are independent when it is so clear that they are not. This is one more argument for the Commission to stop appointing industry experts in a personal capacity.

The Secretariat General has shown openness towards ALTER-EU's position saying that in the future corporate members of expert groups should either be registered on behalf of the company they work for or they should represent a certain sector. Mario Tenreiro said they will not approve groups where the background of members is not clearly mentioned. For existing groups which have corporate members who have signed a statement to act in the public interest, he said that it was more difficult and will take more time to change (Meeting 30/03/11).

ALTER-EU doesn't accept a "gradual change" on this matter. The current practice of the Commission classifying corporate experts as "independent" is completely unfounded in the rules and is misleading to the public.

Many Members of the European Parliament from all sides of the political spectrum, including Monica Macovei (EPP), Hans-Peter Martin (Non attached) and Denis de Jong (GUE/NGL), criticised this practice in a [Plenary debate](#) in February 17, 2011.

In a recent a letter to Commissioners Šeřčovič and Kallas, MEPs Denis de Jong (GUE/NGL), Pascal Canfin (Greens), Michael Cashman (S&D), Corine Lepage (ALDE), Monica Macovei (EPP) and Frederique Ries (ALDE) asked the Commission "to develop procedures [...] not to allow for persons with vested interests to participate in expert groups in personal capacity".⁹

Despite their laxity, the current rules on conflicts of interest are clearly violated with industry representatives being appointed 'in a personal capacity' in the following groups:

1. Group of Experts on Banking Issues (33 industry, 2 consumers, 2 academics, 1 public bank, 1 cooperative bank)
2. bank, 1 cooperative bank)
3. Expert Group on Marker Infrastructure
4. Euro Cash User Group
5. Expert Group on Taxation and Savings

⁹ A press release mentioning this letter: http://www.sp.nl/dennisdejong/nieuwsberichten/9506/110519-sp_europese_commissie_zet_achterkamertjes_op_kier.html

6. Insolvency Law Group of Experts
 7. Payment Systems Market Expert Group (43 industry, 2 government, 1 academic, 1 trade union, and 3 NGO representatives).
 8. Clearing and Settlement Advisory and Monitoring Expert Group - CESAME 2 (31 industry. Not in the register but functioning).
 9. Expert Group on Financial Education (14 industry representatives and '5 private experts').
 10. Groupe Politique d'entreprise - Chambre Professionnelle,
 11. ISTAG - Information Society Technology Advisory Group,
 12. Ore agglomeration and Ironmaking,
 13. Factory-wide control, social and environmental issues,
 14. Casting, reheating and direct rolling,
 15. Coal preparation, conversion and upgrading,
 16. Strategic Advisory Board on Competitiveness and Innovation.
 17. Stakeholder dialogue group
 18. Coal combustion, clean and efficient coal technologies, CO2 capture
- And most probably in many more cases.

Claims:

3. Adopt DG Sanco approach and ban lobbyists or other executives of corporations and their lobby groups from joining expert groups in a personal capacity

At the time we submitted our complaint (28-07-2010) the status of the documents 'Managing conflicts of interest in SANCO' was not clear to us. We now understand this was only a discussion document and not the DG's guidelines on the issue. Nevertheless, we think that the principles contained in this document go in the right direction and there should be a follow up, not only within DG Sanco but also by the Secretariat General.

"The simplest way to handle conflicts of interest is to avoid them altogether. For example, someone who is known to work for an organisation with a 'vested interest' on a particular policy issue and is appointed advisor, should simply not be appointed"¹⁰.

The MEPs mentioned above have also endorsed this approach by asking the Commission "to develop procedures in line with the current policies of DG Sanco".

Individuals working for corporations and lobby groups should never be appointed to expert groups "in a personal capacity" but only as stakeholders (even if they are also experts) and therefore taking care to keep a balance between different types of interests (corporate, consumer, worker, public interest etc.)

The provisions in the new rules on expert groups against conflicts of interests should be clarified and strengthened as following (just to give an idea):

"the selection of experts [in a personal capacity] shall be carried out in such a way as to avoid conflict of interests" should be replaced by "during the selection of experts risks for potential conflicts of interests should be carefully assessed, and experts with high risks should be excluded".
 [experts acting in a personal capacity] "may be excluded from the group should a conflict of interest arise" should be replaced by "will be excluded from the groups if they have a conflict of interest".

Declaration of professional activities ("mandatory disclosure of any interest..") of experts acting in a personal capacity should be publicly accessible through the Register. This should also be included in the rules.

¹⁰ http://ec.europa.eu/dgs/health_consumer/sdg/docs/conflict_interest_SANCO.pdf

Allegation:

4. The Commission has failed to provide convincing reasons for not developing general criteria for the selection of members of Expert Groups

The Commission makes reference to the section of the Guidelines on the collection and use of expertise stating that "arrangements for collecting and using expertise should be designed in proportion to the task in hand, taking account of the sector concerned, the issue in question, and the stage in the policy cycle" in order to prove that developing any kind of general selection criteria is useless in order to implement its own codes of conduct (COM(2002)714 and 704).

Expert groups are used both for the interaction of the Commission with different interest groups and the collection of expertise. Consequently, they are also bound to the Standards for Consultation of Interest Parties (as the Commission has accepted in [October 2009](#))

The latter document stresses that the Commission should "ensure that there is consistency and transparency in the way its departments operate their consultation processes".

Combining this principle with those on a pluralist and diverse composition of the expert groups and the avoidance of "particular groups getting privileged access" included in the previously mentioned codes of conduct (COM(2002)714 and 704) as referred to in our [original complaint](#) (pages 5 and 6) should lead the Commission to establish some common criteria in the composition of expert groups. This would be the only sure way to implement the principle stated in the new rules on expert groups that "Commission services shall, as far as possible, ensure a balanced representation".

Without common selection criteria, the Commission's codes of conduct (COM(2002)714 and 704) and the new rules on expert groups are violated. This is a case of maladministration.

Claim:

4. Developing general criteria for the selection of members of Expert Groups

The general selection criteria that we would like to see imposed on all DGs by the Secretariat General should include safeguards against the domination of expert groups by special interests and corporate interests in particular, which is what we see as the main problem currently. We would also like to see an obligation to publicly announce the creation of new expert groups especially when they include non-government representatives, and to publicly call for interested parties to apply for membership when groups are to be composed by experts acting in a personal capacity and when experts are also interest representatives.

The way the Commission currently interprets the codes of conduct and rules allows it to defend any composition however unbalanced or one-sided it might be (many examples in DG Markt) by using the argument of "efficiency". When the Commission states in the new rules that balanced representation should be ensured "as far as possible" it fails to explain why this is not possible in some cases. In the current situation, only the Commission can judge whether the right balance between equal representation of stakeholders and efficiency has been achieved. The principle of efficiency also seems to be understood in a very short term and administrative way, while real efficiency is about producing policies and legislation that benefit society at large.

The existence today of more than 100 unbalanced expert groups concentrated in a few DGs (DG Markt, DG Entr, DG Agri, DG Infso, DG Trade (market access groups) and more) results in policies serving narrow interests and not the common interest of EU citizens. This is highlighted by the cases of insufficient regulation of financial markets, environmental policies watered down by DG

Entr, trade policies that put the livelihoods of citizens at risk both within the EU and in third countries and more.

By imposing some minimum balance in the interest groups consulted by the DGs, the Secretariat-General will contribute to a more balanced EU decision-making process that reflects the interests of different groups in society and will implement Article 9 of the Treaty which says that citizens "shall receive equal attention from (the) institutions" of the Union.

Commission departments could retain differentiated criteria on "a case by case basis" when selecting experts but they should all be bound by some general rule providing safeguards against the domination of expert groups by specific interests.

Unless experts are independent from any interest, they are also interest representatives however "technical" their task might be. Therefore, balance should always be safeguarded and not only "as far as possible".

Allegation:

5. The Commission has failed to ensure a balanced composition of the expert groups

In its comments the Commission doesn't even argue that it tries to ensure a balanced composition of expert groups but only that it "strives to strike a balance" between "excellence", "independence" of the experts and "pluralism".

It is completely unclear what the Commission means by "a balance" which in practice makes any composition of a group defensible by using the argument of "excellence". This argument could always run: "we needed to appoint the best quickly and the best are in the corporate sector". It is impossible for the external observer (citizen, journalist, uninvited stakeholder) to assess how true such a claim would be.

In contrast, ALTER-EU gives a clear definition of what we mean by "balance" and "pluralism", as far as non-state actors are concerned: no more than half of the non-governmental actors should come from a single type of interest (in particular from big business). This principle should be fulfilled in each and every expert group for reasons we develop in [the second half of page 4 of our original complaint](#).

The rationale behind this position is that there should be a balance between special economic interests and the public or general interest. This is in line with [Article 6 of the European Ombudsman's Code of Good Administrative Behaviour](#) which states that

"When taking decisions, the official shall respect the fair balance between the interests of private persons and the general public interest."

EU bodies make legislation in the public interest. Experts from diverse backgrounds representing different aspects of the public interest (environmental, consumer, social etc.) as well as wide strands of the population (labour, SMEs, professionals) and independent academics should always collectively outnumber big business representatives. Otherwise there is discrimination towards a special category of interest: business interests.

In that sense, in our view there can be no "concrete work to be accomplished" when the Commission is to take external advice in order to take decisions for the public interest that requires advice only or primarily from business interests. So, a balance between "excellence" and "pluralism" cannot justify an expert group being dominated by corporate interests.

Excellence can be a characteristic of scientists or other experts working for the corporate sector. But this does not undo the fact that their advice cannot be de-coupled from the economic interest of their company or sector. So when the Commission wishes to include experts from corporations it should also counter-balance them with experts linked with other kinds of interests. The fact that "all companies do not have the same interests" does not safeguard the public interest, for the latter is not the sum of different commercial interests. Having experts looking a problem mainly from a commercial point of view can seriously distort the Commission's understanding of a particular issue.

In chapter 3 on personal capacity we explained why the current concept of "independence" used by the Commission is flawed. According to the criterion of independence, the Commission should make sure that corporate experts never dominate an expert group.

The Commission says that it has provided ALTER-EU "with relevant and detailed information on how [balance between excellence, independence and pluralism] is effectively ensured". This is a groundless statement. The Commission has sent ALTER-EU the text of the mandates of the groups and their membership lists many time, but it has never previously tried to explain how such a balance is achieved. In its last comments we see – in some cases – its first efforts to do so, but these explanations are inadequate.

The information on the rationale of the composition of some groups is very general and at an abstract level. In several cases, it highlights problematic approaches from the Commission and a clear bias towards business interests:

DG ENTR

- Group **CARS 21** is not in the register and no information is provided on the composition of the High Level Group on the linked webpage. Nonetheless, the Commission argues that the group is "more balanced than before"¹¹ because there is "better balance between manufacturers and suppliers". The Commission's approach appears to be that if there is balance between different industrial sectors then the composition is OK. This is a flawed approach.
- In the **High Level Group on the Competitiveness of the Chemical Industry** (8 industry, 5 others) the Commission says it "repeatedly encouraged NGOs to increase their participation in the group, alas, with limited success". It is widely recognized that NGOs have problems of resources. If the Commission couldn't involve more NGOs it should have reduced the number of industry participants in order to bring about balance.
- The **Competitiveness in Biotechnology Advisory Group (CBAG)** is a typical example of one-sided approach. The group is about "identifying issues related to the competitiveness of this sector" (...) "the group's task is not to address ethical, societal or safety issues as these matters are already dealt with by corresponding legislation and in the respective regulatory committees". The Commission thus acknowledges that it has no means of assessing the view of public interest groups on issues of biotechnology since the regulatory committees (the Commission doesn't even bother to specify which ones exactly it means) are composed by member states representatives. Examining the competitiveness of biotechnology without taking into account ethical, societal and safety implications is highly risky.
- The **Strategic Advisory Board on Competitiveness and Innovation (STRABO)** is an example of the mistake being made not by a Directorate General or a Unit taking the initiative to compose an expert group in an unbalanced way, but by an official Commission

¹¹ The composition before was eight industry and three other from which one is closely linked to the industry (FIA) - [Whose Views Count - FoE Europe - Home](#)

- Decision which has dictated that the group should be composed basically of representatives from big business associations with just a few SMEs and "other experts". It is also an extreme example of the blatant contradiction of the Commission's approach on individuals acting in a "personal capacity": On the one hand "the Board should be composed of representatives of industry and business associations" and on the other hand "the members shall be appointed in a personal capacity and shall advise the Commission independently of any outside influence"¹². The same people should be "representatives of business associations" and "independent of any outside influence" at the same time. This is irrational.
- **Groupe Politique d'entreprise:** if its members come from SMEs ALTER-EU thinks this composition can be justified in order to advise "on SMEs and innovation issues", but they shouldn't be appointed "in a personal capacity".
 - The disbanded **HLG on Competitiveness, Energy and the Environment:** the Commission quotes Friends of the Earth Europe's 2009 report "[Whose Views Count](#)" as "recognis[ing] that the group's recommendations were balanced and not biased". This is a misleading "quote" given by the Commission. FoEE's report reads: "Despite these flaws, it would be fair to say that the performance of this group was not as biased as the environmental groups had expected". Then it explains that, because NGOs who were present in a minority managed not to "just let[ting] industry interests have their own way, the Commission and Ministers lost interest in the group." The NGOs considered it a relative success that: "It was recognised that not acting (against climate change) would result in enormous costs. This was reflected for example in the recommendations of the second report, which called for mid-term and long-term greenhouse gas and CO2 emission targets without a pre-condition of international negotiations." As explained in an [ALTER-EU book chapter](#) "through this group companies like Areva, BP, and Siemens managed to persuade the EU that technologies such as nuclear energy and carbon capture and storage were solutions to climate change". This is in-line with what is written in the FoEE report: "The group's recommendations on environmental technologies are also disappointing – perhaps not surprisingly, given that pioneering renewable energy companies were not included in the group. As a result, Carbon Capture and Storage (CCS) and nuclear energy, both of which are highly controversial, were prominent in many of the discussions on technology." These solutions are mentioned in [the group's report](#) with the disagreement of environmental groups relegated to a footnote (for instance on nuclear energy). The composition of the group is also judged as unbalanced in the FoEE report: "The group's composition was clearly suited to focus on improving the competitiveness of European industry, but not best placed to develop appropriate policies for the benefit of environment and consumers." The Commission doesn't even try to explain how the composition of the group could be considered as "balanced". Given that there were 13 members from industry and only four other non-governmental participants, it is impossible to argue. The European Parliament also refused to appoint participants, warning that High Level Groups were undermining the independence of the EU Institutions. The Commission should not repeat such a composition in the HLG on Climate Change which is being set up.
 - For the disbanded "**Galileo Signal Task Force**" the Commission should not have invited only industry representatives.

The Commission comments on only 7 out of the 41 DG ENTR groups included in our complaint. According to the data in the register we processed before submitting our original complaint there were 29 unbalanced groups which is one third of DG ENTR's groups. The mandate of DG ENTR is "to strengthen Europe's industrial base and promote the transition to a low carbon economy; to promote innovation as a means to generate new sources of growth and meet societal needs". DG ENTR cannot know what it takes to "meet societal needs" if it mainly consults with corporate interests. We interpret the fact that the Commission doesn't comment on the majority of DG ENTR's

12 C(2007)4644 – ec.europa.eu/cip/files/docs/decisionsettingstrabo.pdf

groups as an inability to justify their composition.

DG AGRI

Regarding DG Agri's expert groups, there is a problem with Decision 2004/391/EC which sets out very unbalanced allocation of the seats in Annex II. According to the decision "The Commission should seek the views of socio-economic sectors and consumers on matters arising in connection with the operation of the various common organisations of the market and other areas covered by the common agricultural policy and by the policy of rural development."¹³ But there is no care taken to seek the views of all the different stakeholders in a balanced way. The fact that workers, consumers and environmentalists are put under a single category while farmers and business (industry and trade) are included in three different categories (production, manufacture, trade) ensures that the participation of the former will be only marginal. A specific organisation COPA-COGECA dominates most of DG Agri's expert groups. **COPA-COGECA represents for example 48% of all seats in the DG Agri "advisory groups" (a specific king of expert group)**. Its view on European agriculture is far from being the only one in Europe today and it is far from representing all farmers in Europe. If we add the seats of **COPA-COGECA** to those held by agribusiness, agro-industry and trade, with which they are often closely linked (mainly **CELCAA and CIAA**) – they **represent 81% of the seats**. In any case dominance by one single organisation cannot be labelled as "balanced composition".

As we already mentioned above, there is also a transparency problem as the allocation of the seats defined in Decision 2004/391/EC doesn't correspond with the numbers listed for "advisory groups" in the Register (accessed May 22, 2011).

DG MARKT

It is surprising to see the Commission talking about an "alleged over-presentation of industry interests" while this has been officially recognised by Commissioner Barnier ("a need to rebalance expert groups") and indirectly by former Commissioner McCreevy ("we have been listening too much to the sell side"). Moreover it is mentioned that it is "natural" that "consumers and other non-industry stakeholders are less numerous in those groups advising (...) on very technical issues or dealing with wholesale financial issues". This flawed approach directly contradicts the promises to "rebalance" DG Markt's groups. This would allow the majority of expert groups advising on financial regulation to be categorised as "technical" and continue to be dominated by industry. Technical experts are also interest representatives when they are working for a corporation or lobby group.

Two of the new European Supervisory Authorities are also violating recently adopted legislation with the composition of the consultative panels of the new supervisory authorities, arbitrarily naming accounting companies and sections of big banks as "financial users" within the **Banking Stakeholder Group**¹⁴ advising the European Banking Authority and the **Insurance and Reinsurance Stakeholder Group** and **Occupational Pensions Stakeholder Group** advising the European Insurance and Pension and Occupational Pension Authority¹⁵. According to a letter sent to us by Commissioner Barnier, it is up "to each Authority to decide the concrete modalities to implement these provisions, including [...] the final composition of the groups" (03-01-2011 PD/oc D(2010)977195). The provisions are clearly not implemented, so the Commission needs to

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:120:0050:0060:EN:PDF>

¹⁴ It is Article 37 of the regulation [1093/2010](#) which is violated.

¹⁵ It is Article 37 of the regulation [1094/2010](#) which is violated.

intervene.

Let's see the cases commented on by the Commission:

- **Expert Group on Financial Education (EGFE)**: The Commission argues that "the majority of current members (12 out of 23) don't come from the financial industry". Indeed industry members are not the majority because there are eight members from bodies created by governments and dependent on them. These are entities of the wider public sector. Among the 15 non-governmental representatives, 10 come from industry and then 2 from alternative banks, 1 from consumers, 1 academic and one professional. So the group is clearly unbalanced in favour of big business.
- **Group of Experts in Banking Issues (GEBI)**: The Commission cannot by any means argue that the composition of this group is balanced. It says: "Out of 42 members of GEBI, 28 come from financial institutions [including one cooperative bank], six from consultant firms, three from think tanks / universities, two from trade unions, two from consumer organisations. GEBI also has nine observers: five from EU level industry associations plus ECB, CEBS, European Parliament and Transparency International". This is already a blatantly unbalanced composition. It is highly incoherent that the Commission claims that among "the criteria followed in selecting the members" were "neutrality" and the "need to strike an appropriate balance of expertise and interests represented within the groups". Here is our categorisation of the 51 members and observers of the groups: 39 industry (incl. savings banks), one academic, one think tank, four NGOs (incl. Consumers), one union, one cooperative bank, one MEP, three EU bodies and public banks.
- **Payment Systems Market Expert Group (PSMEG)**: the Commission is highly innovative in trying to present this composition as balanced: "leaving aside technical providers (6), over the rest of the members (46), almost half of the members (19) do not come from the financial services industry (i.e. payment service users such as corporates, merchants or consumers, telecom companies, academia or private consultants)". According to ALTER-EU the composition has: 43 industry, one trade union, one NGO, one cooperative banks. The aim of the group is the "prevention of payment fraud or the development of innovative payments". The Commission argues that "this so specific expertise is to be found (...) within the payments industry, either coming from payment service providers or from card processors". "Innovative payments" can hamper the interests of consumers or are not being developed in a direction that favours the general public but just the involved industry. In that sense this group should also – even if it is highly technical – be bound by the rules to ensure a balanced composition.
- **CESAME/CESAME 2 and FISCO**: The Commission makes clear that these groups exclusively include industry representatives with "an interest in post-trading securities". Policies prompted by these groups and by the [Giovannini group](#) (chaired by the chief executive of an asset management company) – which is their parent group – has been very important in liberalising the trading of derivatives and other speculative funds while failing to put in place the adequate supervisory structures. It is unacceptable that the Commission gave and still gives the financial industry the privilege of exclusive advice on these issues. None of these groups are in the Register but it is not clear if they have all been disbanded.
- The disbanded **Legal Certainty Group (LCG)** on Clearing and Settlement can be similarly criticised. The Commission claims one third of members were civil servants. In the composition of the groups on DG Markets' website, there are only six civil servants among 36 members (including those from the ECB). There are 22 business representatives (financial industry and law firms) and five academics. The Commission says that "half of them [the expert group's members?] represented their respective governments in the negotiation of the draft Geneva Securities Convention adopted in 2009. If governments chose private sector lobbyists to represent them at [a diplomatic conference](#), this is their mistake. But the Commission shouldn't reinforce the error by including them in one of its

expert groups as experts 'in a personal capacity'. If they have been appointed there as government representatives, they should be listed as such.

- The disbanded "Derivatives working group": ALTER-EU didn't ask about the "working group" but the "**expert group on Derivatives**" which the Commission seems to have removed without trace from the internet. The group was created at the start of 2010. If the "expert group" is considered as the continuation of the "working group" by the Commission, our only comment would be on the Commission's justification. It claims the group was set up "to provide advice on the broader review on derivatives". The Commission says that "given the urgency of these issues and in the light of the financial crisis, specific expertise was sought without delay and experts appointed without making use of an open call for expression of interest". In the context of the financial crisis derivatives are a highly controversial and politicised issue. It is therefore unacceptable that the Commission sets up a group on the issue without a public call, including the members of the Derivatives industry lobby group: the International Swaps and Derivatives Association (ISDA). The case becomes even more controversial given that many of the banks and entities in this expert groups are now under [anti-trust investigation by the Commission](#) (ICE Clear Europe, Markit, Morgan Stanley, Deutsche Bank, UBS, Barclays, Goldman Sachs, Citigroup, BNP-Paribas and more).

The Commission did not comment on:

- The Commission didn't give any explanation for industry's complete domination of the now disbanded **European Securities Markets Expert Group (ESME)** which advised on many sensitive issues including Credit Rating Agencies¹⁶.
- The Commission doesn't reveal the affiliations of the members of the **Insolvency Law Group of Experts (ILEG)** so we cannot assess its composition.

Expert groups dealing with financial regulation remain highly unbalanced. This is in stark contrast to statements from Commissioner Barnier such as: "the EU approach to regulation must promote the interests of all citizens, hence adequate and balanced representation of the interests of all stakeholder needs to be insured throughout the entire policy cycle, including in setting up Expert Groups" (03-01-2011 PD/oc D(2010)977195). Eleven out of 20 groups dealing with financial regulation (19 in the Register plus CESAME2 which may still exist) have non-governmental members. Seven of the 11 are dominated by corporate representatives. Among the 276 non-governmental members, 202 come from industry and 74 from other interest types or entities. The percentage of corporate advisers advising DG Markt on financial regulation has fallen from [84% in 2009](#) to 73%. Change at this pace will make no difference to the end result (bad policies because listening basically to one particular side). When ALTER-EU met with DG Markt officials, they said that in order to rebalance expert groups their approach up to now was to replace members who left for whatever reason with individuals from different interest categories. They recognised that this led to too slow progress and that they needed to come up with some other method. We think they should really do. Commissioner Barnier wrote that: "seeking an adequate presence of civil society representatives in our Expert Groups will certainly be part of our future efforts, both in setting-up new Groups and in re-arranging the composition of existing one when appropriate" (03-01-2011 PD/oc D(2010)977195). Another very simple method that the Commission should consider would be to dissolve corporate-dominated groups.

Among DG MARKT's non-financial expert groups there are also many problematic:

- **The Working group on Private Copying Levies** (2 trade associations and BEUC)
- "**Comité consultatif pour l'ouverture des marchés publics**", "**European Corporate Governance Forum**", "**Tax Barriers Business Advisory Group**" and "**Reflection group on the future of EU company law**" do not disclose the affiliations of their members so we

16 http://ec.europa.eu/internal_market/securities/esme/index_en.htm

- cannot assess their composition.
- The expert group "**Propriété industrielle**" does not disclose its membership at all.

DG RESEARCH

The Commission stresses that five of the seven groups we qualified as dominated by big business are "monitoring ongoing projects" and therefore their minutes and exact proceedings "should not appear on a publicly accessible website" (**Coal and Steel Technical Groups**). We believe the Commission could still provide more detailed agendas and some parts of the minutes without endangering ongoing projects.

The Commission specifies that "the main task of the experts" in these five groups "is to monitor ongoing projects" in order to check whether they are conducted "in conformity with the grant agreement". Given the small number of companies that have the capacity to undertake such projects, monitoring the projects should not be done by corporate experts. This could lead to direct or indirect conflicts of interests.

The Commission argues that "the composition of the Coal and Steel Technical Groups reflects the distribution between the different organizations (industry, academia, research centres..) of the experts registered in the database with an expertise in the coal and steel matters". This is a flawed approach. Experts coming from the corporate sector are also interest representatives. The Commission should exclude them from technical groups or have them only as a clearly minority group. Projects should be monitored by actors that don't have a direct interest in DG Research funding. Otherwise all kinds of trade-offs may occur.

The Commission challenges the figures we mention in our complaint on the composition of the **FP7 Advisory Group on Transport**. Checking the Register before we submitted our original complaint in July 2010 we found 10 members of this group (we categorised four of these as academics and six as business). It is possible that we have made a mistake. But the Commission now claims that the group has 24 members, five of which come from business and nine from universities. Accessing the Register on May 23, 2011, we find eight from business, two from the public sector, 10 academics and one professional (consultant). These differences demonstrate problems with the reliability of the Register. If the current composition in the Register is accurate then we are happy to remove this group from our list of corporate dominated groups.

Making FP7 Advisory Groups' members sign a 'declaration of acceptance' regarding conflicts of interests is a flawed approach which has already been abandoned by the rest of the Commission. Members acting in a personal capacity should list their professional activities and this declaration should be put online. Corporate representatives should not be admitted as experts in a personal capacity.

The Commission did not comment on the composition of the group on 'Factory-wide control, social and environmental issues' which no longer appears to be in the Register.

DG INFSO

When we accessed the Register on May 23 there were no expert groups listed under DG INFSO. The Commission commented on three out of the four groups we mentioned.

- **Information Society Technology and Advisory Group (ISTAG):** The Commission assumes that people working for companies are not acting as interest representatives: "the members are not to act as pure representatives or lobbyists for a given organisation" says the Commission. "Pure" or less "pure", these people are also interest representatives. The approach expressed in the Commission's comments has not been defended by representatives of the Secretariat-General or DG Markt in ALTER-EU's meetings mentioned above. The Commission categorises 23 members as "academia or research labs" and 12 as "industry", ignoring the fact that many research labs are parts of corporations or are companies (and not always SMEs) in their own right with vested interests in the area on which they are advising.
- **Intelligent Manufacturing Systems Industrial Advisory Group:** the Commission is explicit that only business has a place in this group. There are no other advisory structures giving civil society's view on social, environmental and other possible impacts of the new technologies developed.
- **eSafety:** The Commission didn't challenge our allegation of corporate dominance. It says membership is open to everybody and the Steering Group of the expert group decides on appointments. The Commission should control and be responsible for the membership of its expert groups and not delegate this authority to third parties.

DG SANCO

In the comments sent by the Commission, this DG states that "when selecting the members of (...) groups the equilibrium between industry and civil society organisations is a central one". This principle should be followed by the Commission as a whole.

- **Advisory Group on the Food Chain and Animal and Plant Health:** the Commission says it launched a public call on 17/07/2010 "to fill the empty slots, especially to include unrepresented sectors". At the start of 2011 the selection process hadn't been finalised and when we accessed the Register on May 23 the membership was still 36. We want to highlight that this is the right approach: when some relevant sectors and interest categories are unrepresented or under-represented, further calls should be made to invite those categories and the Commission should also see how it can make the proceedings relevant to them. However, this concept of a balance between industry and civil society is not applied in the case of this expert group. Even if EUROCOOP and COPA-COGECA are not counted as big business (these two groups are hard to categorise), 24 out of 36 members still represent big business¹⁷. The group needs nine more representatives from NGOs, unions, professionals, consumers or SMEs.
- **Animal health and animal welfare group:** The group is no longer available in the Register. We would like to clarify that we didn't argue that the eight out of 12 organisations in this group represented views of "particular companies" but those of big companies within their sector collectively. If we have counted professional organisations of veterinarians and organisations of family and other small or medium farmers as "industry" then we have made a mistake. But it looks as though even in this case the group is unbalanced.
- **European Alcohol and Health Forum:** Alcohol producers, retail and hospitality, media and advertisers and sports can all include big business and they make up the majority of this group (at least 33 of 64).
- **Working Group on clinical investigation and evaluation:** the group only includes

17 1. AIPCE-CEP, 2. AVEC, 3. CEFIC, 4. CELCAA, 5. CIAA, 6. CLITRAVI, 7. COCERAL, 8. ECCA, 9. ECPA, 10. ECSLA, 11. EDA, 12. EFPRA, 13. EMRA, 14. ESA, 15. EUROCHAMBRES, 16. EUROCOMMERCE, 17. EUROPABIO, 18. FEDIAF, 19. FEFAC, 20. FERCO, 21. FESASS, 22. FRESHFEL, 23. HORTEC, 24. IFAH

governments and business groups. It should also include civil society organisations.

DG MOVE

We are glad to learn that the corporate-dominated group "**Télépéages**" under DG Move has been dissolved as has one we wrongly attributed to DG Move (Galileo Signal taskforce).

- The **expert group on inland waterway transport** seems to be balanced now. We may have wrongly interpreted the nature of the organisations represented in our original complaint.
- In the **expert group on intermodality and logistics**, business associations represent the majority among non-governmental members so the group is unbalanced. The number of representatives from unions, academics, SMEs and NGOs should increase or big business representatives should be reduced.

DG TAXUD

- the **Trade Contact Group** is an example of a wrong approach: "any international association that requests to be a member and proves its involvement in customs related activities is accepted". This makes it impossible for the Commission to check the balance of the composition. According to the Register this group is composed of 30 industry representatives.
- Its sub-group, the "**Project Group to assist to the development of the Modernized Customs Code**" is not available in the Register and no explanations have been given as to its membership, which does not include any civil society, unions etc.
- The issues dealt with by the **Excise Contact Group** should be of interest to consumer organisations since the final price of products can be influenced by excise. Fiscal fraud is an issue of interest to the whole of society. In that sense we think the Commission shouldn't assume that "it is difficult to see which other stakeholders [than traders' trade associations] would be interested in participating in such a group".
- The **expert group on Taxation and Savings** has only members from the financial industry. Consumer and other groups should also be consulted on the functioning of the Savings Directive.

The **Joint Transfer Pricing Forum** created by a Commission decision on 25 January 2011 is another scandalous case of industry dominance on a sensitive issue. The NGOs, [Eurodad and CNCND](#), [have already protested](#) to the Commission about it and the case has been reported in the press under the headline "[EU tax-scam body stuffed with tax avoidance experts](#)".

DG ENV

- **REACH Competent Authorities**: industry has twice as many observers as NGOs, unions have just one representative and SMEs similarly just one. This is unbalanced treatment in favour of big business.
- The situation of the group "**Suveillance et contrôle des transferts de déchets**" has been clarified in the Register. It is made up of representatives from national administrations.
- The "**information exchange forum on best available techniques under legislation on industrial emissions**" is not available in the Register. The fact that the IPPC Directive "only refers to the involvement of industry" is a typical example of a flawed approach.
- Expert Group on "**Export and Import of dangerous chemicals**": the Commission

recognises the unbalanced composition of this group by saying that of the seven non-governmental actors, five "represent industry and two represent public interest". This is discriminatory behaviour towards a specific interest category by the Commission. The argument that "Member States are also representing public interest" is not valid. Member States are part of the EU structure, they are decision makers. The question about expert groups is who is consulted by the decision makers and in this case, big business is being given a privileged position. If Member States were enough to represent the general interest, taking into account also the point of view of business - and all other groups - there would not be any need for business groups to be included. We do not complain about groups being made up of representatives from Member States only but only for groups where different interest categories are not given equal access and representation. This group cannot be found in the register.

DG ENER

- **Comité Consultatif de l'Agence d'Approvisionnement de l'Euratom**: the Commission argues that according to Article 11 of the Statutes of this agency, members are chosen by Member States from among public organisations, industrialists and users. This is not exactly what [Article 11 states](#): "Committee members shall be appointed by their respective Member States on the basis of their degree of relevant experience and expertise in the fields of trade in nuclear materials and services of the nuclear fuel cycle or nuclear power generation or in regulatory matters related to nuclear trade." The article does not provide that members should also come from industry. In any case, these corporate representatives are not listed as government representatives in the Register. The Commission should clarify the situation.
- The recently created "[Energy Roadmap 2050 ad hoc Advisory Group](#)" is not included in the Register.¹⁸ The Commission should explain whether it has examined the risk of conflict of interests of the Chair of the group Dieter Helm who runs his own [energy consultancy](#).

DG ECFIN

- **Euro Cash User Group (ECUG)**: the corporate sector is over-represented and the Commission doesn't challenge that. It only says this group is not about the preparation of legislative proposals but for information and exchange of views. The Commission should not discriminate against specific interests types when informing and exchanging views. Therefore, either the participation of consumers, unions, SMEs, academics and NGOs should increase or the participation of business groups should be reduced.

DG REGIO

- **"Information des partenaires sociaux sur les activités des Fond structurels"**: the Commission justifies the unbalanced composition of the group saying that: "the apparent over-representation of industry is due to particularities of different employers organisations, as compared to the relative concentration of employees organisations mostly represented by ETUC". The solution to this problem is simple. The Commission should invite more union representatives to join (fi. from each of the sectors of represented employers: the public sector, workers in fisheries, in agriculture etc.)

¹⁸ http://ec.europa.eu/energy/strategies/2011/roadmap_2050_en.htm

- Expert Group "**FEBI-FEBS-BUSINESSEUROPE-EUROCHAMBRES-INS-EUROSTAT**": The Commission justifies the unbalanced composition of this group saying: "the membership of the group is open to any federation which shows interest in participating in the information meetings. The group has representatives from all sectors of the economy". This is clearly discriminatory. Unions and consumers are also actors in the economy and should be invited.

These cases – as well as numerous groups which the Commission has failed to respond on – show that the Commission failed to "effectively ensure" a balanced composition of many of its expert groups.

The problems with the Commission's approach is also reflected in the recent Communication on Smart Regulation [[COM\(2010\) 543 final](#)]. Citizens and business are given equal value as interlocutors of EU institutions. In democracy public bodies are basically accountable to citizens, not to business.

The unbalanced composition of a large number of expert groups violates the Commission's codes of conducts on consultation standards (COM(2002)704) and the use of expertise (COM(2002)713), the White Paper on good governance (COM(2001)428), the European Ombudsman's Code of Good Administrative Behaviour and Article 9 of the EU Treaty.

Claim:

5. The Commission should provide safeguards against the corporate domination of expert groups

Among the approach of different Directorate-Generals on expert groups the approach of DG Sanco appears to be the best. This is also reflected in the fact that this DG has a relatively low percentage of corporate-dominated expert groups. We believe that the principle formulated by DG Sanco should be adopted by the Commission as a whole:

"when selecting the members of (...) groups the equilibrium between industry and civil society organisations is a central one".

The **Single Market Informal Dialogue Group** (DG Markt) is a good example of a balanced group: four business groups, one public sector employer, one think tank, seven NGOs (two consumers, three social, two environmental), one SME and two trade unions (plus one regional government association).

The membership of groups in which more than half of the non-governmental members come from a single type of interest (and from big business in particular) should be reviewed in order to create a balance between special economic interests and the public interest.

The Commission should dissolve expert groups dominated by vested interests, or increase the participation of civil society where this is possible and reduce corporate participation if not.

The Secretariat-General should impose a sine qua non condition on DGs for creating or maintaining expert groups, that no single interest type should have the absolute majority in any expert group.

I look forward to your response and remain at your disposal for further clarifications.

Yours sincerely,

Yiorgos Vassalos
Corporate Europe Observatory

On behalf of ALTER-EU