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DRAFT REPORT

on the development of the framework for the activities of interest
representatives (lobbyists) in the European institutions
(2007/2115(INI))

Committee on Constitutional Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions (2007/2115(INI))

The European Parliament,

- having regard to Rule 9(4) of its Rules of Procedure,
 - having regard to the Green Paper entitled 'European Transparency Initiative' presented by the Commission (COM(2006)0194),
 - having regard to the Commission Communication entitled 'Follow-up to the Green Paper 'European Transparency Initiative' (COM(2007)0127),
 - having regard to the Commission draft Code of Conduct for Interest Representatives launched on 10 December 2007,
 - having regard to its decision of 17 July 1996 on the amendment of its Rules of Procedure (lobbying in Parliament)¹,
 - having regard to its decision of 13 May 1997 on the amendment of its Rules of Procedure (Code of Conduct governing lobbyists)²,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Budgetary Control, the Committee on Economic and Monetary Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Legal Affairs, the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2007),
- A. whereas lobbying in the European Parliament has grown remarkably as the competencies of the Parliament have expanded,
- B. whereas interest representatives play an essential role in the open and pluralistic dialogue on which a democratic system rests, and form an important source of information for Members,
- C. whereas it is estimated that there are about 15 000 lobbyists and 2 500 lobby organisations in Brussels,
- D. whereas the Commission has proposed that a common register be introduced for interest representatives in the European institutions as a part of its European Transparency Initiative,

¹ OJ C 261, 9.9.1996, p. 75.

² OJ C 167, 2.6.1997, p. 22.

- E. whereas Parliament has had its own register for lobbyists¹ from as long ago as 1996, as well as a Code of Conduct² which obliges lobbyists to act according to high ethical standards,
- F. whereas there are approximately 5 000 registered lobbyists in Parliament,

Improving Parliament's transparency

1. Emphasises that transparency in all the European institutions is an absolute prerequisite for the Union's legitimacy and trust among its citizens; stresses that transparency is a two-way street that is needed both in the work of the institutions themselves and among the lobbyists;
2. Acknowledges that a Member may, as he or she sees fit (on a voluntary basis), use a "legislative footprint", i.e. an indicative list (attached to Parliament's reports) of interest representatives who were consulted during the preparation of the report; stresses, nevertheless, that it is even more important for the Commission to attach such "legislative footprint" to its legislative initiatives;
3. Invites its Quaestors to draw up a plan on how to improve the implementation and control of Parliaments' rules whereby a Member must declare any support which he or she receives, whether financial or in terms of staff or materials³;
4. Calls for clarity on Intergroups, i.e. a list of registered and non-registered Intergroups on Parliament's website, including declarations of the financial interest of their respective chairs;
5. Calls for its Quaestors to clarify the rules which prohibit unaccompanied visitors on Parliamentary premises (for example Members' offices) and to improve the enforcement of those rules;

Commission proposal

6. Welcomes the Commission's proposal for a more structured framework for the activities of the interest representatives as a part of the European Transparency Initiative;
7. Agrees with the Commission's definition of lobbying as "activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions"; considers this definition to be in line with Rule 9(4) of its Rules of Procedure;
8. Emphasises that all actors falling within that definition should be considered as lobbyists and treated in the same way: professional lobbyists, companies' in-house lobbyists, NGOs, think-tanks, trade associations, trade unions and employers' organisations and lawyers when their purpose is to influence policy rather than case-law;

¹ Rule 9(4) of the Rules of Procedure.

² Annex IX, article 3 of the Rules of Procedure.

³ Annex I, article 2 of the Rules of Procedure.

9. Welcomes in principle the Commission's proposal for a "one-stop shop" where lobbyists could register with both the Commission and Parliament; recalls, however, the essential differences between the Commission and Parliament as institutions; therefore reserves the right to evaluate the Commission's proposal when it is finalised and only then to decide on whether or not to support it;
10. Proposes that a joint working group of officials be set up as soon as possible, with representatives from both Parliament and the Commission to consider the implications of a common register;
11. Recommends that the Council joins a possible common register; is of the opinion that careful consideration needs to be given to the activities of lobbyists vis-à-vis Council in the context of codecision matters;
12. Is aware of the arguments in favour of both voluntary and compulsory registration of lobbyists; notes the Commission's decision to start with a voluntary register and evaluate the system after one year; recalls that Parliament's register is already *de facto* mandatory, because registering is a prerequisite for gaining access to Parliament;
13. Notes the Commission's draft Code of Conduct for Interest Representatives; reminds the Commission that Parliament has already had such a Code for over 10 years and asks the Commission to negotiate with Parliament for the establishment of a common Code;
14. Recalls that Parliament's current Rules of Procedure already provide that any breach of the Code of Conduct may lead to the withdrawal of the nominative pass, which entails deletion from the register;
15. Emphasises the need for the register to be user-friendly; the public must be able to easily find and make searches of the register;
16. Notes the Commission's decision to ask for financial disclosure by interest representatives joining the register to apply to the following:
 - the turnover of professional consultancies and law firms attributable to lobbying the EU institutions, as well as the relative weight of their major clients;
 - an estimate of the costs associated with direct lobbying of the EU institutions incurred by in-house lobbyists and trade associations;
 - the overall budget and breakdown of the main sources of funding of NGOs and think-tanks;
17. Stresses that the requirement of financial disclosure must apply equally to all interest representatives;
18. Asks the Commission to give more specific information about the nature of such disclosure before Parliament makes any decision to join the register;
19. Reminds the Commission that financial figures are not always the best way of providing information on the scale of lobbying activities;

20. Requests that its competent bodies propose the necessary changes to the Rules of Procedure;
21. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

Transparency of political institutions is a prerequisite for legitimacy. It should be easy to scrutinize how decisions are made, what are the influences behind them and finally how resources, i.e. taxpayer's money, are allocated. Therefore rules for lobbying are ultimately a question of legitimacy.

At the moment it is estimated that there are about 15000 lobbyists and 2500 lobby organisations in Brussels. Counting permanent visitors' badges and "express"-badges there are approximately 5000 lobbyists operating in the European Parliament.

The Commission has opened discussions on lobbying by its European Transparency Initiative (ETI). The main idea of this proposal is to lay out more openly the actors and influence channels operating when legislative acts are prepared and adopted by the EU institutions. The Commission proposes a voluntary register and a code of conduct for lobbyists. The Parliament already has a *de facto mandatory* register and a code of conduct provided in article 9(4) in the Rules of Procedure of the European Parliament.

This report is a response to the Commission's ETI. The European Parliament is, as a co-legislator, expected to take a firm stance on interest representation in the EU.

History of lobby-rules in the European Parliament

Lobbying has been a long-standing and contentious issue in Parliamentary debates. Positions vary widely and traditions in the 27 Member States are diverse. In the majority of Member States there are no provisions at all for dealing with these groups at the parliamentary or governmental level. On the other hand, in the US a lobbyist needs to read through almost 600 page manual to get everything right. Be as it may, today there is a large consensus that interest groups provide valuable expertise to EU law-making authorities.

The Parliament was the first European institution to address the phenomenon of an increasing number of interest groups at European level and especially about the consequences of this evolution for the legislative process. A first written question concerning the establishment of a potential regulation of lobbying activities was presented in 1989. In 1991, the *Committee on the rules of procedure, the verification of the credentials and immunities* drafted a report with proposals for a code of conduct and a register of lobbyists. However, after very difficult Committee debates the proposals were not submitted to the Plenary.

After the European elections of 1994 the debate on lobbies' regulation resumed. Another report of the same Committee avoided terminological conflicts and relied on a voluntary self-definition of interest groups. Regulatory proposals were less constraining and considered more open to lobbying than those of the 1993 report. The idea of a register, where interest representatives had to make their activities and interests public was born. Interest representatives were supposed to pay fees for their registration, to respect a code of conduct and to sign the register. In return, they obtained a pass and access to parts of the EP and to its documents. In January 1996 the report was heavily amended in the plenary session and then referred back to the Committee.

In July 1996, a compromise was found. With regard to financial interests, each MEP is now required to make a detailed declaration of his professional activities. MEPs have to refrain from accepting any gift or benefit in the performance of their duties. Registered assistants also have to make a declaration of any other paid activities. These rules were added to Parliament's Rules of Procedure (Art. 9 and Annexes I and IX). Further practical steps were taken later concerning the publication of some of this information on Parliament's webpage. Today lists of registered lobbyists, of MEPs declarations of financial interests and of registered assistants are available.

Proposals by the rapporteur

As a preparation for this report the *Committee on Constitutional Affairs* organised a *workshop on lobbying the European Union* on 8 October 2007 in order to survey the present situation of interest representation and to obtain responses from stakeholders to the Commission's ETI. During the process the rapporteur has identified the following essential questions to be addressed in the report:

1. How should a lobbyist be defined?

The Commission defines lobbying as “activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions.” This is in line with article 9(4) in the Rules of Procedure of the European Parliament defining lobbyists as "persons who wish to enter Parliament's premises frequently with a view to supplying information to Members within the framework of their parliamentary mandate in their own interests or those of third parties".

The rapporteur is of the opinion that no essential differences are to be made according to whether industrialists or environmentalists are approaching the Parliament, whether producers' or consumers' interests are represented or whether private or public actors are engaged in a dialogue with MEPs. In addition, when law firms are engaged in influencing future law, not representing court cases, they are to be considered as lobbyists.

2. To what extent should there be financial disclosure?

According to the Commission, financial information is indicative on the influence of interest groups. The Commission has concluded that it is necessary and proportionate to request registrants to declare relevant budget figures and an aggregate breakdown on major clients and/or funding sources. The main objective of this information is to ensure that decision-makers and the general public can identify and assess the strength of the most important driving forces behind a given lobbying activity. The Commission requires the following:

- for professional consultancies and law firms the turnover linked to lobbying EU institutions, as well as the relative weight of major clients;
- for "in-house" lobbyists and trade associations an estimate of the cost associated to direct lobbying of EU institutions;

- for NGOs and think-tanks the overall budget and a breakdown of their main sources of funding.

Details are yet to be clarified when the Commission presents a beta-version of its data base interface and more explicit information on the required data. Furthermore, financial figures are not always the best way to give information on the scale of lobbying activity.

The questions yet to be answered in a clear way are what information is useful to assess external influences on the legislative process and how they can be acquired without breaking legitimate confidentiality rules or overly burdensome administrative procedures.

3. Should the European Parliament have a common register with the Commission?

The Commission calls for a common register between the Commission and the Parliament. The rapporteur considers that from the public point-of-view the institutions are seen as one. Also all the stakeholders wish to have a “one-stop-shop”. Although the institutions have essential differences and might end up with different requirements for lobbyists, for example on financial disclosure, the question should be seen as administrative. Therefore the rapporteur proposes a joint working group of officials to consider the implications of a common register.

4. Should the register of interest groups be voluntary or mandatory?

The Parliament's legal service considers the Parliament's present register *de facto* mandatory, because registration is linked to physical access to the Parliament premises. The rapporteur agrees with this analysis. To lobby regularly in the Parliament you need a badge. In order to get a badge you have to register. This is also why the Commission urges for a common register. The badge is a strong incentive to register.

The Commission proposes financial disclosure and more systematic monitoring of the information provided in the register. These innovations are priorities and should be adopted in due time. A legislative act on lobbying would be a lengthy process and should not therefore be pursued at this stage. This is in line with the broad consensus on having a common register, a "one-stop-shop" with the Commission.

The success of the Commission's register is evaluated after one year. The Treaty of Lisbon, if ratified, will provide a clearer legal basis for a legislative act on lobbying, if this is found necessary.

5. Should there be sanctions for breaches of the code of conduct?

In the present system of the Parliament, the highest sanction is the deletion from the register. Fines and other such sanctions would require legislation. From the lobbyists' credibility point-of-view, deletion from the register is not at all a meaningless sanction. However, supervision on how rules are respected could be strengthened.

6. Improving the Parliament's transparency

The rapporteur considers transparency a two-way street. This means, that when requiring the lobbyists to be more transparent, the Parliament itself can also work for more transparency. Therefore the rapporteur calls for clarity on registered and non-registered intergroups often financed by interest groups.

Furthermore, the rapporteur acknowledges a Member possibility to use a “legislative footprint”, i.e. an indicative list, attached to parliamentary reports, of interest representatives consulted during the preparation of the report. The idea is to give a picture on different interests mobilised by a legislative process and thus help the public, the media, other Members and anyone interested to scrutinize Parliamentary work. On the other hand, often relevant information is obtained confidentially and the independence of MEP’s has to be defended. Therefore the use of such "footprints" has to base on the best judgement of individual MEP's. The rapporteur also stresses that it is even more important for the Commission to provide a legislative footprint attached to its legislative initiatives.

For example, in the process of this report at least the following organisations have been consulted. Some others have sent e-mails and provided quick information informally.

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|---|---|
| 1) Business Europe, | 7) Council of Bars and Law Societies of Europe (CCEB) |
| 2) European Public Affairs Consultancies' Association (EPACA), | 8) International Public Relations Association (IPRA) |
| 3) The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) (Friends of the Earth Europe, European Federation of Journalists), | 9) UKLawSociety |
| 4) European Chemical Industry Council (Cefic), | 10) White&Case |
| 5) Society of European Affairs Professionals (SEAP), | 11) American Chamber of Commerce |
| 6) French Chamber of Commerce, | 12) Toyota Motor Europe, |
| | 13) Exxon Mobile, |
| | 14) European Centre for Public Affairs (ECPA), |
| | 15) The Commission |

In addition, the following were represented as stakeholders in the *workshop on lobbying in the EU* organised 8 October by the Committee of Constitutional Affairs. Others gave their views in the roundtable discussion.

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|--|---------------------------------------|
| 1) Business Europe, | 5) Corporate Europe Observatory (CEO) |
| 2) The European Consumers' Organisation (BEUC) | 6) ALTER-EU |
| 3) SEAP | 7) Daimler ("in-house" lobbyist) |
| 4) EPACA | 8) CCBE |

Conclusion

In conclusion, the rapporteur addresses the importance of transparency, calls for equal treatment between interest representatives, proposes a wait-and-see approach to the concrete proposals (i.e. the register and its details) by the Commission and provides examples on how the Parliament itself can improve its own transparency.