



EU Civil Society Contact Group

Workshop Proceedings

Taking stock of the European Transparency Initiative Current debate and future challenges

12th July 2007, 12:30 – 14:30 at the offices of the Social Platform
Square de Meeus 18B-1050 Brussels

Note from the organisers

On 12th July 2007, The **Alliance for Lobbying Transparency and Ethics Regulation** (ALTER-EU) and the **Civil Society Contact Group**, with support from the **Social Platform**, co-organised a workshop in Brussels aimed at providing Brussels-based groups, non-governmental organisations, trade unions and academics, with an opportunity to come together and take stock of the recent developments in the debate on the European Transparency Initiative (ETI), assessing some of its most contentious issues and exploring the challenges lying ahead.

Interventions were provided by Roshan Di Puppò, Director of the Social Platform, Regula Heggli, coordinator of the Civil society Contact Group and Paul de Clerk, corporates campaigner at Friends of the Earth Europe. The workshop was moderated by Kim Bizzarri, from Corporate Europe Observatory and facilitator of the ALTER-EU coalition.

As many of the participants to the workshop were new to the issue of lobby transparency, these proceedings aim to provide an overview of the presentations with a particular emphasis on the evolution of the transparency debate, from its inception to its more recent developments.

The workshop's Agenda and the list of participants can also be found at the end of this document.

We hope that both the participants and interested individuals and group will find these proceedings useful.

Sincerely,

Kim Bizzarri, *The Alliance for Lobbying Transparency and Ethics Regulation*
Regula Heggli, *Civil Society Contact Group*

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The **Alliance for Lobbying Transparency and Ethics Regulation** (ALTER-EU) is a coalition of over 140 civil society groups, trade unions, academics and public affairs firms concerned with the increasing influence exerted by corporate lobbyists on the political agenda in Europe, the resulting loss of democracy in EU decision-making and the postponement, weakening, or blockage even, of urgently needed progress on social, environmental and consumer-protection reforms.

The **EU Civil Society Contact Group** brings together eight large rights and value based NGO sectors - culture, environment, education, development, human rights, public health, social and women. Jointly we aim to represent the views and interests of rights and value based civil society organisations across the European Union on major issues, which affect us across our sectors of activity. Our objective is to encourage and promote a transparent and structured civil dialogue that is accessible, properly facilitated, inclusive, fair and respectful of the autonomy of NGOs.

Workshop Proceedings

Welcome and introduction

Roshan Di Puppò / Social Platform

This initiative of Alter-EU and of the Civil Society Contact Group is particularly welcomed in the European NGOs community. It is indeed essential that from time to time NGOs come together, from all sectors, to discuss the environment in which they evolve and how it impacts on their work.

From the perspective of Social NGOs, the Barroso commission has given a new impetus to corporate lobbying. The revised Lisbon strategy by subordinating social and environmental considerations to “growth and jobs” has increased the legitimacy of corporate arguments i.e. the need for a moratorium on social/environmental legislation in order not to affect the growth of companies and their capacity to create jobs. Growth is also seen as the only response to finance pensions and public deficits.

NGOs have to be aware of this context and how favourable it is to corporate lobbying. To limit the influence of corporate, civil society needs to identify alternative to the neo-liberal agenda. How to promote a growth which is respectful of people and of the environment? How to ensure that jobs created are of quality? And finally, what types of rules are needed to ensure that public authorities do act in the public interest?

European Transparency Initiative - What is at stake for the NGOs

Regula Heggli / Civil Society Contact Group

The current European Transparency Initiative (ETI) process has raised, once again, the question of the role of NGOs in current EU decision-making processes. At present, different forms of interest representation (for profit and non-for profit interest groups) benefit from the same legitimacy before the European Commission, despite their interests and constituency being very different (and hence their legitimacy also).

Currently, NGOs are being (ab)used by EU officials for the implementation of policies and as communication channels, whilst business has become the prime interlocutor of the European Commission.

This situation raises 2 key questions:

1. How can decision makers and the public at large be properly informed about lobbying at EU-level; and
2. How can it be ensured that different stakeholders have equal access to European decision makers?

To address these questions it would be necessary to recall the differences between for-profit and public interest representation and point at the added value of NGOs – a direct link with the public at large whose interest is the common good and not the individual’s profit – and ensure that the current code of conduct and proposed register in the ETI respect this difference.

The ETI could be used as an opportunity to make the wider public better appreciate the nature of lobbying in the EU and the role that NGOs and NGO networks play in policy-making in Europe.

Political update on the European Transparency Initiative – current debate and future challenges

Paul de Clerck / Friends of the Earth Europe & ALTER-EU

1. The need for lobbying transparency

Over 15,000 professional lobbyists are currently roaming the corridors of the EU institutions, a large majority representing business interests. The excessive influence exerted by corporate lobbyists on setting the political agenda in Europe is undermining democracy and blocking progress on pressing EU policy issues, including social, environmental and consumer-protection legislation. Several phenomena contribute to the strong influence corporate lobbyist have in Brussels:

Privileged access: Corporate lobbyists are often being granted privileged access by decision-makers. An example: The High Level Working Group on Competitiveness, Energy and the Environment was established to advise the European Commission on concepts for energy and environmental policy – out of the 18 external members, 12 are from industry and just two from environmental organizations;

Revolving Doors: Personal contacts and inside knowledge are essential in the lobbying game. The fast-moving revolving door between EU institutions and the lobby sector secures a strong corporate influence over the decision-making process. Just one of many examples: Former director of DG Environment, Jim Currie, left his job at the Commission in 2001 to work for British Nuclear Fuels;

Dubious methods and pretence of independence: Corporate lobby campaigns often try to keep quiet about their true motives. Lobbyists set up front groups, pretend to come from non-profit organizations, or finance allegedly independent “experts”. For example: The oil corporation ExxonMobil tries to create an environment where climate scepticism appears to come from respectable think tanks, who in reality are being secretly funded by the company to pollute the climate debate with non-scientific arguments.

2. Origin of the European Transparency Initiative (ETI)

The idea of the ETI was initially debated amongst EU Commissioners in May 2005, with the ETI becoming formally adopted on 9th November the same year. A Green Paper was published in May 2006 to launch a debate/consultation with all the stakeholders on how to improve transparency on the Community Funds, on the consultation with civil society and on the role of the lobbies and NGOs in the European institutions' decision-making process – the consultation period ended on 31st August 2006.

The concept of the ETI itself was developed in response to the need to “*reconnect Europe with its citizens and close both the physical and mental gap that makes it difficult for people to understand what Europe does and why it matters.*” The aims of the ETI have therefore been to “*increase openness and accessibility of EU institutions, raise awareness over the use of the EU budget and make the Union's institutions more accountable to the public*” with the intention to promote transparency in EU policy-making. In relation to lobby transparency, the European Commission’s Green Paper on a European Transparency Initiative stated that: “*When lobby groups seek to contribute to EU policy development, it must be clear to the general public which input they provide to the European institutions. It must also be clear who they represent, what their mission is and how they are funded.*”

3. Lobbying positions on the ETI

The question of lobbying transparency and ethics has become one of the key and most debated components of the ETI process. The debate soon became polarised with opponents and supporters of lobbying disclosure dominating the discussion:

EPACA (the European Public Affairs Consultancies Association) and SEAP (the Society for European Affairs Professionals), the major organisation representing for profit lobbyists have been opposing mandatory lobbying disclosure, defending secrecy and privileged access by advocating "self-regulation", voluntary codes of conduct and registration. Commercial lobbyists have also been arguing against the inclusion of verifiable financial information concerning lobbying activities claiming that "*money does not equate influence*", that the process would be too burdensome and also contrary to their client's right to privacy – although many of their clients are also US-based and have disclosed such information as part of the US regulation on lobby disclosure.

ALTER-EU has been concerned that a voluntary register will never "*cover the landscape of European interest representatives as comprehensively as possible*" or "*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*" – two of the Commission's stated objectives for the ETI Communication. For these reasons ALTER-EU has been advocating for a mandatory register and the development of a code of conduct for lobbyists, including the disclosure of financial information concerning lobbying activities. As Commissioner Kallas himself stated in his speech before the Federation of European and International Associations in Brussels: "*Nobody would pay real money for lobby services without expecting something in return--and that something is influence.*"

4. Policy outcome so far

In March 2007 the Commission announced a web-based public register for all lobbyist to be launched in Spring 2008 and be evaluated in Spring 2009. Registration would be voluntary in the register's first year of trial period but a mandatory register would not be excluded if the Commission's 2009 evaluation deemed the voluntary system ineffective in ensuring sufficient registration.

The register would classify registrants into 3 categories of lobbyists:

1. Professional consultancies and law firms;
2. In-house lobbyists and trade associations;
3. NGOs and think tanks.

Upon registration, financial information will have to be disclosed, indicating the "relative weight of a client in the total turnover". Although the communication is not very detailed about this financial disclosure, it is clear that the commission will require lobbyists to disclose financial information about relevant budget figures and a breakdown of clients and/or funding sources.

The Commission has also begun consulting with individual business groups and CSOs about a code of conduct and a formal consultation process is expected to start in Autumn 2007.

The code of conduct will not replace existing code of conduct of public affairs' associations (such as EPACA) but will define general principles for lobbyists to follow (such as honesty and transparency), though it will not include the issue of corruption – as this, the Commission maintains, is already foreseen for EU officials under separate staff rules.

5. Concerns

The voluntary system will cause the register to be dependent on an appeal to the lobbyists' conscience or their fear of damaging their reputation. But those who will want to stay in the shadows will never register or disclose financial information on a voluntary basis. Industry's preferred self-regulatory pseudo-solutions will not increase democratic scrutiny of the role of lobbyists in EU policy-making: the very purpose of the European Transparency Initiative. Moreover, the industry lobby groups are strongly lobbying against registering at all, arguing that the voluntary system will create inequalities between competitors (unethical lobbying) as groups do not have to sign. This is shameful of them as they heavily lobbied in favour of a voluntary registrar during the consultation period arguing that lobbyists should not be forced to register. Now

that they have a voluntary register, they claim that it is against the “human right of lobbyists”, threatening not to sign-up as many of them do not consider themselves as lobbyists.

With reference to reviewing the voluntary scheme in Spring 2009, it is unclear how the Commission will judge its “success”. It appears that the Commission will be satisfied with 50% of lobbyists registering, while ALTER-EU would consider the register to be a failure if less than 90% of the lobbyists sign up. However, as the exact total number of lobbyists operating in Brussels is unknown, it is unclear how to evaluate the number of signatories in the first place...

The present incentives devised by the Commission to favour registration are also inadequate. The Commission is proposing that lobbyists registering on the database will receive alerts about upcoming consultation processes, and those who do not register will have their input treated as a personal contribution. Those who moreover fail to abide to the code of conduct will be removed from the register.

However, the alert to consultations is farcical, since good lobbyists already know about them, whilst the second incentive might have a bigger impact – although it is not clear how this will be applied. As to the code of conduct, the removal of a lobbyist from the register is hardly a penalty since the lobbyist registers on a voluntary basis in the first place – a much stronger incentive would be to produce a black list of lobbyists who have failed to abide by the code of conduct.

ALTER-EU believes that the registration system should include financial disclosure (as it currently does), but that the criteria should be defined with precision. Although individual fees would not be necessary, financial disclosure should ensure that clarity is made with reference to how much money is paid by individual clients to lobby on each specific issue (as this would provide an indicator of how important that issue is). ALTER-EU also believes that code should foresee a complain, monitoring and sanctioning mechanism in order to be credible.

6. What next?

Pressure needs to be maintained on the Commission to ensure that the financial disclosure requirements are not watered down and that at the end of the register’s one-year-trial period a credible evaluation takes place, leading to a mandatory system if necessary. In parallel to the ETI process it is important to follow and shape the current process underway in the European Parliament (EP) on lobby transparency within the EP.

The EP has already succeeded in getting President Barroso to agree to disclose the composition of the +/- 3000 expert groups currently advising the European Commission – many of them with a high industry presence – see www.corporateeurope.org/docs/lobbyingbycommittee.pdf for an analysis prepared by Corporate Europe Observatory.

However, the Committee on constitutional affairs (AFCO) is currently preparing an own-initiative report in response to the ETI. Although many MEPs support the concerns and position of ALTER-EU and like-minded groups, many MEPs in the AFCO committee – including the rapporteur – seem to consider that the financial details required by the ETI would breach commercial confidentiality and should therefore be excluded or watered down. While discussing the proposals of the Commission, the EP is also considering its own rules of procedure and reflects on whether an inter-institutional system for lobbyists could be set up for both the Commission and the Parliament

In the months to come it will be vital to engage at EP level to ensure that the outcome of the EP process reflects the demands of ALTER-EU. Even though this is not an official comitology procedure, a strong report from the EP would be a clear signal and would help maintain the pressure on the Commission. It would be an even stronger signal if the EP decided to revise and improve its own rules of procedure!

Questions and comments from the floor

Groups agreed that the current ETI raises a number of fundamental questions in relation to policy making in Europe, such as the need to ensure a democratic representation in decision-making processes, the legitimacy and “representativeness” of interest groups in voicing their concerns and the current industry bias affecting many policy areas at European level.

A number of participants felt that NGOs and trade unions differ considerably from business groups in terms of interests and motives and, as such, ought to be treated differently in the context of a dialogue between EU institutions and civil/corporate society (currently treated as one). However, most groups also agreed that, in the context of lobbying transparency, all groups, for-profit and not-for profit, should comply with the ETI and disclose all lobbying-related information.

It was unclear however to what extent the disclosure should go in terms of considering certain activities more geared towards lobbying than awareness raising (ie: should a strike from trade unions be considered a lobbying activity and, if so, should trade unions disclose their budgets from strikes when usually these are kept secret for tactical reasons?).

On the issue of the code of conduct it was also noted that a code of conduct is not an ethics code and, as such, it is unclear what sanctions could be foreseen and who should decide upon them should a lobbyists fail to comply with them.

It was generally felt, nonetheless, that NGOs and Trade Unions should show a proactive attitude towards the ETI and could even go further by devising a code of conduct and transparency rules that go beyond the current ETI proposal to show their commitment to transparency, highlighting further the secrecy within which industry lobby association currently operate.

AGENDA

12:30 – 12:40 Welcome and introduction

Roshan Di Puppò / Social Platform

Facilitation

Kim Bizzarri / Corporate Europe Observatory & ALTER-EU

12:40 – 12:50 European Transparency Initiative - What is at stake for the NGOs

Regula Heggli / Civil Society Contact Group

12:50 – 13:30 Political update on the European Transparency Initiative – current debate and future challenges

Paul de Clerck / Friends of the Earth Europe & ALTER-EU

13:30 – 14:30 Debate & reflections from the floor

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