



Joint Transparency Register Secretariat



As a follow up to the 2012 Annual Report on the Operations of the Transparency Register (TR), and in the framework of the current review exercise foreseen by the Inter Institutional Agreement on the TR, representatives of European horizontal organisations corresponding to Categories I, II, III et VI of the TR were invited to a stakeholders' meeting on Wednesday 5 June 2013 at the European Commission to exchange their views with Vice President Commissioner Maroš Šefčovič, at the initiative of the Joint TR Secretariat.

The views expressed by the organisations invited are presented in the following pages, and have been validated by these same organisations.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: AER

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compare to other similar regulatory system in the world.

AER has always supported the transparency initiative, but also ensured from the beginning that regions are not lobbyists, but representatives of public authorities, elected by the citizens which are part of the European decision making process and therefore did not see themselves concerned too much of a register of businesses and private interests.

Because of these reasons, it is in particular regions with legislative powers (such as in Austria or Italy or Germany) which do not intend to register.

Regions with legislating powers will not register (Austria/ Italy) etc. There has been some evolution concerning other regions after exchanges with JTRS, for example a rise in awareness of the tool, and numbers registering their Brussels offices have risen. (How many in total?) AER does not speak for cities.

B. What would be your agenda for change? Why and how?

AER would like to see a clearer distinction made between public and private interests in the register. The current division is not visible enough.

AER would like to suggest that the word "citizens" be included in the title of the Transparency Register, in order that the citizens feel more involved/ targeted and that the regions can better identify with the tool, i.e.: "Transparency Register for Citizens"

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

AER has tried to raise awareness and interest of its members in the Transparency Register.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: ALTER EU

Represented by: [REDACTED] and [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compare to other similar regulatory system in the world.

There have been some improvements to the register over past year, but remain insufficient in order for TR to meet its objectives.

(1) Numbers of registered entities have risen, but the Transparency Register is not yet "de-facto" mandatory. As the study by Greenwood and Dregerb points out, between 25-30% of actors in Brussels are missing from key categories such as companies (even more in other), for example we count 110 large companies who have not yet registered; hardly any of the major law firms that lobby are registered (some that were registered even chose for deregistration due to wish to maintain client confidentiality), and these problems are largely due to the voluntary approach. Some new registrations due to public pressure ex. Monsanto, Deutsche Bank. A transition to a mandatory register is the only sustainable solution to secure sufficiently high levels of registration for each of the key categories of lobbying entities.

(2) The quality of data has improved, especially due to new monitoring procedures, but there are still big problems. The information is limited and unreliable. This means the register does not meet the objective of providing citizens with a comprehensive and reliable picture of who is lobbying, on whose behalf, on which issues and with which budgets.

(3) In an international framework, the EU has the advantage of maintaining a broader definition of lobbying than the USA, which is very positive. However there is far lower

coverage than in the USA of key categories such as companies, consultancies and law firms (around 25% of consultancies are not registered in the EU, and very few law firms). The US model is not perfect, but coverage of the main lobbying actors is extremely high (in Washington DC US watchdog groups virtually never come across unregistered companies that lobby, while this is a very widespread problem in Brussels). The quality of data is better in the USA and despite the recent phenomenon of deregistration (by a small part of lobbyists) following new ethics policies introduced by Obama (such as revolving door restrictions and exclusion of registered lobbyists from advisory groups), as described by the American Bar Association, the Bar still favours a mandatory approach and tighter disclosure obligations for lobbyists. The study by the American Bar Association, clearly, cannot be used as an argument for a voluntary lobby register.

B. What would be your agenda for change? Why and how?

- **A compulsory vs a voluntary register.**

ALTER EU supports a mandatory register & suggests a two-track approach:

(1) Short term: incentives should be found for lobby groups to register, e.g. Commissioners & public officials should only participate in events organised by registered entities, the Commission should only meet with registered entities;

(2) Long term: a mandatory lobby register. ALTER EU has requested a legal opinion from [REDACTED], Professor of Public and International Law at the University of Erlangen-Nuremberg on the legal basis and procedure for a mandatory system. The event where the study will be presented will take place in EP on 17 June at 18h30. MEPs Monica Macovei and Evelyn Regner will speak at this event. ALTER-EU reminds for the fact that the EP in its resolution of 2011 repeated “its call for the mandatory registration of all lobbyists on the Transparency Register” and called “for the necessary steps to be taken in the framework of the forthcoming review process in order to prepare for a transition to mandatory registration”. [European Parliament decision of 11 May 2011 on conclusion of an interinstitutional agreement between the European

Parliament and the Commission on a common Transparency Register (2010/2291(ACI))].

- **Bandwidths and thresholds for financial declarations should be lowered:** bandwidths should be 10,000EUR and a bottom threshold (of for instance 5,000EUR per quarter) should be introduced for registration (in order to exempt citizens and small groups that are not involved in lobbying on a major scale). Further proposals for more detailed disclosure requirements are included in ALTER-EU's new report "*Rescue the Register! How to make EU lobby transparency credible and reliable*".
- **The level of detail and scope of the Code of conduct.**

The code of conduct should be adapted and updated (also in the light of the new EP Members Code of Conduct). ALTER EU puts forward three main points:

- (1) There should be a cooling off period for civil servants who move to the private sector to lobby;
 - (2) Lobby groups should not employ MEPs or MEP assistants;
 - (3) There should be more clarity regarding the definition of inappropriate behaviour.
- A more ambitious approach is needed in the complaint procedures (in many cases convincing complaints about under-reporting did not lead to clear conclusions)
 - There should be a distinction in treatment of non-registered entities

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

- continue to monitor the register closely, to close the loopholes, for instance the new study "*Rescue the Register! How to make EU lobby transparency credible and reliable*"

- continue to make complaints relative to non compliant organisations
- upgrade and promoting the use of ALTER-EU and CSCG guidelines developed for NGOs' registrations (relative to topics and spending);
- Commissioned a study on the legal basis for a mandatory register, the results of which will be rendered public on Monday 17 June 2013 at 18:00.

Annexes:

http://www.alter-eu.org/sites/default/files/documents/Rescue_the_Register_report_25June2013.pdf

<http://www.alter-eu.org/sites/default/files/documents/1806%20legal%20framework%20for%20mandatory%20EU%20lobby%20register.pdf>

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: BUSINESSEUROPE

Represented by: [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

So far, the Transparency Register has been a success. BE also agrees that civil society should be emphasised. Business Europe, which represents the corporate sector and trade associations has had specific problems with financial reporting requirements. Initial scepticism from the business sector has improved a lot. The uncertainties related to financial reporting have improved, thanks to guidelines issued etc, but we will need even more clarity if the requirement to register becomes stricter or obligatory.

B. What would be your agenda for change? Why and how?

- **A compulsory vs. a voluntary register.**

- As long as the register is voluntary, Business Europe can live with current financial reporting requirements. If the register becomes mandatory, we will need more precise rules.

- The USA is very different from the EU in terms of volume and culture (link to campaign funding) of lobbying, so it is difficult to compare the two systems (in terms of a mandatory registration).

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

We will try to increase adherence from our members.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: CCBE (representing over 1 million lawyers in Europe)

Represented by: [REDACTED], [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

- The remaining obstacles to the registration of lawyers.

(1) Two specific aspects of the legal profession must be taken into account:

- it has its own regulation and code of conduct with discipline and sanctions, much wider than TR;

- lawyers represent clients with disputes under EU law (such as antitrust cases) before the ECJ and with EU institutions as adversaries.

(2) While lawyers have no problem with the transparency objective in itself, they are bound by stringent deontological rules and professional secrecy obligations which in some countries include the prohibition to reveal the client's name and financial information relating to them, as required under the TR. Although some bars (such as the Belgian bars) have found ways to address this issue, this problem remains a general issue of concern for lawyers, which explains their overall reluctance to register, especially of those who would as a result of that be in conflict with their national code of conduct. Within that context the CCBE supports the voluntary basis of the TR.

B. What would be your agenda for change? Why and how?

(1) As a matter of principle lawyers have an issue with para 17 of the IIA regarding disciplinary sanctions. The EU institutions, through the Joint Secretariat, are both judge and party to the complaint procedure, which may at least create an appearance of lack of impartiality, and no possibility is given for an appeal to an independent body. The need to avoid the appearance of partiality and the right to an appeal are two recognised fundamental aspects of due process, which apply to disciplinary proceedings as well. Those concerns are of course relevant for all those who would be registered, even though lawyers may be more sensitive to them than others, in particular those who represent clients against the Commission. Lawyers therefore consider that a mechanism should be found which addresses those concerns and which would be practical, efficient and within the framework of the EU institutions. For instance the party making the decision could be a judge of the Court of First Instance instead of the Joint Secretariat.

The fact that legal recourse is available before the courts against an administration that exceeds or abuses its powers and that they might be available in the case of a decision by the Joint Secretariat does not adequately address those concerns. First, the recourse that might be available against such decisions under those rules would involve litigation of a kind that is disproportionate to the issue at stake. Second, it would only be available in cases where the joint secretariat were actually biased in rendering a decision. This is not the concern. The concern is that taking such a decision, the Joint Secretariat might under the circumstances create the appearance of partiality, which is not a ground for annulment of an administrative decision under those rules. Similarly, the suggestion made that the professional body representing the organisation (e.g. the Bar authorities) would be given the possibility to "intervene" does not address the concern that the body making the decision could be perceived as being both the judge and one of the parties. Finally, the possibility to lodge a complaint before the ombudsman cannot be a substitute for the right to appeal before an independent disciplinary authority.

(2) The CCBE would wish clarification of para 8 of the IIA, namely regarding the scope and activities which fall within the scope of the TR. The meaning of the expression "indirectly influencing" needs to be clarified, and it should be made clear that the preparing of information material, discussion papers or position papers in preparation for lobbying activities that do not materialise and therefore do not result in actual contacts with European officials, should never give rise to registration.

(3) Should the register become *de facto* or *de jure* mandatory, CCBE is concerned that the understanding reached on what is to be declared might later be unilaterally changed.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

CCBE is willing to enter into discussions with the institutions in the framework of the review, in order to find a workable compromise, so that lawyers can sign up to the TR.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: CEEP

Represented by: [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

B. What would be your agenda for change? Why and how?

In view of the very diverse membership of CEEP (varying from local/ regional authorities to private sector) CEEP would recommend the following:

Simplicity and clarity in terms of what is expected of registrants

There is a need for more practical detail (guidelines etc) to help registrants

Difficult for transversal organisations to define activities (files) they are working on

Difficult for small organisations to update their information in the register bi-annually - so once a year is sufficient.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: CSCG (NGOs)

Represented by: [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

CSCG considers that there has been considerable improvement compared to the time when there were two separate registers and welcomes efforts from both the Commission and the Parliament to bring the Council on board, which had not happened in the past. It is positive to have an increase in the number of registrations but CSCG would like to see more quality. Members are concerned that comparison with national level or international initiatives should not be an argument to introduce more ambitious rules at the EU level.

B. What would be your agenda for change? Why and how?

- **The bandwidths and the thresholds for financial declarations.**

This should be lowered to 10 000 EUR in order to get a more accurate picture of lobbying activities. CSCG agrees with ALTER EU's propositions and in particular, they feel that a future review process should be foreseen for the Transparency Register, again in consultation with its stakeholders, and to ensure that a mandatory lobby register is introduced.

CSCG feels that there should be an obligation for organisations hosting events in the EP and members of expert groups to be registered in the TR. It also recommends the inclusion of activities provided for in the treaties under the scope of the TR, for example trade unions foreseen under Social Dialogue.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

CSCG co-operated with ALTER EU to draw up stricter guidelines for NGOs. To actively take part in the review process, which members thank Commissioner Sefcovic and the Joint Register for organising.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: EPACA

Represented by: [REDACTED] and [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

EPACA is positively surprised about the Transparency Register's success so far. Whilst the Transparency Register has not particularly changed the general behaviour of lobbyists, it has increased the transparency of their activities in general.

EPACA recognises that developments are taking place on the national level and would welcome more harmonisation throughout Europe and an inclusion of the Council in the TR.

B. What would be your agenda for change? Why and how?

EPACA supports a mandatory system: both to provide a level playing field for interest representatives and to make sure that information provided is more consistent and can provide for broad comparisons between data. EPACA agrees with BUSINESS EUROPE that any strengthening of rules will require more precise guidelines on the part of the institutions. EPACA feels very strongly that until such a mandatory system is in place, incentives to registration should be strengthened, and in particular that EU officials should not participate to or attend events organised by non-registered entities. Alert emails received by the Commission on consultations are not considered an incentive. The EU needs to show its support for ethical & transparent lobbying by making commitments. Mechanisms for enforcement and follow up also need to be improved. EPACA would welcome increased participation of lawyers & law firms.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

EPACA promotes registration within its membership (39 of 42 are registered); and also promotes registration to its clients.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: FAIB (277 associations)

Represented by: [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

FAIB supports the TR and hopes the Council joins in. Member States should also adhere to similar policies. FAIB has concerns relative to financial data provided in the TR being wrongly used as a reference by Belgian tax authorities, in particular the calculation of VAT status or "exemptions" with regard to "lobbying" activities. Some of its members have been badly affected.

B. What would be your agenda for change? Why and how?

FAIB support a voluntary register, with a more detailed guidelines for two main reasons: the lack of a legal basis; and in the interest of democracy (everyone should have equal access to the institutions). However, FAIB favour the introduction of more incentives for those who register.

- **The bandwidths and thresholds for financial declarations.**

They feel that the 50 000 EUR per annum is too high for the lowest budget. Guidelines need to be improved and in particular need to address the distinction between NGOs and trade organisations.

FAIB suggest that accreditation possibilities to the EP should be extended to the other institutions, and that any accreditation of an individual should not give rise to the consideration of this individual as a "full-time" lobbyist in the TR.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

FAIB intends to communicate with its members relative to the ongoing review process and to inform them of any new rules in place as a result.

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Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: IPRA (majority of members European)

Represented by: [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

According to the study of Aberdeen Business School, the Transparency Register is a success - IPRA would agree, a majority of actors are now registered. The review should now concentrate on introducing marginal improvements. There is an urgency to getting the Council on board, essentially because rules being introduced on the MS level are incompatible and there will be a strong need for harmonisation. The US system, was created for a different political system, is too burdensome for Brussels practices, and would entail high costs for the organisations concerned. The TR and its Code of Conduct is an exercise of transparency, not behaviour and this objective must not get lost under other ambitions.

B. What would be your agenda for change? Why and how?

IPRA favours a voluntary register.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

IPRA's members are on board. Most effective action to promote the register must take place within the institutions to promote its use by officials/ MEPs and Commissioners.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: SEAP (membership = individual)

Represented by: [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

SEAP feels that the register is on its way to achieving its objective: this is an opportunity for evolution not revolution. SEAP welcomes these discussions, it already provided guidelines for its members and would like to contribute to clearer guidelines by the JTRS. There are some developments at Member State level, which it would be interesting to harmonise, in the interest of consistency.

B. What would be your agenda for change? Why and how?

SEAP does not support a mandatory register until there is more clarity on the legal basis for such a system. Stakeholders must be allowed to interact with the Commission and other institutions, perhaps a threshold would be sufficient protection. Officials should be provided with training and be recommended to ask whether an entity is registered before meeting them. The new legislature will be a perfect opportunity to emphasise such training.

SEAP supports an incentive-based registration and does not favour stringent mandatory guidelines. Guidelines should be there to assist organisations who are registering in good faith and should be able to duly explain and justify any deviations from the guidelines. This is a more proportionate approach that limits the imposition of too much red tape on registrants, particularly smaller organisations. Our members have also raised problems with the Belgian tax authorities making VAT calculations from financial data provided in the TR.

Transparency Register is not an anti-corruption tool.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members, etc.

SEAP strongly supports the common goal of a transparent dialogue between the EU institutions and stakeholders. SEAP has long provided support to its members with regard to the TR, through guidelines, meetings etc. It has also provided in writing to the Commission other actions it is happy to take to help promote use of the TR.

Meeting Transparency Register – Stakeholders

Date: 05 June 2013

Contributors: TRANSPARENCY Intl

Represented by: [REDACTED] and [REDACTED]

A. What is the overall balance sheet of the Transparency Register? Both in terms of meeting its own objectives (wide coverage, proportionate, informative, etc) and in terms of how it compares to other similar regulatory systems in the world.

Lobbying is a legitimate exercise and TI supports levelling playing for all lobbyists. As of now, those who do not register have an unfair comparative advantage. (Our position regarding technical improvements to the TR is available [on our website](#).)

B. What would be your agenda for change? Why and how?

TI's main message is that the TR should give information about who is interacting with which institution: "who, when and how", i.e. more details about the lobbying activity itself. More focus should therefore be put on 1) the potential for a legislative footprint (to function like a bibliography), and 2) on meetings between officials and interest representatives.

TI supports a mandatory register, and in the meantime the TR should be made quasi-mandatory. Rules of procedure of the institutions and rules on consultation processes should be updated accordingly. The role of MEPs is different to that of EC officials, and there is a differentiation between the actors involved in interest representation (citizens/journalists/lobbyists/lawyers). These differentiations need to be better taken into account, i.e. rules should be different depending on the officials in question (in particular, whether they are from the Parliament or the Commission) and depending on the registrants concerned (e.g. whether they are acting as citizens, lobbyists or lawyers).

An incentive for registration in the TR could be to automatically pre-register those lobbyists (and their organisations) who sign the entry form at the entrance of EU buildings. Making this data public (while removing any sensitive private data, such as passport numbers or citizenships) would increase transparency and would create an incentive for these persons to complete the registration process online.

TI would welcome a legal opinion outlining the institutions' position regarding the possibility of a mandatory register. TI would also be interested to know the precise objectives of the TR, and what indicators will be used to review the TR.

TI would like to see the Council and the ECB joining the Transparency Register.

Within the Transparency Register, links should be provided between organisations to show which organisation is associated (membership, contractual relationship, informal alliance) by whatever means with other organisation on the register. This will allow the public and EU officials to understand when EU policy-making is influenced through several channels used by the same people/organisations.

C. How does your own organisation intend to contribute itself to help us achieve our common goals? Promotion within your members, a requirement for your own members.

As of now the register's proper functioning depends on the good-will of interest representatives. TI believes that moving to a mandatory process would allow the register to reach our common goals in a more effective manner, as organisations interested in influencing EU policies would have to register and to abide by the rules.

Annex: <http://www.transparencyinternational.eu/2013/05/a-quick-reply-to-getting-it-right-on-transparency/>