

The Consumer Voice in Europe

## MANDATORY TRANSPARENCY REGISTER

BEUC response to Public Consultation



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## Why it matters to consumers

Many laws that directly affect consumers are being made during long and complicated legislative procedures, during which different actors are trying to influence the law makers. While this process is normal in today's democratic system it needs to remain fair and transparent. Consumers should not be left in the dark about who and how is trying to influence their daily lives.

## Summary

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BEUC supports the idea of creating a mandatory transparency register together with an efficient data monitoring system and a set of effective sanctions. Motivational system that encourages the interest organisations to sign in, should also be expanded and contain not only the incentives but also the relevant restrictions for the unregistered entities.

We think that all EU institutions should be included in this register as it is essential that all co-legislators apply the same standard of transparency and accountability.

## A. GENERAL PART

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### 1. Transparency and the EU

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1.1 The EU institutions interact with a wide range of groups and organisations representing specific interests. This is a legitimate and necessary part of the decision-making process to make sure that EU policies reflect the interests of citizens, businesses and other stakeholders. The decision-making process must be transparent to allow for proper scrutiny and to ensure that the Union's institutions are accountable.

a) Do you agree that ethical and transparent lobbying helps policy development?

**Fully agree**

Partially agree

Disagree

No opinion

BEUC Comments:

Lobbying plays an important part in any healthy democracy. It constitutes a source of valuable information for the legislators and policy makers. It brings in a technical expertise, helps in finding evidence and rises plurality of the legislative process. However, as important as it is, it needs to be more fair, transparent and balanced. This is not the case for the time being, thus changes are needed.

b) It is often said that achieving appropriate lobbying regulation is not just about transparency, i.e. shedding light on the way in which lobbyists and policy-makers are operating. Which of the below other principles do you also consider important for achieving a sound framework for relations with interest representatives?

More than one answer possible:

**Integrity**

**Equality of access**

**Other (please elaborate in the comments box below)**

No opinion

BEUC Comments:

It is up to the EU institutions to make sure that the interest representation becomes balanced, transparent and fair. The vast majority of lobbyists represent businesses and private interests who are in the possession of financial and human resources that cannot be compared to those of the civil society organisations.

What should be done by the EU institutions to introduce the right balance is:

To limit the number of meetings with the business lobbies;

To ensure a right balance between the industry and civil society representatives during various meetings, expert groups, consultations etc...;

The European Commission in particular, but also the other institutions must in their work take account of the structural imbalance between lobbying resources and powers between private and public interest representation. This means that the weighing of responses to consultations, the delivery of facts and figures to support certain policy options etc. must always be looked at with a view to balance the input from lobbyists where needed.

c) In your opinion, how transparent are the European institutions as public institutions?

- They are highly transparent
- They are relatively transparent
- They are not transparent at all
- No opinion**

BEUC Comments:

We chose “no opinion” option, as it is not possible to evaluate all of the institutions together. Standards they are applying differ significantly, mainly due to the fact that the Council of the European Union (hereafter Council of the EU) is currently not covered by the Interinstitutional Agreement between the European Commission and the European Parliament establishing the Transparency Register (hereafter TR). This is a big flaw in the transparency system in the EU institutions which should be remedied as soon as possible.

According to the report entitled “Lobbying in Europe”, published by Transparency International in April 2015<sup>1</sup>, Council is the institution with the worst performance as regards to the transparency and accountability. The report gave it a score of only 19 % for the quality of lobbying regulation. At the same time European Parliament and European Commission scored respectively 37 % and 53 %.

These discrepancies are harmful to the quality of law making and should lead to serious changes. It is essential that the legislators apply the same standards for transparency.

Other positive changes to the transparency level of the EU institutions should include:

- making all of the decisions on transparency of European Ombudsman binding on the EU institutions;
- improving the transparency of trilogue negotiations and facilitating the access to the documents that were discussed during those meetings;
- improving the transparency of submission received by the European Commission: all submission should be made public, including letters etc. outside public consultations.

1.2 The Transparency Register provides information to politicians and public officials about those who approach them with a view to influencing the decision-making and policy formulation and implementation process. The Register also allows for public scrutiny; giving citizens and other interest groups the possibility to track the activities and potential influence of lobbyists.

<sup>1</sup> Transparency International, “[Lobbying in Europe: Hidden Influence, Privileged Access](#)”, Brussels 2015

Do you consider the Transparency Register a useful tool for regulating lobbying?

Very useful

**Somewhat useful**

Not useful at all

No opinion

BEUC Comments:

According to latest data only around 75% of business related organisations and 60% of NGOs active in lobbying the EU institutions is registered in the TR2. This means that there is still a big grey zone where the influences on the EU decision making might not be made in a fair and transparent way.

In our opinion the TR should be made mandatory. An effective system to motivate to and ensure that all organisations influencing EU decision-making register and comply should be put in place. This system should include both the incentives (easier access to the premises of the EU institutions, participation in the relevant mailing lists etc.) and restrictions to the unregistered organisations. The later should include, for example, no possibility for the unregistered lobbyist to meet with EU officials, participate in expert groups, respond to consultations etc.

It should be ensured that all co-legislators apply the same standards and that they are all covered by the TR. Most importantly the Council of the EU should join the TR and increase its standards of transparency.

An effective enforcement system including sanctions should be put in place simultaneously that would allow to better monitor the content of the TR and encourage the respondents to provide more accurate information. An independent body should be created to decide upon any possible violations.

## 2. Scope of the Register

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2.1 Activities covered by the Register include lobbying, interest representation and advocacy. It covers all activities carried out to influence - directly or indirectly - policymaking, policy implementation and decision-making in the European Parliament and the European Commission, no matter where they are carried out or which channel or method of communication is used. This definition is appropriate.

**Fully agree**

Partially agree

Disagree

No opinion

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<sup>2</sup> EP Briefing: "[EU Transparency Register](#)", May 2016.

BEUC Comments:

We support a strong and wide definition of the activities that should be covered by the TR. However, as we think that the Council of the EU should be covered by the TR, we wish for it in the future to include them also into its scope.

- 2.2 The Register does not apply to certain entities, for example, churches and religious communities, political parties, Member States' government services, third countries' governments, international intergovernmental organisations and their diplomatic missions. Regional public authorities and their representative offices do not have to register but can register if they wish to do so. On the other hand, the Register applies to local, municipal authorities and cities as well as to associations and networks created to represent them.

The scope of the Register should be:

Changed to exclude certain types of entities (please elaborate in the comments box below)

**Changed to include certain types of entities** (please elaborate in the comments box below)

Preserved the same as currently

No opinion

BEUC Comments:

We do not see a reason to exclude any types of entities from the TR. All interest representatives that undertake lobbying activities should be registered. Citizens should be able to verify who is influencing the EU decision making process. In our view, all churches and religious communities, political parties, Member States' government services, third countries' governments, international intergovernmental organisations and their diplomatic missions, regional public authorities and their representative offices should have to register in the TR if they undertake any activities covered by this register according to the appropriate definition.

Moreover some entities, like law firms, are often not registered even if they are considered as one of the most dynamic lobbyists in Brussels. The accuracy of data they provide, if registered, is also often being contested. Mandatory TR would rectify this situation.

### 3. Register website

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3.1 What is your impression of the Register web site?

- a) Good
- b) Average
- c) Poor
- d) No Opinion

Design and structure	a)
Availability of information / documents	b)
Ease of search function	a)
Accessibility (e.g. features for visually impaired persons, ease of reading page)	b)
Access via mobile devices	a)

### 4. Additional comments

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Final comments or ideas on any additional subjects that you consider important in the context of this public consultation (Optional)

BEUC comments:

BEUC supports the **creation of a mandatory TR** that will help to preserve a fair and transparent democracy within the EU. All of the EU institutions should be included into this register, especially Council of the EU, European Council or Permanent Representations.

It should be noted that next to the mandatory TR also some further changes are required:

**Effective system to ensure compliance by the organisations to sign up to the TR**

This system should include both the incentives to comply (easier access to the premises of the EU institutions, relevant mailing lists etc.) and restrictions to the unregistered organisations. The later should include, for example, no possibility for the unregistered lobbyist to meet with EU officials, participate in expert groups, respond to consultations etc.

**Better monitoring of data entered into the registry.**

A mandatory TR will only then serve its purpose and help maintaining a transparent political system, when data it delivers to the public is fully reliable and complete. This means that further enforcement powers should be allocated to the team responsible for the TR as well as sufficient human and financial resources to conduct effective random checks of at least 20 % entries per year. Such system together with appropriate sanctions, if effective, would prevent the entities to provide out-dated or incomplete data to the TR.

### **Effective complaint system**

In case any irregularities are spotted, complaints should be rapidly dealt with and lead to an appropriate reaction.

### **Appropriate sanctions as a response to any irregularities**

Entities providing incorrect information should be suspended and deprived of any advantages. This suspension should be made public.

### **EU officials should not be allowed to meet with unregistered lobbyists**

All EU officials, Permanent Representations representatives and partially MEPs, should not be allowed to meet with any unregistered lobbyists.

### **More specific data should be disclosed**

Data entered into the TR should be specific enough to provide a real picture of the lobbying activities and its potential influence. Particular attention should be given to financial data that should be disclosed in narrower than currently brackets.

All lobbying consultancies and law firms should be required to list not only their clients and the revenues received from them, but also specific issues they work on for them.

All individuals, and not only the ones that are accredited to access the EP premises, should be listed in the TR.

If a registrant is using a help of a third party to conduct its lobbying it should be specified so in the TR.

### **End of Part A**

Part B includes questions that require a certain knowledge of the Transparency Register. Proceed to Part B (optional).

## B. SPECIFIC PART

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### 1. Structure of the Register

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1.1 The Register invites organisations to sign up under a particular section, for example, professional consultancies, NGOs, trade associations, etc... (Annex I of the Interinstitutional Agreement). Have you encountered any difficulties with this categorisation?

Yes

**No**

No opinion

### 2. Data disclosure and quality

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2.1 Entities joining the Register are asked to provide certain information (contact details, goals and remit of the organisation, legislative dossiers followed, fields of interest, membership, financial data, etc...) in order to identify the profile, the capacity of the entity and the interest represented (Annex I of the Interinstitutional Agreement).

The right type of information is required from the registrant:

Fully agree

Too much is asked

**Too little is asked**

No opinion

BEUC Comments:

Registrants should also be asked to list staff which is not in the European Parliament access list. This could consequently require a definition of a "lobbyist". See also our answer to question 4.

2.2 It is easy to provide the information required:

**Fully agree**

Partially agree

Disagree

No opinion

2.3 Do you see any room for simplification as regards the data disclosure requirements?

Yes

No

**No opinion**

2.4 What is your impression of the overall data quality in the Register?

Good

Average

Poor

**No opinion**

### 3. Code of Conduct and procedure for Alerts and Complaints

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3.1 The Code of Conduct sets out the rules for all those who register and establishes the underlying principles for standards of behaviour in all relations with the EU institutions (Annex III of the Interinstitutional Agreement).

The Code is based on a sound set of rules and principles:

Fully agree

Partially agree

Disagree

**No opinion**

3.2 Anyone may trigger an alert or make a complaint about possible breaches of the Code of Conduct. Alerts concern factual errors and complaints relate to more serious breaches of behavioural nature (Annex IV of the Interinstitutional Agreement).

a) The present procedure for dealing with alerts and complaints is adequate:

Fully agree

**Partially agree**

Disagree

No opinion

BEUC Comments:

More staff would be needed to exercise random checks. See also our answer to question 4.

- b) Do you think that the names of organisations that are suspended under the alerts and complaints should be made public?

**Yes**

No

No opinion

BEUC Comments:

See our answer to question 4.

#### 4. Register website – registration and updating

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- 4.1 How user-friendly is in your opinion the Register website in relation to registration and updating?

- a) Straightforward
- b) Satisfactory but can be improved
- a) Cumbersome
- b) No opinion

Registration process

a)

Updating process (annual & partial)

a)

#### 5. Current advantages linked to registration

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- 5.1 The European Parliament and the European Commission currently offer certain practical advantages (incentives) linked to being on the Register. The Commission has also announced its intention to soon amend its rules on Expert groups to link membership to registration. Which of these advantages are important to you?

- a) Very important
- b) Somewhat important
- c) Not Important
- a) No opinion

In the European Parliament (EP)

**Access to Parliament buildings:**

a)

Long-term access passes to the EP's premises are only issued to Individuals representing, or working for registered organisations

**Committee public hearings:**

a)

Guests invited to speak at a hearing need to be registered

**Patronage:** Parliament does not Grant its patronage to relevant organisations that are not registered a)

In the European Commission

**Meetings:** organisations or Self-employed individuals engaged in relevant activities must be registered in order to hold meetings with Commissioners, Cabinet members and Directors-General a)

**Public consultations:** the Commission sends automatic alerts to registered entities about consultations in areas of interest indicated by them; it differentiates between registered and non-registered entities when publishing the results a)

**Patronage:** Commissioners do not Grant their patronage to relevant organisations that are not registered a)

**Mailing lists:** organisations featuring On any mailing lists set up to alert them about certain Commission activities are asked to register a)

**Expert groups:** registration in the Transparency Register is required in order for members to be appointed (refers to organisations and individuals appointed to represent a common interest shared by stakeholders in a particular policy area) a)

## 6. Features of a future mandatory system

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6.1 Do you believe that there are further interactions between the EU institutions and interest groups that could be made conditional upon prior registration (e. g. access to MEPs and EU officials, events, premises, or featuring on specific mailing lists)?

**Yes**

No

No opinion

BEUC Comments:

See our answers to questions 1.2 and 4.

6.2 Do you agree with the Commission's view that the Council of the EU should participate in the new Interinstitutional Agreement on a mandatory Register?

**Yes**

No

No opinion

## 7. Looking beyond Brussels

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7.1 How does the Transparency Register compare overall to 'lobby registers' at the EU Member State level?

It is better

It is worse

It is neither better, nor worse

**No opinion**

## 8. Additional comments

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Final comments or ideas on any additional subjects that you consider important in the context of this public consultation (Optional)

Publication of your consultation:

**I agree to my contribution being published.**

I do not agree to my contribution being published.

END