



Lobbying the EU institutions

SUMMARY *Establishing a precise definition of lobbying is not simple. The definitions used range from very narrow to very wide approaches. This makes it complex to determine statistics on lobbying organisations active in Brussels for which no precise numbers can be provided.*

Lobbying at EU level has very specific characteristics. It can be assessed on both access to the decision-making process as well as the success of the lobbying activity.

Besides the European Commission and Parliament's code of conduct for the Transparency Register, lobbying organisations have developed their own professional codes of conduct to regulate their activities.

The main criticism of the current situation regarding lobbying is the lack of transparency. Meanwhile lobbying is considered a positive element by EU policy-makers insofar as it ensures the participation of social and economic actors in the policy-making process and provides useful information.

Apart from a call for more transparency, in particular through obligatory registration in the joint EP-Commission Transparency Register, stakeholders raise concerns about the issue of the possible "revolving door" as well as the apparent domination of industry interests over other interests in the EU.

The Transparency Register is launching its first review, with results expected in the beginning of 2014.

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Definition of lobbying

Historically, lobbying takes its name from the 'lobbies' or hallways of parliament where members gather before and after debates. However, today lobbying takes all kinds of forms.

The **Council of Europe** [understands](#) lobbying generally as a "concerted effort to influence policy formulation and decision-making with a view to obtaining some designated result from government authorities and elected representatives. In a wider sense, the term may refer to public actions (such as demonstrations) or 'public affairs' activities by various institutions (associations, consultancies, advocacy groups, think-tanks, non governmental organisations, lawyers, etc.); in a more restrictive sense, it would mean the protection of economic interests by the corporate sector (corporate lobbying) commensurate to its weight on a national or global scene."

According to a [report](#) by the **OECD**, there is no consensus behind what the term "lobbying" means. The report provides an overview of different definitions, and points out that recognising the complexity of the concept of lobbying is essential to the debate about rules and regulation of the profession.



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The joint **EP-Commission Transparency Register** takes an [activity-based approach](#) requiring all organisations and self-employed individuals, irrespective of their legal status, engaged in the following activities to register:

- All activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions, irrespective of the channel or medium of communication used, [...]
- These activities include, inter alia, contacting Members, officials or other staff of the EU institutions, [...] circulating information material [...] organising events [...] for which invitations have been sent to Members, officials or other staff of the EU institutions.
- Voluntary contributions and participation in formal consultations on envisaged EU acts and other open consultations.

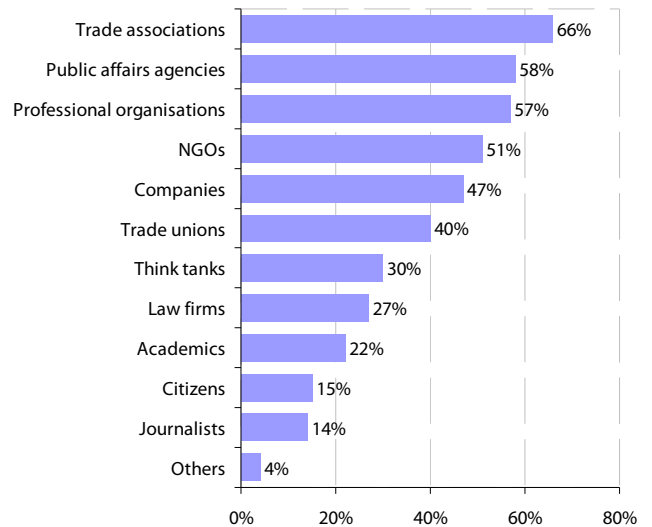
Certain activities are excluded, in particular the provision of legal advice and activities of social partners in the framework of [Social Dialogue](#). Political parties, churches and local, regional and municipal authorities are not expected to register, although the networks and offices set up to represent them are.

Which groups are lobbyists?

A recent [survey](#) conducted by public affairs company Burson Marsteller in cooperation with Penn Schoen Berland interviewed nearly 600 parliamentarians (MEPs and national), as well as senior officials from national and EU institutions. Respondents were asked which of a range of categories of actors should be considered as a "lobbyist", see figure 1.

Interestingly, 73% of EU-level respondents identified trade unions as lobbyists, whereas overall only 40% of respondents had this opinion.

Figure 1 - Which of the following matches the description of a lobbyist?



Data source: Burson Marsteller Survey "[Effective Lobbying in Europe](#)", 2013, page 8.

Types of organisations active in Brussels

Some organisations such as law firms, think tanks, non governmental organisations (NGOs) or regional representations do not feel the term "lobby" applies to them, even if they represent the interests of their clients, members or inhabitants. Therefore, the word "lobby" is often not used when distinguishing organisations because it could be interpreted too narrowly.

Ways to distinguish organisations

There are different ways to distinguish organisations, for example by their organisational form, the nature of their interest or whether they are non-profit or profit making organisations.

Organisational form

The joint EP-Commission [Transparency Register](#) distinguishes:

- I. professional consultancies / law firms / self-employed consultants,
- II. In-house lobbyists (lobbyists working for the group they represent) and trade/professional associations,
- III. NGOs,
- IV. think-tanks, research and academic institutions,

- V. organisations representing churches and religious communities, and
- VI. organisations representing local, regional and municipal authorities, other public or mixed entities, etc.

Nature of interest

[Sectional groups](#) represent specific interests of particular sectors of industry or society (e.g. farmers, the textile industry). They create concentrated costs and benefits for their members.

Cause groups (or "citizens' groups") represent a belief or principle such as environmental, health or consumer protection. Their membership is not restricted; anyone in favour of the principle can become a member of the group. Cause groups represent diverse interests, bringing diffuse costs and benefits for their supporters. There is a growing tendency for ad-hoc coalitions to form in relation to a specific cause, or legislative dossier, often ephemeral and with mixed membership from corporate organisations and NGOs.

Profit-/non-profit making

Groups can also be distinguished as non-profit-making organisations (European and (inter)national associations/federations etc.) and profit-making organisations (legal advisers, public relations and public affairs firms, consultants, etc.), even if this distinction could be challenged on the basis that many non profit organisations in Brussels are dependant on EU grants.

Statistics

It is very difficult to find independent statistics providing precise numbers for lobbyists or organisations active in Brussels, since there is no clear definition of lobbyists, nor is there an obligatory register.

Corporate Europe estimates in its [2011 lobbying guide](#) that there are between **15 000 and 30 000 lobbyists** targeting EU decision-makers in Brussels, mainly representing business interests.

As of 2 June 2013, **5 678 organisations** (representing well over 15 000 individuals) had (voluntarily) registered in the joint EP-Commission Transparency Register. Over half were in-house lobbyists or trade/professional associations (category II) and over one-third NGOs (category III). In addition, 3 605 individuals had been granted access authorisation to the EP. According to a recent study by [Greenwood and Dreger](#) the Transparency Register's current coverage represents approximately 75% of business-related organisations and around 60% of NGOs active in Brussels.

How does lobbying the EU institutions work?

Decision-making at EU level has very specific characteristics in comparison to Member States or other regimes. According to Article 11 TEU the European Commission is obliged to consult with stakeholders when drafting proposals for legislation. Moreover, a number of specific groups have a Treaty-based right to dialogue with institutions. These include the social partners (Article 154 TFEU) and religious and non-confessional groups (Article 17 TFEU).

Access to the decision-making process

Studies and other assessments of lobbying can be distinguished in two ways: access by lobbying organisations or individuals to the decision-making process, and the success of the lobbying activity. While the former appears to have been assessed more extensively, the latter is little covered in studies and very difficult to measure.

[Chalmers](#) distinguishes between outside tactics and inside tactics. **Outside tactics** refer to interest groups mobilising citizens outside the policy-making community to contact or pressure officials inside the policy-making community by using the media, launching public campaigns and organising public events. **Inside tactics** involve more direct forms of contact between interest groups and decision-

makers, by writing letters, making phone calls, and meeting face to face.

[Bouwen](#) distinguishes the **types of interest groups** expected to have most access to the various institutions. He considers companies to have technical information of particular interest to the Commission, whereas European associations have information about the "European interests" which appeals more to the Parliament, while national associations are of interest to the Council. In a study of 1 417 Spanish, German and Irish associations, [Dür and Mateo](#) observe similarly, that national business associations have better access to the Commission due to their information and expertise, while they do not have privileged access to the European Parliament or national parliaments to discuss EU legislation.

When talking about lobbyists' **resources**, the first thing that comes to mind is financial means. However, several other resources play an important role: legitimacy, representation, knowledge, expertise and information. In particular, information, expertise and legitimacy can be used in exchange for access and influence from decision-makers.

Evaluating Lobbying success

Studies observe that not all organised groups have equal access to the EU decision-making process. However, it is also questionable whether access translates into influence on the final decision.

Lobbying "success" or impact is very difficult to measure. Some studies have looked at certain policy areas or specific group types, but there is not much general empirical evidence. A study by [Bunea](#) using examples from environmental policy comes to the conclusion that major business groups representing "concentrated interests" were more successful than groups representing "diffuse interests" (environmental NGOs, local authorities).

In a study on NGOs' influence in trade policy [Dür and De Bièvre](#) also look at the **success of groups during the different stages of the policy-making process**. They observe that NGOs often do better in dominating the agenda-setting stage while business

interests can be more effective during the policy formulation and implementation phase. At this later stage, NGOs find it difficult to keep their membership focused and many find themselves abandoning the issue. They argue that the general public has only diffuse costs and benefits from trade policies and those engaging in defending public health, environment or development have less incentive to engage in collective action than firms which experience concentrated costs and benefits. They also observe that NGOs find it difficult to threaten withdrawal of investment or employment.

A study by [Klüver](#) using quantitative text analysis to study consultations conducted by the European Commission comes to the conclusion that there is **no bias** in lobbying success across interest groups. Neither the nature of the interest or the organisational form of a group was considered to be systematically associated with lobbying success.

EU lobbying by national interest groups

Besides European interest groups, national interest groups also lobby actively in Brussels. For national interest groups, there are two alternatives. Either national politicians or parties, which represent their interests in Brussels, are approached or the interest groups lobby the EU institutions themselves directly.

In comparison to lobbying at national level, it is [observed](#) that an approach which is feasible at national level may not be successful at the EU level. National support may not be sufficient since decisions are made by 26 other Member States as well. A specific national interest may not be relevant in any other Member State and potential interests of other Member States have to be taken into account. Therefore

certain national interest groups form alliances to bundle their interests.

Concerning **national parties**, a [study on interest group-party interaction in EU politics](#) showed that even though interest groups attach lower importance to national parties in EU policy as opposed to domestic policy, they do not consider them irrelevant. The study states that the EU may have strengthened the ability of interest groups to influence policy at the expense of national parties, but interest groups still attach high importance to national parties as a possible actor to influence EU politics.

Lobbying regulation in Brussels

Facing conflicts of interest

The regulation of lobbying can be applied in two ways: to regulate the lobbyist's activities and to regulate the potential recipient of lobbying. Lobbyists adhere to various codes of conduct (see below), while the EU institutions have different rules and obligations for their Members and officials to avoid [conflicts of interest](#), mainly also in the form of codes. The European Parliament established in 2012 a new [code of conduct for MEPs](#) for which [implementing measures](#) were adopted in April 2013. These clarify and set out in detail the provisions for accepting gifts and invitations offered to MEPs by third parties. The European Commission introduced a new [code of conduct for Commissioners](#) in 2011. It also set out new [guidelines on whistleblowing](#) at the end of December 2012, to encourage staff to report any information pointing to corruption, fraud and other serious irregularities that they discover in the line of duty. Article 11 of the [Staff Regulations](#) of EU officials sets out their obligations in relation to outside interest groups.

Codes of conduct

The [code of conduct of the EP-Commission Transparency Register](#) *inter alia* includes a requirement for registered entities or individuals to always identify themselves to persons contacted in the institutions, and to

provide accurate and up-to-date information. Sanctions are foreseen for any breaches of this code, through a complaint procedure which can lead to suspension or deletion from the register, with a "naming and shaming" clause for worst-case scenarios.

Not only the institutions but lobby organisations themselves have an interest in promoting transparency. The European Public Affairs Consultancies Association (EPACA) which is the representative trade body for public affairs consultancies working with EU institutions has implemented an [EPACA code of conduct](#) to which several Brussels-based firms have signed up. Another code of conduct has been set up by the Society of European Affairs Professionals ([SEAP](#)). SEAP is based on individual membership (from consultancies, trade associations and corporations) whereas EPACA's members are the consultancies themselves. There is some overlap in membership between the two organisations.

Revision of the joint EP-Commission Transparency Register

The [Inter-institutional Agreement \(IIA\)](#) between the EP and the Commission on the Transparency Register provides for a review to start by June 2013. This review process will take place via a political working group set up between the EP and the Commission, and will provide conclusions on whether or not the current system needs to be strengthened as regards its codes and regulation of lobbying activities.

Perception of lobbying by policy-makers

When key actors themselves are asked, it appears that lobbying as such is not a problem, but the way it is done can be. In response to the above-mentioned [survey](#) of national and EU politicians and senior officials, the most negative aspect of lobbying was the **lack of transparency** in

the process (26%), followed by the point that lobbying gives undue weight to the elites and wealthy (24%). Furthermore, 23% responded that lobbying does not provide neutral information and 14% considered it an undue influence on the democratic process.

Journalists (41%), law firms (38%) and public affairs companies (35%) were considered to be the least transparent. Trade associations (65%) and professional organisations (60%) were considered to be the most transparent, closely followed by companies (57%), trade unions (56%) and NGOs (55%).

When asked about the most positive aspect of lobbying, 37% said that it was **ensuring the participation of social and economic actors and citizens in the political process**, 26% considered the provision of useful and timely information and 20% that it was raising the local/national importance of an issue.

Stakeholders' points of view

Interest representations see their role as suppliers of policy-relevant information to decision-makers, which are often understaffed and pressed for time, in order to represent the interests of their clients, members, etc.. Recently, five young consultants [responded](#) to critics of the public affairs profession, stating that they consider their work as public affairs consultants to provide expertise to their clients, EU institutions and other stakeholders, and that they base this expertise on a well-rounded understanding of facts. The work of different public affairs consultancies on their own codes of conduct and the perception of lobbying (e.g. by conducting studies) shows that there is a strong interest in improving transparency from the lobbyists' side too.

However, some campaigners question how far this really goes. Transparency International [welcomed](#) the introduction of

the joint EP-Commission Transparency Register but has stated that full [transparency can only ultimately be achieved](#) with a mandatory register. A call for increased transparency also comes from the CEPS think-tank calling for further [ethics and transparency reform](#) in the EP, to prohibit MEPs from doing any paid or voluntary external parliamentary activities that involve lobbying or lead to a conflict of interests.

Alter EU points out that the enthusiasm shown by the five young lobbyists ignores the serious concerns of [non-transparent lobbying](#). According to Corporate Europe, the danger of [revolving doors](#) between EU institutions and industry still constitutes a significant risk of conflicts of interest. Lobbycontrol also points out the danger of the domination of [industry interests](#) over interests by other interest groups.

Further reading

EP Library Briefing [Review of the European Transparency Register](#) / Copeland, 18 June 2013

EP Library Navigator [Lobbying in the EU](#)

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