



EPACA Response to the European Commission's European Transparency Initiative (ETI) Green Paper and Consultation

EPACA is pleased to have this opportunity to comment on the European Commission's ETI Green Paper. EPACA is the representative body of European public affairs consultancies. It represents 34 member companies employing more than 750 staff, representing some 70% of the EU public affairs consultancy market. EPACA believes that interest representation (lobbying) has a key role to play in modern representative democracies. Such activities play a vital role in communicating a variety of opinions to decision-makers and can often provide expertise to ensure that decisions are taken in a balanced and informed manner. EPACA also believes that these activities should be conducted transparently and be guided by the highest standards of ethical behaviour.

To this end, EPACA has its own code of conduct and disciplinary procedures. Indeed, the *raison d'être* for EPACA's formation was to formalise this code which has existed since the early 1990s and is virtually identical to that in the European Parliament's rules of procedure. Today, EPACA's code is the one of the most comprehensive and rigorously enforced codes within the Brussels-based public affairs community. All our member companies must sign the code, are responsible for ensuring it is respected by their staff, and are encouraged to make it a part of their staff employment contracts, breach of which is a dismissible offence.

We have reinforced this code by establishing an independent Professional Practices Panel to adjudicate on any alleged breaches of the code and make recommendations which would be made public. This further underlines EPACA's commitment to promoting the highest possible ethical standards within the public affairs industry. A copy of our code and our disciplinary process rules is attached. We are happy to supply further details if required.



EPACA is pleased to offer the following responses to the questions set out in the Green Paper.

Question 1: Do you agree that efforts should be made to bring greater transparency to lobbying?

1.1) EPACA has consistently supported the European Commission's efforts to increase transparency within the European policy-making process, and believes it essential that this process is seen to be democratic, fair, and not subject to any undue or improper influence. We believe that in general this is the reality today, but it is important that it is seen to be so. We therefore welcome the Commission Green Paper as a contribution to this end, and will seek to contribute constructively to the discussions flowing from it.

1.2) EPACA believes that the definition of lobbying offered by the Commission is much too broad, to an extent that it risks having no useful meaning at all. We accept that crafting a definition of lobbying which embraces all professionals engaged in lobbying – which is essential – is not easy, given the different characteristics of some of those concerned. A definition should be adopted which focuses on lobbying contacts and efforts in support of such contacts. We recommend the much better definition proposed by the Institute of Public Relations (IPR) and the Public Relations Consultants Association (PRCA), which appears to command widespread support, where: **'Lobbying is defined as the specific efforts to influence public decision-making either by pressing for change in policy or seeking to prevent such change. It consists of representations to [and/or policy relevant discussion with] any public office holder on any aspect of policy, or any measure implementing that policy, or any matter being considered, or which is likely to be considered by a public body'**.

1.3) EPACA wishes to underline that lobbying is conducted by a variety of actors, and transparency must apply equally to all those who lobby the European institutions. This includes lawyers, think tanks, trade associations, trade unions, corporate lobbyists, accountants, management consultants, NGOs, and professional associations in respect of their lobbying activities. EPACA believes the term 'public interest organization' should be applied in a more selective fashion, as it can run counter to the objectives of transparency and be used as a flag of convenience by those seeking a special status for their lobbying activities. We note with concern that at a recent hearing on the ETI the majority of lobbyists represented sought other descriptions for their interest representation activities, and represented themselves as beyond the reach of any registration requirement. Such



exceptionalism would in our view undermine the credibility of any registration system, and we could not subscribe to it on such a basis.

Question 2: Do you agree that lobbyists who wish to be automatically alerted to consultations by the EU institutions should register and provide information on their objectives, financial situation and on the interests they represent? Do you agree that this information should be available to the general public? Who do you think should manage the register?

2.1) EPACA supports the public registration of **all** professional lobbyists at EU level.

2.2) EPACA supports an ongoing commitment by all lobbyists, governed by clear and enforceable codes of conduct, to transparency about who they represent and what their objectives are.

2.3) EPACA supports a register where a periodic and regularly updated statement on objectives and interests represented would be part of the information published online provided it applies to all lobbyists (see above 1.3).

2.4) EPACA welcomes all efforts by the Commission to involve interested parties in consultations, but we do not believe this should have anything to do with the establishment of a register of lobbyists. As an 'incentive' this is ineffective, and it is in principle inappropriate to create a privileged class of lobbyists.

2.5) We would welcome discussions with the Commission and other interested parties concerning other means of establishing a credible registration system, including a requirement on officials of the institutions to establish whether any professional lobbyist who addresses them is registered, and if not to seek specified further information and assurances. If such a system can not be identified, EPACA will support efforts to identify and establish a fair and viable mandatory registration system to be agreed between the main EU institutions and applied to all lobbyists.

2.6) EPACA members regularly submit information on their financial situation to the appropriate public authorities, who make it publicly available. EPACA is opposed to any requirement that commercially sensitive or confidential financial information, such as individual client fees, be published. This would not contribute to and is not necessary for the identification of objectives and interests engaged in lobbying, which is addressed elsewhere in this submission. It would be extremely difficult to define precise disclosure



and would be likely to increase rather than diminish claims and counter-claims between various interest groups.

2.7) We wish to underline in this context that the relationship between money and politics at EU level is quite different from some other jurisdictions, including the US. Party political fund-raising and EU lobbying do not appear to be connected, and no concerns of this kind have been expressed. EU decision-making processes are such that skill at communication, coalition building and good arguments are the primary determinants of success. The scale of the lobbying business in the EU is many times smaller than that in Washington. Quantitative information about finances of lobbying efforts at EU level is not a useful measure of their influence. Transparency about who supplies financing and what is their mission and the mission of the lobbyists is the key information.

Question 3: Do you agree with consolidating the existing codes of conduct with a set of common requirements? Who do you think should write the code?

3.1) EPACA supports a common overarching code which would be subscribed to by all EU-level lobbyists. This should not exclude the operation of other codes in parallel, tailored to the needs or characteristics of particular interest groups, so long as they are consistent with the common code. We find the notion of 'consolidation' unhelpful and misguided in this context. However, the notion of 'recognized code' could have a role to play in guiding officials in the institutions and securing compliance by lobbyists. EPACA would suggest that European Parliament's code for accredited lobbyists as a starting point for discussions on a common code.

3.2) In its statement of 26 January 2006, EPACA proposed that a European Public Affairs Council be set-up on the invitation of the Commission to develop a common overarching code. The Council would consist of all relevant stakeholders. EPACA believes that such an approach would maximize support for the code from all of those involved in its development ensuring its wide adoption.

3.3) A common code should consist of a comprehensive statement of the principles of ethical lobbying and transparency, and commit its signatories either via a common mechanism, or via the mechanisms of recognized sectoral codes under its umbrella, to specific enforcement and compliance mechanisms. It should also supply criteria for recognized codes.

3.4) The EPACA code, and its associated independent Professional Practices Panel, backed up by detailed guidelines for members, we recommend as the best model for such codes. This code has the merit of being identical to that



adopted by the EU's democratically elected institution, the European Parliament. We are however open to discuss its further evolution if this contributes to widespread agreement.

3.5) EPACA believes that an effective code of conduct is even more important than a registration system in terms of influencing behaviour and ensuring respect of the highest ethical standards. The EPACA code of conduct ensures that every time a lobbyist from one of our member consultancies has contact with the institutions the interest they represent is fully disclosed. Day to day practice is more important than periodic declarations, and a rigorously enforced code is a fundamental tool in benchmarking behaviour.

Question 4: Do you agree that a new, inclusive external watchdog is needed to monitor compliance and that sanctions should be applied for any breach of the code?

4.1) We find the questions as drafted unclear. What does 'inclusive' mean? What 'sanctions' might it be realistic to expect would be administratively or legally available to such a 'watchdog'. We would find it helpful to discuss this concept further with the EU institutions.

4.2) EPACA supports an independent body on standards of public life at EU level. Such a body would cover all EU institutions, but focus on Parliament, Council, and Commission. It would investigate compliance, report regularly on standards and make recommendations. It could possibly be associated with the enforcement of the above code(s) or investigation of alleged breaches, but the practicalities of these options require further reflection and elaboration.

4.3) The EPACA Professional Practices Panel could be a model for such a body

Question 5: In your view, has the Commission applied the general principles and minimum standards for consultation in a satisfactory manner?

5.1) In general we welcome the enhanced consultative culture of the EU institutions, and especially the Commission.

5.2) EPACA welcomes the interactive fashion in which the transparency initiative is now being pursued, and will contribute in full to this as it progresses. We were surprised, as a key affected profession, not to be consulted in any way by the Commission before its initial launch of the ETI. We believe that such an initiative is most effective when informed by full



awareness of what is already being done in practice to address the issues or problems concerned, and this is now the case for the ETI.

Question 6: Do you agree that it is desirable to introduce, at Community level, an obligation on Member States to make available information on beneficiaries of EU funds under shared management? If so, what information should be required at national level? What would be the best means to make this information available?

6.1) EPACA believes that transparency in the use of public funds is a basic democratic requirement. This should apply at both EU and national levels.