



***Statement from EPACA concerning its complaint against
Corporate Europe Observatory
about their lack of transparency in EU lobbying***

On 17 March 2009 we sent a letter to the European Commission submitting a formal complaint against Corporate Europe Observatory (CEO) for breach of the European Commission's Code of Conduct for Interest Representatives. We did so after consulting our independent Professional Practices Panel.

The complaint centres around an approach made by a CEO member of staff, David Leloup, to Robert Mack of Burson-Marsteller on 8 March 2010 in which he purports to be "a journalist about to publish a story" and seeks information about B-M's work for the government of Bulgaria in 2008. In subsequent email exchanges, Mr. Leloup admitted that in fact he was approaching Mr. Mack not as a journalist, but in his role as a CEO member of staff.

EPACA strongly believes in the transparent exchange of information between all interest representatives and the EU institutions, which can help policy makers to make good, balanced decisions. We believe this complaint raises several important issues:

- 1. The initial approach itself was not transparent:*** There is nothing wrong with a CEO member of staff seeking information from anyone. He should, however, identify himself as a CEO member of staff from the outset – not only once challenged after presenting himself as "a journalist about to publish a story". Comments made by CEO to the press since this story broke suggest a double-standard; CEO will press all others to be transparent, while naming its own operatives as 'investigative journalists' who don't have to do so.
- 2. In its review of this complaint, it would be useful for the Commission to clearly define what is and is not lobbying – both for the purposes of its Register and its Code of Conduct which accompanies that Register. Interest representatives who voluntarily sign-up have a right to know.***

In its Code, the Commission has defined 'interest representation' as "activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions". In its Communication of 28.10.2009 on "European Transparency Initiative: the Register of Interest Representatives, one year after," the Commission addressed any existing confusion over what is to be considered lobbying by referring to all actions "initiated with the aim of influencing European policy formulation or decision-



making processes, irrespective of the communication channel or medium it is using”.

In our view, there is no doubt that the actions of CEO member of staff David Leloup were part of a campaign intended to influence European policy formation or decision-making. It seems likely that the more than €400,000 that CEO has declared as lobbying expenditure would cover such activities. Therefore, if the Commission feels that such activities are not lobbying, then its response to the complaint should clarify the scope of its definition of lobbying. Or, if the Commission feels that the activities are lobbying for the purposes of the register, but not subject to the Code of Conduct, that clarification would also be useful.

3. *This incident raises the opportunity to clarify another important issue: whether or not a group registered as ‘a non-governmental organisation / association of NGOs’ can claim to represent no one at all, as CEO has done.*

In its instructions to NGOs on how to register (posted on the web), the Commission says that NGOs must specify how many natural persons are members and/or how many member organisations they have – to create transparency about who they actually represent. CEO has submitted no such information, but has still managed to register successfully in the Commission register.

We look forward to an opinion from the Commission which helps to clarify these questions.

For further information, please contact:
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