

Response to chapter 2 of the Green Paper on the European Transparency Initiative

Corporate Europe Observatory¹, 31 August 2006

Corporate Europe Observatory fully endorses the points and recommendations made in the contribution submitted by the Alliance for Lobbying Transparency and Ethics Regulation.² ALTER-EU calls upon the Commission to “include clear guidance on the standards to be expected even where a formal consultation is not taking place” and to end the “privileged access and undue influence granted to corporate lobbyists”. The ALTER-EU submission refers to concrete cases like the European Services Forum and the Trans-Atlantic Business Dialogue, as well as the High Level Group on Competitiveness, Energy and the Environment, all of which do not meet the minimum standards for consultation.

According to the European Code of Good Administrative Behaviour, European Commission staff “shall abstain from [...] any preferential treatment on any grounds whatsoever”.³ Corporate Europe Observatory research shows how the European Services Forum (ESF) has enjoyed strong preferential treatment since it was founded with the active support of Commissioner Leon Brittan in 1999. The ESF continues to enjoy far greater access to EU decision-makers than civil society and other stakeholders.⁴ We would argue that the European Commission’s DG Trade has over the last 6-7 years de facto carried out an intransparent, exclusive and privileged consultation process with the European Services Forum, taking place in parallel to the official, public civil society dialogues. Because the ESF’s privileged access has had far-reaching policy impacts, this is more than a matter of principle. There are strong indications that DG Trade closely involved the ESF in the process of drafting controversial EU requests for the services negotiations in the WTO Doha Round (GATS). DG Trade representatives routinely attend ESF meetings to brief the services industry lobbyists on developments in the GATS negotiations and solicit feedback from ESF lobbyists.⁵ DG Trade officials, moreover, even have assisted the ESF’s to prepare its regular meetings with EU member state experts from the Committee 133 ad hoc Services.

It is of utmost importance that the European Commission takes action to avoid policy capture by lobby groups with narrow commercial agendas. Corporate Europe Observatory would like to suggest that the European Commission undertakes a formal assessment of the above-mentioned cases of privileged access, as well as others, including the Asia-Europe Business Forum, the EU-Mercosur Business Forum and Commission relations with the European Roundtable of Industrialists (ERT). Based upon this evaluation of current practice, the Commission should propose measures to ensure that no inappropriate privileges or influence is being granted to large corporations or their lobby groups.

There is a close link between the need to prevent undue influence and concerns about European Commission officials going through the revolving door to industry lobby groups and lobbying firms. One potential conflict of interest arises when commercial interests use offers of attractive private sector employment as a means to influence Commission officials. As ALTER-EU has pointed out in its submission, the Green Paper does not include any new

¹ Corporate Europe Observatory (CEO) is an independent, non-profit research and campaign group based in Amsterdam. Founded in 1997, Corporate Europe Observatory aims to ensure that the political activities of corporations and their lobby groups do not harm democratic processes, social justice and the environment. See also: <http://www.corporateeurope.org/about.html>.

² [ALTER EU submission to the consultation on the ETI Green Paper – Chapter 2](#), 24 July 2006.

³ [The European Code of Good Administrative Behaviour](#), European Ombudsman, 05.01.2005, Article 8.

⁴ [The EU Corporate Trade Agenda](#), Christine Deckwirth, November 2005, page 25-26.

⁵ See for instance the “BBC File on 4” documentary *Lobbying the EU*, broadcasted on 22 November 2005. Transcript [available online](#).

proposals to avoid conflicts of interests emerging from the ‘revolving doors’ phenomena. The Financial Times recently reported that some 100 Commission civil servants have gone on time-unlimited ‘sabbaticals’ to the private sector just in the last few years.⁶ In addition to tighter rules and more substantial ‘cooling off periods’ to prevent the above-mentioned problems, Corporate Europe Observatory believes that a public register should be established, including details on all cases of Commission officials moving to the private sector as well as the Commission’s evaluation of possible problems emerging from these career moves.

Expert groups

The Green Paper does not elaborate much on the role of expert groups in the Commission’s decision-making process and how this relates to consultation practices. We would very much welcome a broadening of the debate on consultation practices to include this important area. A balanced representation of respectively commercial interests and public interest civil society groups must be secured in all advisory bodies.

Corporate Europe Observatory congratulates the European Commission on its decision to disclose the “List of expert groups advising the Commission”, an important – and long overdue – step towards transparency. The online register of expert groups includes 1249 such committees and working groups.⁷ In order to allow public scrutiny of the composition of these expert groups, however, their membership must also become available to the public. The membership of these expert groups typically consists of academics and other researchers, lobbyists and civil servants, but the online register currently contains no names or other information about the individual members.

Considering that the groups often play an important role in the crucial first stages of the preparation of Commission proposals, the public must have the right to know who is involved. In terms of the involvement of lobbyists, it is important to be able to see if a balanced representation has been secured.

⁶ “Open-door policy”, *Financial Times*, May 5 2006.

⁷ See: <http://ec.europa.eu/transparency/regexpert/>.