



Commissioner Siim KALLAS  
European Commission  
Rue de la Loi 200  
B – 1049 BRUSSELS

REF. : CFP/JWG/ea  
Contact person : Jan Willem Goudriaan

14 June 2006

Subject: European Transparency Initiative

Dear Commissioner Kallas,

EPSU has been a supporter of the European Transparency Initiative from the beginning (see our letter to Commissioner Kallas, 13 May 2005). We welcome the recognition in the Green Paper that there is insufficient transparency around the role of lobbying in EU decision-making. We are pleased with the recognition of the widespread concern that "there is no level playing field in lobbying because the corporate sector is able to invest more financial resources in lobbying."

A well-functioning representative democracy needs strong mechanisms for outside scrutiny of the decision-making process. This includes the activities of lobbyists. We agree that all EU lobbyists "should register and provide information, including their objectives, financial situation, and on the interests they represent". We also agree that this information should be available to the general public.

We do however not agree with the Green Paper's proposal that this should be done on a voluntary basis. To have any meaningful impact, lobbying disclosure should de facto become obligatory. It should not be optional. The incentive proposed in the Green Paper (automatic alerts to upcoming consultations) is entirely insufficient to secure meaningful levels of compliance.

The Alliance for Lobbying Transparency and Ethics Regulation (ALTER- EU), which EPSU supports, has made proposals on how to make lobbying disclosure de facto obligatory, while avoiding unnecessary bureaucracy. Like ALTER-EU, EPSU is convinced that the register should be managed by an independent public watchdog. Also, in order to avoid that the lobbying transparency rules would somehow inhibit individual citizens, NGOs and local trade union branches to express themselves, only lobbyists with a lobbying budget over a to-be-defined threshold should be bound by the registration and reporting requirements.

The need to focus on the money and deep pockets is underlined, for example, by the presentation of the preliminary findings of the European Commission sectoral energy inquiry, 16 February 2006. The list of close to 500 participants demonstrates clearly that large companies, lawfirms and lobby groups far outnumber domestic user-groups, let alone groups of vulnerable users. How should they let their voices heard?

We would like to take the opportunity to highlight a concrete example of secretive industry lobbying, which underlines the need for mandatory lobbying transparency. The Green Paper states correctly that "When lobby groups seek to contribute to EU policy development, it must be clear to the general public which input they provide to the European institutions. It must also be clear who they represent, what their mission is and how they are funded." This is currently very often not the case. Take the example of the International Federation of Private Water Operators (AquaFed), a new lobby group established in 2005 with an office at Rond Point Schuman, in the heart of the EU quarter in Brussels. The group was officially launched in October 2005 and has been very actively lobbying since then (for instance during the World Water Forum in Mexico City in March 2006). Nine months after AquaFed was officially launched, the group's website fails to disclose which companies are members of AquaFed. The website does claim that "AquaFed brings together over 200 water service providers operating in 38 countries worldwide". But even when explicitly asked for a list of members, the group refuses to disclose this information. A recent study by Public Services International Research Unit (PSIRU) concludes that "this leaves a big question about how representative AquaFed is of the sector of private water operators which it claims to represent." This secrecy may in fact mean that AquaFed's lobbying is misleading and that it potentially could result in undue influence, by giving the impression of the groups representativeness. Mandatory lobbying disclosure rules is the only effective way to enable outside scrutiny of AquaFed's lobbying towards the EU institutions.

We would like to express our concern about the Commission's proposal that the code of conduct for lobbyists should be written by the lobbyists themselves. We fear that leaving the drafting of a Code of Conduct to the lobbyists, which are a broad range of groups, will result in the lowest common denominator. Instead, the European Commission must take the lead by developing a draft Code of Conduct (going beyond the very general provisions of existing voluntary codes). Monitoring of compliance cannot be left to the lobbyists themselves due to obvious conflicts of interest.

Finally, we would like to express our disappointment that a number of important problems are not addressed in the Green Paper. The ALTER-EU statement, which EPSU has signed, calls on the Commission to introduce *"an improved code of conduct for European Commission officials, including an extended 'cooling off' period before Commissioners and senior officials can start working for lobby groups or lobbying advisory firms."* It also calls upon to the Commission to *"terminate cases of privileged access and undue influence granted to corporate lobbyists, for instance: joint taskforces in which corporate interests are represented while public interest NGOs are not (such as Cars 21 which consists of Commission officials, CEOs and lobbyists from the automobile industry, but no environmental NGOs, or the High Level Group on Energy Competitiveness and the Environment which is stacked with representatives from a limited number of countries and large industrial companies but an organisation representing the interests of vulnerable users, let also domestic users is absent) or the privileged status accorded to business lobby groups like the European Services Forum and the Trans-Atlantic Business Dialogue. Measures in these areas are of crucial importance for the credibility of the European Commission and we strongly suggest that the Commission proposes concrete measures in the context of the European Transparency Initiative."*

Finally, the Danish newspaper Politiken reported that the EU committee of the Danish Parliament has unanimously approved a resolution calling for a *"mandatory and publicly available register of lobbyists that seek to influence the European Commission and other EU institutions"*, 1 June 2006. We recommend that the Commission follows this example.

Yours sincerely,

Carola Fischbach-Pyttel  
EPSU General Secretary