

Brussels, 14th February 2008

## **Public Consultation of the European Commission**

### **Proposed “code of conduct for interest representatives” needs extensive revision**

#### **About Transparency International**

Transparency International (TI) is the civil society organisation leading the global fight against corruption. TI is a global network including nearly 100 national chapters and chapters-in-information. These bodies bring together relevant players from government, civil society, business and the media to promote transparency in elections, public administration, procurement and business. One of TI's main areas of expertise and experience are codes of conduct for businesses and for public officials.

#### **1. General Assessment: code is too weak**

Transparency International welcomes the European Commission's decision to introduce a code of conduct for all lobbyists. We are, however, very disappointed by the weakness of the suggested code. In our experience we have found that undue influence can corrupt decision making processes and we believe that a strong code of conduct is essential in preventing this.

#### **2. Definition of “interest representation”**

We welcome that the only activities of lawyers excluded from the definition of interest representation are those that relate to the exercise of the fundamental right to a fair trial, as we believe that the activities of lawyers should not be excluded too widely under the guise of client privilege. We suggest a further guidance note to strictly limit the exclusion.

#### **3. Compliance with laws and regulations**

We would suggest adding a general rule: „Interest representatives obey the applicable European and national laws and regulations. They are expected to behave in line with the principles of openness, transparency, honesty and integrity, as expected of them as citizens in a democratic system. Interest representatives may include legal persons and not only individuals“. This would also underscore that no inducement of EU officials (rule 5) is allowed and that respecting the obligations of former EU officials (rule 6) is a legal prerequisite.

#### **4. Gifts, hospitality and expenses**

We would suggest to regulate the behaviour of lobbyists regarding gifts, hospitality and expenses: „not offer any gifts, hospitality or expense compensation whenever such arrangements could affect the outcome of legislative or administrative actions and are not reasonable and bona fide.“

#### **5. Conflicts of interest**

We suggest that a clear “conflict of interest” policy is enforced. The Shell Code of Conduct for example demands that all potential conflicts of interest must be declared. A conflict of interest may relate to spouses, children or other family members. The representation of conflicting interests or competing interests should be forbidden.

## **6. Intermediaries representation**

We would also suggest asking the lobbyist to declare the principal of the interests he or she represents by annotating rule 2: „and the principal if only an intermediary is represented“.

## **7. Transparency obligations**

The lobbyist should be required to provide information about their clients and sources of funding available on their website. This would also include the principal's code of conduct or compliance documents which regulate the lobbying practices accepted by the principal/client.

## **8. Revolving doors**

Although not part of a code of conduct we believe that an integral part of any concept regulating lobbyist behaviour should include regulations setting out a “cooling-off” period for EU commission senior staff of a period of three years before they may be employed as lobbyists in the field of their former activity.

## **9. Guidance note**

In our experience, all general principles outlined in codes of conduct necessitate an extensive guidance document which allows lobbyists to understand the exact consequences of their behaviour. Such a guidance note should be part of the consultation process and not be developed later without public consultation.

## **10. Monitoring and sanctions**

The draft document does not include any proposition regarding the monitoring and enforcement of the code of conduct. We believe that an independent body that proactively monitors compliance should be introduced. This body should also function as the first point of contact if any potential conflict breach has to be reported. We suggest that any breach of the code ultimately be sanctioned by a contact ban of EU officials with the respective lobbyist.

Signed on behalf of the TI EU Advocacy Working Group:

### **Miklos Marschall**

Director for Europe and Central Asia  
Transparency International  
Alt-Moabit 96  
10559 Berlin, Germany  
Tel: +49 (0)30 243 020 14  
Email: [mmarschall@transparency.org](mailto:mmarschall@transparency.org)

If you need further information, please contact:

### **Jana Mittermaier**

Head of Brussels Office  
Transparency International  
Place du Luxembourg 2-3  
B-1050 Brussels, Belgium  
Tel +32 (0)2 504 90 61  
Email: [jmittermaier@transparency.org](mailto:jmittermaier@transparency.org)  
(co-signed)