

Is Brussels the new Washington, D.C.? Lobbying transparency in the EU - European Ombudsman Opening Address

Speech - **City** Brussels - **Country** Belgium - **Date** 11/05/2015

Good morning,

I want to begin by thanking all of our speakers for coming today. I know that for First Vice President Timmermans it is at least his third attendance at a lobbying themed event in a very short space of time and so I am therefore even more appreciative of his presence.

I would also like to welcome and to thank Carl Dolan, of Transparency International, Professor Alberto Alemmano of HEC Paris and the NYU School of Law, and Karl Isaksson of the European Public Affairs Consultancies Association. And given, the 24/7 commitments of the new media kid on the block, Politico Europe, I am very grateful to its Managing Editor, Florian Elder for agreeing to moderate our event.

I would also like to thank all of you for coming in such numbers and so proving that lobbying transparency as an issue has now come right in from the margins and on to centre stage.

The question "*Is Brussels the new Washington DC?*" is intended to provoke an awareness of the increasing size and scale of lobbying in Brussels, precisely because big European and global business are increasingly affected by decisions made here. TTIP, the energy union, the digital single market, new data protection laws – the outcome of all of those current big ticket items and more will be felt by corporate bottom lines and influencing the processes that lead to that is precisely what so much of Brussels lobbying is about.

The question for the institutions is whether there is a sufficient awareness among those involved in the processes of how lobbying really works, beyond the Transparency Register and beyond the public events and the Tweeted meetings? Can we and they see it, even when it's happening in plain sight?

This Commission, and in particular Vice President Timmermans, have made transparency one of their big ticket items and this is appropriate given its leadership and executive role.

I welcome the further strengthening of the Transparency Register, and hope the proposed Inter-institutional Agreement will be a strong one, in breadth and in depth but I still believe a



mandatory Register based in legislation will be needed and if we wish fully to understand lobbying today in the EU, the level of detail provided currently to the register, and its limited capacity to monitor and sanction, is simply not enough.

My role as European Ombudsman, is to assist the institutions in ensuring that the work that they do is carried out as transparently and as ethically as possible. The Charter of Fundamental Rights guarantees the right to good administration and implicit in that right are the obligations of openness and transparency.

I deal with individual complaints and I have opened own initiative investigations concerning the transparency of wider policy influencing, for example, the transparency and balance of Commission Expert Groups, TTIP transparency and the so-called 'revolving doors' phenomenon.

That 'policy influencing' is a game of competing agendas and the democratic institutions should ultimately decide the result.

It is entirely valid of course, even essential, for the policy makers to give those agendas a hearing, as doing so better informs them and helps minimise unintended consequences of laws. What is not valid is to give a privileged space to certain interests or to shield from public gaze the names of the influencers, or critically, who may be funding them, assuming that that information is even known in the first place.

I welcomed the Commission's decision last autumn to publish details of high level meetings with lobbyists. It's a start but a good one as the public needs to be able to see when there is a flurry of activity around a particular piece of legislation and draw the necessary conclusions.

As Ombudsman, I have attempted to get up to speed myself on the business of Brussels lobbying. As well as the commentary from civil society groups working in this area, the level and scale of lobbying is increasingly attracting academic interest and recent academic texts have analysed the policy making process over the short and the long term.

Some general observations emerging from these texts are:

1. Lobbying is a highly sophisticated activity capable of adapting to the challenges imposed by the latest transparency and other rules.
2. The legal profession often plays a significant role in assisting interest groups to make their case but also to throw, metaphorically speaking, sand in the eyes of the policy makers who are necessarily concerned to ensure that what they do is well grounded in law. The result can be delay, dilution, or retreat.
3. Some interest groups play the long game, attempting over years, even decades, not simply to influence a particular regulation or directive, but rather to frame the context of how regulations and legislation are fashioned in the first place.



4. The Transparency Register - vital as it is, is only the tip of the iceberg in its current state of evolution when it comes to capturing the full picture of how lobbying actually takes place. The real influencers are not always those who queue up on a Monday morning in Parliament for their badges.

5. Policy makers are not always aware that they are being lobbied, and can be ignorant of the identities or funding of certain groups or other entities deliberately set up to front for particular interests.

The research also suggests that policy making can be influenced not just by direct lobbying, but through the creation of certain elite groups, often meeting legitimately and privately in Brussels, but whose group think and wide network of influence at every level of policy making becomes highly significant.

One apparent lobbying strategy is to attract academic, legal, and political elites to high level meetings of their peers, while simultaneously attracting corporate interests, for a fee, to attend the gatherings with the inducement of being able positively to influence the elites.

And yes, this is how the world works. It would be naïve to think that politics and policy making takes place only within the offices of the institutions and democracy necessarily allows for the freedom to influence in one's own interest. The challenge for the policy makers and most particularly for the officials working in the public interest is to be aware of just how the world works and to make sure that the public interest, and particularly the public left outside the closed doors of the colloquia and the seminars and the think tanks and the conferences and the cocktail receptions, are given access to an even playing field.

The front groups and the opaque think tanks and associations are not directly my concern as Ombudsman. What is important to me as Ombudsman is to know whether the EU institutions have robust procedures in place to ensure that their Members and officials are aware of how influence is brought to bear, and at the very least, to make any participation in, and contributions to, such groups fully transparent.

It is my intention to carry out further work in this regard but one suggestion at this stage is that part of the mandatory training for officials working in the EU institutions, agencies and bodies, should include an awareness of the business of lobbying and particularly of its sophistication and its chameleon like capacity to adapt to greater transparency challenges.

I look forward to our discussion.

Thank you again for attending.

I now hand over to Florian, our moderator.