

## ZINCK Caroline

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**From:** Leonardo Palumbo [REDACTED]  
**Sent:** 21 August 2014 20:46  
**To:** Euro-Ombudsman  
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### Sender

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**Sender** Leonardo Palumbo [REDACTED]  
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### Your data

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**Language you would like to receive an answer in** en - English

#### Part 2 - Data

**Subject** EPHA submission to expert group inquiry  
Please find attached our contribution. For any further information or clarification, please contact us.

#### Content

Yours sincerely,

# EPHA contribution to the European Ombudsman Consultation concerning the European Commission Expert Groups

## *Input and recommendations from the European Public Health Alliance*

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<b><u>1. Which specific Commission expert groups do you consider to lack a balanced representation of relevant areas of expertise and interest in their membership?</u></b>
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Despite a progress made, the Diet Platform still seems skewed towards the industry representatives; the reason for them is to use the platform as greenwashing and therefore they very much want to be included in the membership; the NGOs on the other hand see little progress made, and constant diverging industry's arguments etc.

Another imbalanced group is the Forum for a Better Functioning Food Supply Chain has only five NGO members. Their expertise expands the focus of the group and more towards the wider societal needs and demands.

The Horizon 2020 Advisory group for Health, demographic change and wellbeing only has two NGO members. This group does gather well respected academics, but further action is needed to bring views of all civil society.

Another expert group that needs reform is the alcohol and health forum and the composition is imbalanced (58% alcohol industry vs 34% NGOs). There is a fundamental and irreconcilable conflict between the alcohol industry's interests and public health policy interests. Relevant policies should be developed without alcohol industry involvement. From that point of view, I found it inappropriate and unproductive to have the Alcohol Forum where both NGOs and the alcohol industry is there which requires consensus but no consensus can be reached which would hurt the real interest of the alcohol industry.

*The following groups have been highlighted as having more than 50% of members representing corporate interests, which contravenes the condition set by the Parliament when it lifted the budget freeze in September 2012, stating no stakeholder should have a majority of seats. Many examples are*

taken from the November 2013 ALTER-EU report 'A Year of Broken Promises', which focuses on groups created between September 2012 and September 2013,<sup>4</sup> with additions from supplementary research. The figures were to our best knowledge correct at time of researching the report, and any changes since September 2013 are not included (e.g. the Stoiber Group was updated between September and November 2013).

DG	Group name	Members	Composition of interests / Reason lacks balanced representation
AGRI	Expert Group on agricultural commodity derivatives and spot markets	16	94% corporate interests; 6% farmers – no civil society interest with knowledge on food speculation
ENTR	High Level Group on Business Services	19	74% corporate interests; 11% academia; 5% NGO; 5% SME; 5% trade union
ENTR	CARS 2020 Expert Group (& 4 subgroups)	80 (16x5)	63% corporate interests (ALTER-EU classified the International Motorcycling Federation as corporate due to its funding and corporate events); 25% NGO; 13% Trade Union
ENTR	KETs High Level Commission expert group (& subgroup)	64	59% corporate interests; 25% Hybrid; 9% Academia; 3% SME; 3% Trade Union.
ENTR	Expert Group for Bio-based Products	26	58% corporate interests; 19% academia; 19% Hybrid; 4% NGO
SANCO	European Unique Device Identification (UDI) Commission Expert Group	17	53% corporate interests; 24% professional association; 6% Hybrid; 6% NGO
HOME	Data Retention Experts Group	7	100% corporate interests
JUST	Commission Expert Group on a European Insurance Contract Law	20	55% corporate interests; 20% academia; 5% hybrid; 5% NGO; 5% other; 5% professional association; 5% SME
RTD	Expert group for the evaluation of the overall performance of the European Innovation Partnership (EIP) concept and approach	5	80% corporate interests; 20% other
RTD	Expert Group on Intellectual Property Valuation	10	80% corporate interests; 20% academia
RTD	Expert Group on Retail Sector Innovation	11	64% corporate interests; 36% academia
RTD	Expert Group on Open Innovation and Knowledge Transfer	12	58% corporate interests; 25% academia; 17% hybrid
SG	Expert Group on a Debt Redemption Fund and Eurobills	10	70% corporate interests; 20% academia; 10% hybrid
SG	High Level Group on Administrative Burdens <sup>5</sup>	15	60% corporate interests; 20% NGO; 13% SME; 7% trade union
TAXUD	VAT Expert Group	42	86% corporate interests; 5% NGO; 5% professional association; 2% academia; 2% SME
TAXUD	EU VAT forum	15	80% corporate interests; 13% professional association; SME
TAXUD	Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation	15	60% corporate interests; 27% NGO; 7% academia; 7% trade union

**Do you have any more examples of imbalanced groups created since September 2012?**

DG	Group name	Members	Composition of interests / Reason lacks balanced representation
CNECT	High Level Group on the Future use of the UHF band	20	70% corporate interests; 20% public sector; 5% NGO
CNECT	Community of Practice for Better Self- and Co- Regulation	50	68% corporate interests; 16% hybrid; 8% academia; 6% NGO; 2% other
ENTR	Strategic Policy Forum on Digital Entrepreneurship	31 (OECD = gov)	70% corporate interests; 13% academia; 7% SME; 3% hybrid; 3% NGO; 3% trade union
MARKT	High Level Group on Retail Competitiveness	20	85% corporate interests; 5% academia; 5% NGO; 5% trade union
MARKT	High Level Group on Business Services	19	67% corporate; 16% academia; 5% NGO; 5% SME; 5% trade union
MARKT	Expert Group on the Review of the International Accountancy Standards Regulation	10 (excluding gov)	90% corporate interests; 10% SME

- DG ENTR also formed an 'informal' Working Group for Technical Advice, parallel to the existing 'non-road mobile machinery' expert group, with the mandate “advising the commission in drafting the new legislative proposal”. This new informal group was completely industry dominated and undercut the ongoing work of the existing expert groups. When civil society groups complained, DG ENTR closed the group and claimed it was never an expert group.

**What, according to you, is the root cause of the unbalanced composition of the Commission expert groups identified by you?**

The rules regarding expert groups are implemented differently by each DG).<sup>3</sup> There is also a lack of understanding about the variety of different stakeholder groups that exist and divergences in opinions between economic operators and SMEs, NGOs, trade unions, consumer or environment groups.<sup>4</sup> This bias can also be seen in the unwillingness of the Commission to put more effective rules in place to ensure the public interest is met, let alone enforce existing ones.

Regarding expert groups, this has seen a continued domination of many politically and economically sensitive groups being dominated by economic operator interests. The rules were reviewed in 2010 with very little change, and despite strong demands from the European Parliament, the Commission appears unwilling to introduce new rules which would tackle the problem. It is difficult to generalise too widely, as different DGs have taken different approaches, but the Secretariat General – which oversees all expert groups – has refused to see the domination of groups by corporate interests as a problem. A lack of definition of 'balance' is one clear symptom.

The lack of civil society participation is another symptom, especially when one reviews the Commission's arguments – that Expert Groups are not min-Parliaments and that there are other ways for civil society stakeholders to take part, such as consultations (which all civil society actors will testify to being incredibly ineffective in influencing legislation and getting across critical views). At the same time, the Commission often argues that it is seeking technical advice, and these arguments ignore the expertise that civil society can bring.

A lack of transparency regarding which interest members represent (see answer to question three) has also contributed.

#### Lack of internal expertise/capacity

The Commission could collecting expert opinion (which is by its nature subjective rather than objective) does not have to equate to allowing all experts to take part in the drafting of reports or recommendations, or having any decision making capacity. This is the approach taken by the International Agency on Research on Cancer after similar conflict of interest.

#### Disparity in resources and capacity

Corporations have the resources to fund a staff member's involvement due to its importance to their commercial interests, while their trade associations and transversal business lobbies also prioritise involvement. However, for civil society organisations with limited staff capacity and resources, taking part is an opportunity cost which can be difficult to justify to funders or members. Costs are not simply travel and expenses (which are reimbursed) but the hours spent in preparation for the meeting and correspondence between meetings, employing people to carry out the work which can no longer be fulfilled due to time constraints. A more comprehensive remuneration system is needed for public-interest groups, but if they feel that taking part in an Expert Group is not the most effective use of their limited time (for example, if they make up a minority voice and therefore don't have their views reflected in the outcome) they are unlikely to take part.

There is also a lack of civil society groups with european-level knowledge who can participate. European networks, such as EPHA are expected to participate in expert groups to bring the health voice, yet has a very limited staff to do so. Representation from national members is very valuable (and happens in many cases) but the constraints there are even greater, given the distance and time constraints.

The often-technical nature of the groups requires high degrees of specialisation in very niche topics, making it even less likely that a high number of non-corporate groups will have the necessary expertise, capacity and resources to take part. This is exacerbated by creating large groups, but can be tackled by creating smaller, representative groups, which are then charged with collecting relevant expertise.

**2. The Commission's horizontal rules on expert groups allow for the Commission to appoint individual experts in their personal capacity. In your experience, does this possibility give rise to concern in terms of the balanced composition of expert groups and/or conflicts of interest?**

Balanced Composition

As the Commission considers those in a personal capacity to be independent and not representative of an interest, they are therefore excluded from any calculations on composition. This would be less problematic if the individuals were in fact independent experts or academics without corporate ties, but unfortunately the label 'personal capacity' has often been used for individuals who represent an interest (lobbyists), thereby skewing composition.

Adding lobbyists sitting in groups in a personal capacity can mean that advice the Commission may have believed was independent is in fact related to a particular interest and therefore strengthens that voice within the group, impacting public policy and privileging one section of stakeholders over the others. After research by ALTER-EU, DG ENTR has agreed to stop appointing members of new groups in a personal capacity.

Conflict of interest

EPHA advocates for action beyond the common practice of asking candidates to sign a declaration stating they will act in the public interest and the Commission could envisage a declaration of interests or checks for potential conflicts).

This is not only an issue of terminology – i.e. mislabelling of individuals in a personal capacity rather than as a 'representative of an interest', and fails to recognise the vested interest that may be held by the individual experts, nor how that interest may not be compatible with the public interest.

If an individual is there in a personal capacity then a clear declaration of interest (DOI) should also be published to assure the public. This DOI should be thoroughly viewed by the Commission to ensure the independence of the individual expert. If it transpires that there are interests which the member has not declared, a fitting sanction (e.g. a ban for the individual and organisation from all groups for a set period of time) should be levied to ensure it works effectively as a mechanism.

When an individual is not there in a personal capacity, i.e. when it is clear they represent an interest, then all information on that individual and which interest they represent should be made clear, which is currently not the case. This should firstly include which stakeholder group they represent (rather than which industry sector they have expertise on), who they work for and which organisations they have commercial ties to, e.g. board memberships. This would allow the public to be confident of the who they represented and allow a more comprehensive assessment of composition.

- This situation is also apparent in all new Horizon 2020 groups, which will decide the research funding opportunities for the next 7 years. This process should be fully transparent and accountable (particularly given the clear conflicts of interest present within FP7 expert groups)<sup>8</sup> but is not. In fact, this is a problem across DG RTD, where information on representatives of interests is incredibly limited, e.g. the Research, Innovation and Science Policy Experts (RISE) High Level Group (HLG)

**3. Do you consider that the current level of transparency regarding the composition of Commission expert groups, in particular through the Register of Commission Expert Groups and Other Similar Entities, is sufficient?**

**In particular, does the information made available by the Commission allow you to ascertain which interests are represented by the members of Commission expert groups? If not, where do you see room for improvement?**

EPHA agrees with the ALTER-EU assessment of flaws with the register:

- The Register does not make clear the balance between stakeholders. In the 'Statistics' section it notes the number of types of members, e.g. personal capacity, organisation, but fails to mention numbers of members representing specific interests, which would give the public an ability to judge.
- Giving overall figures for interests represented would only work if organisations (and individuals) were properly labelled. There is currently great inconsistency among DGs and even within DGs as to which interest certain organisations belong to. The Register has the 'category' field, within which 'NGO', 'Trade Union', 'Association' etc. is filled out, but this is rarely consistent or accurate. For example, among groups created between September 2012 and 2013, more than 80% of organisations representing corporate interests were not labelled as such.<sup>2</sup>
- Clear and accurate labelling needs to be systematised across all DGs, which could be done by linking their entry to the transparency register, as well as giving the public more information on the overall lobbying activities of members.

**Do you consider that the current level of transparency regarding the work of expert groups, in particular through the publication of agendas and minutes, is sufficient?**

The practice of putting minutes and agendas on line is improving, however there are some key improvements to be made:

- Minutes and agendas should be added to the register rather than linking to another website.
- Agendas should be placed on line *before* a meeting, not afterwards.
- Minutes of a meeting should be placed on line as promptly as possible

- The minutes should clearly show which stakeholders have agreed or proposed which views, in order to allow the public a clear idea of which interests are pushing for what. There is no agreement of secrecy within the Commission, and all DGs should have to do this – despite some such as TAXUD protesting.

**4. Where the Commission publishes calls for application for membership in expert groups, do you consider that these calls provide for selection criteria which sufficiently take into account the need for a balanced composition of expert groups? If not, where do you see room for improvement?**

The selection criteria within calls are often broad enough to justify the selection of any member. However, while mentioning all stakeholders within the call, as well as the need for balance, often a lack of definition of what balance means can make it difficult to hold the Commission to account. It should be explicit when mentioning a need for balance between economic and non-economic actors, as well as clearly stating – as the European Parliament has demanded – that no single stakeholder should have a majority. Ensuring diversity across stakeholders should also go beyond stating it in the call for applications:

- The Platform for Tax Good Governance stated the need for diverse stakeholders, yet appointed five closely-linked employers federations (the International Chamber of Commerce and the American Chamber of Commerce; BusinessEurope and its German and French members), four closely-linked accountancies (Confédération Fiscale Européenne is joined by its Dutch member, while the Fédération des Experts Comptables Européens is joined by its UK member) and three similar overseas development NGOs (Christian Aid, Oxfam, CIDSE), despite the call asking for 'International, preferably European level' representatives and claiming to strike a balance between different interests.

In your view, could the Commission **do more to raise awareness** about these calls, with a view to encouraging applications? If so, **what concrete steps** could it take in this regard?

There is no agreed period for calls for applications, which should be set at six weeks to allow organisations with wide membership to consult, as well as allowing those beyond Brussels time to hear about it and inquire. But for this to be effective, other complimentary steps should be taken that ensure a wider pool of experts is reached, for example: using social media; targeting specific sectors through trade magazines and websites; asking civil society organisations active in the field to publicise it among their networks; identifying areas where there are fewer applicants and reaching out in a more targeted way.

But the Commission should also be ready to accept that there may be a more fundamental problem stemming from a lack of internal, academic and civil society expertise on a topic, which will mean under-representation. This does not mean the Commission should create unbalanced groups, but rather it should find alternative solutions (see question 6).



**6. Please give us your views on which measures could contribute to a more balanced composition of Commission expert groups.**

The Commission could consider certain criteria in drafting mandates of expert groups and what type of experts they seek with criteria of gender, geographic distribution, and cross-sectoral policy experience.

A full review of the horizontal rules are required in 2015, with new rules introduced to ensure that no single stakeholder has a majority. There are already positive examples in certain DGs:

- DG ENTR has pledged to stop creating groups in which corporations have more than 50% of the seats
- DG AGRI's decision for its new 'Civil Society Groups' to compliment the Common Agricultural Policy explicitly mentions balance between economic and non-economic actors and a balance between stakeholders (although this is now under threat after aggressive industry lobbying).<sup>9</sup>
- DG EAC believes its Erasmus Mundus Expert Group is balanced because “no single interests (business, trade union or otherwise) has a majority of the non-government and non-EU seats in the group”.<sup>10</sup>
- The eHealth stakeholder group by DG Connect allows for meaningful input by all sectors of civil society.

But in order to assess composition, full transparency is needed regarding classification of interests and declarations of interest, something which should be included in the horizontal rules. This would prevent the Commission being able to falsely claim a balanced composition.

Organisations and individuals should only be allowed to participate in expert groups if registered in the Transparency Register.

**Responding to capacity limitations**

If the difference in capacity makes it impossible to ever have enough civil society actors for a balanced composition (as DG ENTR has experienced when trying to attract more civil society actors), then the number of other stakeholders should be reduced. The fear of losing expertise can be overcome through the Expert Group in question inviting said expert for a hearing or to submit a paper, rather than giving them a permanent seat and decision making powers. This is an approach taken by the World Health Organisation's International Agency for Research on Cancer (IARC).<sup>11</sup> Equally, as the Commission continues to point out when civil society asks for greater representation, there are other channels for expertise and opinion to be collected, such as through consultations.

Paying for civil society working time is also more likely to increase participation, although only if groups feel it is a worthwhile undertaking.

**7. Do you have any other comments?**

Dissenting opinions should be published and when put online. When presenting opinions, dissenting opinions should also have an opportunity to be publically presented and clearly indicated in the table of contents. The members supporting a majority or minority opinion should also be made known.

#### Commission taking backward steps

Following the letter sent from MEPs to the European Commission on 5<sup>th</sup> November 2013, outlining the continuing existence of problems within Expert Groups, the Commission has reneged on its commitments. In correspondence with civil society and MEPs, it now claims there was no agreement made in September 2012 (when the budget was lifted) to improve Expert Groups, and is claiming that it has done what is necessary of it, while 'work is ongoing'. It is also denying there was ever an agreement to review horizontal rules in 2015, which was a key opportunity to systematically fix Expert Groups. This threatens much of the progress made by the European Parliament so far, as well as representing a grave threat to democracy. The Ombudsman therefore must ensure that the new Commission takes the problem seriously and that a full review of rules – with a participative, consultative process – is launched in 2015.

#### Balanced outcome more than balanced composition

Equal representation may not necessarily lead to more balanced outcomes. A difference in resources means a difference in preparation, such as producing research or position papers for meetings. This can leave civil society organisations disadvantaged. Equally, having half a group made up of industry whose motivation can discourage participation by civil society.

But in reforming Expert Groups, we need to be clear of their ultimate purpose – public interest policy making – and ask whether balanced groups provide this. Corporate interests rarely conform to public interests (which is why there is such a need to balance them out), and in fact corporations only employ one third of the population (the other two-thirds are employed by SMEs). Equally, economic activity and impact on business is only one consideration when making public policy. Therefore to give corporate interests undue influence over public policy making (through half of all seats) will only serve to ensure that debate is framed in their favour and that far broader regulatory parameters are narrowed to suit the interests of those in the group. While they play a role in the economy, should it be privileged?

#### Fundamental conflicts of interest?

As well as ensuring that individuals representing interests should not be in Expert Groups in an independent capacity, there is a more fundamental issue: should certain interests be allowed to sit in Expert Groups at all? Are the commercial interests of some organisations inherently opposed to the public interest? In the field of tobacco regulation, the WHO has drawn up strict guidelines, Article 5.3 of the WHO Framework Convention on Tobacco Control,<sup>13</sup> which severely limit the contact between policy makers and lobbyists and ensure any contact is fully disclosed. It is internationally accepted that the interests of the tobacco industry are *de facto* never going to be in the interest of public health. Beyond the tobacco industry, the Commission should take further steps to recognise that there can be fundamentally different objectives between a policy objective and the interest of industry. More steps should be taken to ensure that expert groups are thoroughly evaluated against achieving policy objectives.

The Commission's justification for their inclusion – that it lacks expertise – can be refuted by ensuring that the core group with decision making and report drafting powers is one made up members who strictly represent the public interest or are truly independent. However, they would be charged with collecting information from external experts, including those who represent specific commercial interests. This would allow political oversight of technical information and ensure its inherent political nature did not inadvertently guide policy, while still benefiting from the expertise held by commercial interests. Given the importance of the work conducted by Expert Groups and the real and apparent conflicts of interest of some members, such a policy would clearly serve the public good.

#### Commission moving away from Expert Groups?

Worryingly, there are increasing examples whereby DGs are not using the Register and instead creating groups which appear to share many of the same characteristics but are not officially Expert Groups. For example:

- DG MARKT created a series of groups focused on self-regulatory outcomes, none of which are in the register
  - The *CEO Coalition to Make the Internet a Better Place for Kids* in December 2011, a voluntary scheme for corporations to sign-up to in which the coalition forms a workplan with deadlines and performance indicators, as well as making recommendations;
  - The *Safer Networking Taskforce*, formed in 2008, brought together social networks, researchers and child welfare organisations to develop a set of voluntary guidelines;
  - The *European Framework for Safer Mobile Use by Younger Teenagers and Children* came out of a High Level Group discussion and sets out voluntary principles;
- As listed above, DG ENTR also created a corporate-dominated group that was not in the register but rather ran parallel to a group which was in the Register, but was cancelled when civil society complained;
- DG ENTR has also created the European Rare Earths Competency Network (ERECON), comprising experts in three working groups, which have the same goal and form as Expert Groups but are not in the register. Worryingly, the groups consist of (technical experts sometimes,) business leaders and policy makers, which suggests an imbalance in composition.
- 'Workshops' (sometimes identified in the Impact Assessments) are also being used as a substitute for Expert Groups, giving industry a privileged channel to influence legislation in a space beyond public scrutiny.

<sup>1</sup>For a full explanation of the categories of interests, please see A Year of Broken Promises [http://www.alter-eu.org/sites/default/files/documents/Broken\\_Promises\\_web.pdf](http://www.alter-eu.org/sites/default/files/documents/Broken_Promises_web.pdf)

<sup>2</sup>The Commission has since altered this group. Please see letters from the Secretariat General to the European Parliament regarding the new composition

<sup>3</sup>Available at [http://corporateeurope.org/sites/default/files/record\\_captive\\_commission.pdf](http://corporateeurope.org/sites/default/files/record_captive_commission.pdf)

<sup>4</sup>Ironically, the short-termism that results from share-holder pressure and corporate governance structures mean corporations are undermining their own long-term interests which are served through sustainable social, environmental and economic policies that provide the environment within which they can operate.

<sup>5</sup>For a full explanation of the categories of interests, please see A Year of Broken Promises [http://www.alter-eu.org/sites/default/files/documents/Broken\\_Promises\\_web.pdf](http://www.alter-eu.org/sites/default/files/documents/Broken_Promises_web.pdf)

<sup>6</sup>Members appointed in their personal capacity when in fact they should be a 'Representative of an Interest' compared to total number of members appointed in their Personal Capacity: RoI/PC

<sup>7</sup>ALTER-EU, 2013, A Year of Broken Promises, available at [http://www.alter-eu.org/sites/default/files/documents/Broken\\_Promises\\_web.pdf](http://www.alter-eu.org/sites/default/files/documents/Broken_Promises_web.pdf)

<sup>8</sup>ALTER-EU, 2012, Who's driving the Agenda at DG Enterprise and Industry?, available at [http://www.alter-eu.org/sites/default/files/documents/DGENTR-driving\\_0.pdf](http://www.alter-eu.org/sites/default/files/documents/DGENTR-driving_0.pdf)

<sup>9</sup><http://corporateeurope.org/expert-groups/2014/01/will-public-trust-eu-be-sacrificed-keep-agribusiness-happy>

<sup>10</sup>Education and Culture, May 2012, Review of Expert Groups, accessed as a result of a freedom to information request, available at [http://www.asktheeu.org/en/request/review\\_of\\_expert\\_groups#incoming-1328](http://www.asktheeu.org/en/request/review_of_expert_groups#incoming-1328)

<sup>11</sup>David Michaels, 2008, Doubt is their Product, Oxford University Press, p. 255-57

<sup>12</sup>This in no way assumes that all corporations have the same interests, but there is a far higher overlap through economic necessity than among other stakeholders. Similarly, within those stakeholder groups there might not be the same interests (e.g. among different NGOs), but there is far higher overlap than with others.

<sup>13</sup>World Health Organisation, 2008, *Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control*, [http://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](http://www.who.int/fctc/guidelines/article_5_3.pdf)

<sup>14</sup>CEO, 2014, The firepower of the Financial Lobby, available at [http://corporateeurope.org/sites/default/files/attachments/financial\\_lobby\\_report.pdf](http://corporateeurope.org/sites/default/files/attachments/financial_lobby_report.pdf)

<sup>15</sup>[http://ec.europa.eu/internal\\_market/consultations/2013/esfs/docs/contributions/registered-organisations/eurofinuse\\_en.pdf](http://ec.europa.eu/internal_market/consultations/2013/esfs/docs/contributions/registered-organisations/eurofinuse_en.pdf)

<sup>16</sup>Ehrenhauser, M., 2014, Crooked Counsel, available at [http://www.ehrenhauser.at/assets/Studie\\_crookedcounsel\\_05052014\\_1446\\_Final.pdf](http://www.ehrenhauser.at/assets/Studie_crookedcounsel_05052014_1446_Final.pdf)