



EUROPEAN COMMISSION

Secretariat-General

The Secretary-General

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Ms Beate Gminder
Secretary-General
European Ombudsman
1, avenue du Président Robert Schuman
CS 30403
F – 67001 Strasbourg Cedex

Sent by email to:

Subject: Invitation to comment on guidance for interaction with interest representatives

Dear Ms Gminder,

Thank you for your letter of 14 December 2016 inviting the Commission to comment on the draft guidance for interaction with interest representatives prepared by the Ombudsman. As you are aware, the Commission is clearly committed to operating a sound framework for relations with interest representatives based on the principles of transparency, integrity and equality of treatment. We appreciate the Ombudsman's efforts in this area.

The Commission has already put in place ambitious requirements regarding interaction with interest representatives. In particular, in November 2014, the Commission undertook to publish information on meetings of political decision-makers with interest representatives. President Juncker also decided that, as a rule, these persons (Commissioners, Members of Cabinets and Directors-General) should only meet with interest representatives which feature on the Transparency Register. In its Proposal for an Interinstitutional Agreement (IIA) on a mandatory Register of September 2016, the Commission put forward a similar conditionality ("not on the Register, no meeting") for MEPs and senior EP officials as well as representatives of the Council. The Commission has also its own set of rules applicable to Commission officials, notably in the Staff Regulations, the Code of Good Administrative Behaviour and the Practical Guide to Staff Ethics and Conduct (in particular the specific chapter on "Contacts with Interest Groups" therein).

We can definitely see a value in offering public officials a short, practical leaflet setting out key "Dos" and "Don'ts" for their interactions with lobbyists. From our perspective, it would however be important to ensure that this list of basic recommendations is coherent

with the current practices and rules the Commission has put in place. To this end, please find in the annex our suggested modifications and comments to your draft. We would also prefer to entitle this document "Practical Recommendations" which reflects better its nature and format.

Once the new Interinstitutional Agreement (IIA) on a mandatory Register will have entered into force, the text of the recommendations might need to be adapted.

For further details you are welcome to contact Martin Kröger, Head of the SG Transparency Unit

Yours sincerely,

Alexander Italianer

Enclosure: Modifications and comments to draft guidance

Practical guidelines Practical recommendations (draft)

for public officials' interaction with interest representatives

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DO

1 ~~Verify~~ Check whether ~~that~~ interest representatives have to be registered in the EU ~~(or equivalent national)~~ Transparency Register before meeting them or accepting an invitation to an event and, if so, whether they have actually registered.

Comment: For EU officials the Transparency Register should be our only point of reference, the document rightly refer to it throughout. Checking in other national registers is (i) impractical – how are officials supposed to know about them?; (ii) irrelevant – what information can one find in such registers? Are registrants bound by a Code of Conduct as with the EU one?

2 Basic research to check what interests they represent and who is funding them. Ask for further information, if needed. Exercise circumspection – stop and reflect on how to proceed.

3 Request interest representatives to disclose, in writing and in advance, the meeting purpose, participants' names of participants and of the organisations they work for as well as the main features of that organisation, the issue for discussion and any relevant background information.

Comment: "Organisation" is more relevant than name – above all we want to know the interest represented and not personal data

4 Inform your hierarchy prior to meetings with interest representatives and debrief them afterwards.

5 Assess any risk of conflicts between your private interests and the public interest and how your interaction might be perceived.

6 Err on the side of caution. If in doubt, consult as appropriate and if you decide to go ahead, add a note to the file explaining.

7 Invite interest representatives to substantiate statements or presentations in writing after meetings or telephone calls

Comment: From the perspective of professional ethics and political accountability the onus on reporting should be on officials and not on interest representatives. We therefore consider that reporting requirement is covered by point 8 and suggest not including point 7

DON'T

1 Meet interest representatives not registered in the EU ~~(or equivalent national)~~ Transparency Register without asking them to register if. ~~Make clear, if appropriate, that~~ this is a mandatory prerequisite.

2 Overlook the motives of those who seek meetings or invite you to events. Lobbying can be done by a range of professionsorganisations, companies, consultancies, law firms, NGOs, think-tanks, grassroots campaigns etclawyers and consultants.

Comment: Better not to target particular professions – the key point is that lobbying can be done by anyone and it doesn't have to be "professional"

3 Accept any invitations to meetings or events which could put your institution in a delicate situation.

4 Interact with a particular interest representative without considering offering other groups a similar opportunity.

5 Arrange meetings outside office hours, official premises; if you do, consider informing your hierarchy and involving without the presence of another colleague.

6 Share information you are not authorised to share or misuse confidential information.

7 Do or say anything which could be viewed as granting an interest representative preferential treatment.

8 Give the impression to an interest representative that any particular advice, idea or information could or will be decisive in the decision-making process.

9 Accept hospitality from an interest representative without careful consideration and unless it is in line with the applicable rules.

10 Delay in disclosing information on any gifts and hospitality received.

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8 Maintain good record keeping habits, including the meeting date/ location, names of [participants-organisations](#) and issues discussed. Remember that you should use your institution's official file management system.

9 Respect the applicable disclosure requirements, for example, at EU level, disclose details of meetings between interest representatives and Commissioners, Cabinet members and Commission Directors- General.

10 Report ~~unacceptable~~ lobbying practices [considered unacceptable in particular in light of the Transparency Register Code of Conduct](#).