



Centro de Estudios Internacionales "Gilberto Bosques"

## Organización para la Cooperación y el Desarrollo Económicos

Foro sobre Transparencia e Integridad en el Cabildeo  
"Cómo Recuperar la Confianza"  
27-28 de Junio de 2013  
París, Francia.

Serie

Europa

27



## **Foro de la OCDE**

**“Transparencia e Integridad en el Cabildeo  
¿Cómo Recuperar la Confianza”  
París, Francia, 27-28 de Junio de 2013**

**Serie Europa**

**N° 27**



## **FORO DE LA OCDE**

### **“Transparencia e Integridad en el Cabildeo ¿Cómo Recuperar la Confianza” París, Francia, 27-28 de Junio de 2013**

**Centro de Conferencias de la OCDE**

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- Maroš Šefčovič, Vicepresidente de la Comisión Europea, Comisario Europeo para Relaciones Interinstitucionales y Administración
- Sr. Francis Maude, Ministro para la Oficina del Gabinete, Reino Unido
- Sra. Karen Shepherd, Comisaria de Cabildeo, Canadá
- Sr. Luiz Alberto dos Santos, Vice-Ministro para Análisis y Seguimiento de las Políticas de Gobierno, Presidencia de la República, Brasil
- Sra. Lyn Trytsman-Gray, Vicepresidenta Senior, Asuntos Europeos en el Grupo RTL
- Sra. Huguette Labelle, Presidenta del Consejo de Transparencia Internacional

#### **DOCUMENTOS DE APOYO**

- Transparency and Integrity in Lobbying. OCDE
- Clearer Lobbying for Cleaner Policy Making. Rolf Alter, OCDE
- Lobby Regulation, Transparency and Democratic Governance in Latin America. Luiz A. Dos Santos
- Regulations and Codes of Conduct on Lobbying in OECD Countries
- Tool Kit for Integrity (May 2012). Chapter 5 Public Sector Integrity: Providing Services Efficiently and Chapter 9 Lobbying: Influencing Decision Making with Transparency and Integrity



## FORO DE LA OCDE

### “Transparencia e Integridad en el Cabildeo ¿Cómo Recuperar la Confianza” París, Francia, 27-28 de Junio de 2013

Centro de Conferencias de la OCDE

#### INFORMACIÓN GENERAL

##### Lugar

El seminario tendrá lugar en el Centro de Conferencias de la OCDE en París, Francia ubicado en 2, rue André Pascal, 75775, Paris Cedex 16.

Teléfono: 33 (0)1 45 24 82 00

##### Idiomas

Habrá interpretación simultánea en inglés y en francés.

##### Misión de México ante la OCDE

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TIPO DE CAMBIO (24 de Junio de 2013)	
MONEDA	EQUIVALENCIA
1 euro	17.41 pesos mexicanos
1 peso mexicano	0.057 euros

#### TEMPERATURA

	Máxima	Mínima
Miércoles 26 de Junio	20°	12°
Jueves 27 de Junio	18°	11°
Viernes 28 de Junio	19°	13°





# OECD Forum on Transparency and Integrity in Lobbying

## How to Win Back Trust?

### PRELIMINARY AGENDA



27 – 28 June 2013



**Paris, OECD Conference Centre**  
**About the OECD Forum on Transparency and Integrity in Lobbying**

The OECD Forum on Transparency and Integrity in Lobbying brings together high level officials from the Executive and Legislative branches of government, along with representatives from the private sector and civil society. The Forum will discuss lessons learned from firsthand experiences in designing and implementing rules and guidelines on lobbying as a way to optimise trust in government and respond effectively to the expectations of citizens. This Forum contributes to strengthening institutions for good governance as part of the OECD New Approaches to Economic Challenges initiative.

The morning session of the Forum will be opened to the press and will centre on a high-level policy dialogue towards balanced and informed public decision-making. This will be followed by four sessions of focused discussions on key building blocks for designing and implementing effective rules and guidelines on lobbying in line with the OECD Principles for Transparency and Integrity in Lobbying.

**Agenda at a glance**

**27 June 2013**

Room CC13

09:00	Registration
09:30	Opening Session. Lobbying public officials: How to win back trust in the process of policy making?
11:00	High-Level Roundtable. From design to implementation: Lessons learned from the trenches
14:00	Session 1. Creating rules and guidelines on lobbying: How to balance comprehensiveness with feasibility?
16:00	Session 2. Open Government in the 21st century: What level of transparency for lobbying practices?
18:00	Cocktail

**28 June 2013**

Room CC13

09:00	Session 3. Integrity in public decision making: What safeguards could influence behaviour?
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11:00	Session 4. Compliance and enforcement: How to make transparency and integrity in lobbying a reality?
12:15	Concluding remarks

## 27 June 2013

09:00 Registration and coffee

### High-Level Policy Dialogue

**09:30 Opening Session. Lobbying public officials: How to win back trust in the process of policy making?**

*Lobbying is a reality in modern democracies and a growing business. While it can improve the quality of public decisions by providing expert information, lobbying may also result in vast influence by powerful interests at the expense of the public interest. To help address growing concerns, in 2010 OECD countries adopted Principles for Transparency and Integrity in Lobbying as guidance to decision-makers on how to promote good governance in lobbying. Three years later, and in the wake of a global crisis where adequate protection of the public interest has been questioned worldwide, there is a growing need to assess the progress made in effectively ensuring an open, balanced and informed public decision-making process.*

*This opening session will set the scene for the discussions and will highlight efforts and lessons learned in promoting transparency and integrity in lobbying in line with the OECD Principles.*

- Mr. Ángel Gurría, OECD Secretary-General
- Mr. Maroš Šefčovič, Vice-President of the European Commission, European Commissioner for Inter-Institutional Relations and Administration
- Mr. Francis Maude, Minister for the Cabinet Office, United Kingdom (TBC)  
Member of Parliament from Spain

10:30 Coffee break

**11:00 High-Level Roundtable. From design to implementation: Lessons learned from the trenches**

*Experience shows that regulating lobbying has proven difficult due to its complex and sensitive nature. Yet, more and more countries are making efforts to set up rules or guidelines to channel the benefits of lobbying and mitigate the risks through increased transparency. Although some countries have managed to introduce rules or guidelines, implementing them and measuring the impact remains a challenge.*

*This high-level roundtable will serve as a platform to exchange views from principal actors and to reflect on what has been achieved, in particular how they have addressed challenges in designing and implementing rules and guidelines on lobbying. The discussion will be launched by high-level representatives from government, oversight institutions, lobbyists and civil society.*

- Ms. Karen Shepherd, Commissioner of Lobbying, Canada
- Mr. Luiz Alberto dos Santos, Deputy Minister for Analysis and Follow-Up of Government Policies, Civil House of the Presidency of the Republic, Brazil
- Ms. Lyn Trytsman-Gray, Senior Vice President, European Affairs at RTL Group (TBC)
- Ms. Huguette Labelle, Chair of the Board of Transparency International

Moderator: Mr. Rolf Alter, Director of the OECD Public Governance and Territorial Development Directorate

12:45 Lunch

### **Focused Discussions**

**14:00 Session 1. Creating rules and guidelines on lobbying: How to balance comprehensiveness with feasibility?**

*Defining the scope of lobbying activities and creating the appropriate rules and guidelines has proven a challenge in many countries. While a comprehensive scope ensures a level playing field among all interest groups, it may also result in an overwhelming administrative burden. Alternatively, certain countries rely solely on self-regulation by lobbyists.*

*This session will explore the approaches taken by different countries to find the right balance between the cost and benefit of rules and guidelines on lobbying and the creation of a meaningful system.*

The discussion will be launched by speakers from:

- United States
- Austria
- EU Institutions
- Lobbyist association
- Civil society organisation

15:30 Coffee break

**16:00 Session 2. Open Government in the 21<sup>st</sup> century: What level of transparency for lobbying practices?**

*Mechanisms to ensure an informed public decision making and transparency of lobbying practices are critical parts of an open government. However, the debate is still ongoing regarding how much information is needed to shed light on lobbying and effectively address concerns, in particular the risk of bias in the process of decision making.*

*This session will discuss approaches and measures in place to provide information on lobbying to governments, lobbyists and the public, and will examine necessary mechanisms to allow scrutiny by stakeholders and strengthen trust in the decision making process.*

The discussion will be launched by speakers from:

- Ireland
- Mexico
- France
- EU Institutions
- Lobbyist association

18:00 Cocktail

**28 June 2013**

**09:00 Session 3. Integrity in public decision making: What safeguards could influence behaviour?**

*Trust in the public decision making process has decreased in many countries. Citizens' perception of corruption and undue influence by powerful interest groups has a significant impact on trust. Improper interaction, conflict of interest and the revolving door phenomenon between lobbyists and public officials have attracted particular attention.*

*This session will share experiences on what measures have proven efficient in providing proportionate responses to address these concerns. This session will also highlight the shared responsibility to promote standards of conduct and professionalism among public officials and lobbyists.*

**The discussion will be launched by speakers from:**

- Quebec
- Slovenia
- Lobbyist association

10:30 Coffee break

**11:00    Session 4. Compliance and enforcement: How to make transparency and integrity in lobbying a reality?**

*Over the past years, countries have increasingly designed and implemented rules and guidelines on lobbying. Yet, questions on how to achieve compliance remain. Challenges to enforce the regulation in a cost-effective manner are evident and countries still struggle to provide incentives for compliance and to sanction breaches.*

*This session will explore the drivers for compliance and how to assess the effectiveness of measures to deter and detect breaches of rules and guidelines on lobbying.*

**The discussion will be launched by speakers from:**

- Canada
- United States
- Poland
- EU Institutions
- Lobbyist association

**12:15    Concluding remarks**



**MAROS SEFCOVIC**  
**VICEPRESIDENTE DE LA COMISIÓN EUROPEA**

### **ACTIVIDAD PARLAMENTARIA**

- Vice-Presidente de la Comisión Europea responsable de las Relaciones Interinstitucionales y Administración (2012-2010)
- Miembro de la Comisión Europea responsable de Educación, Formación, Cultura y Juventud (2009-2010)
- Representante Permanente de Eslovaquia ante la Unión Europea (2004)
- Director General de la Sección de Asuntos Europeos, en el Ministerio eslovaco de Asuntos Exteriores (2003)
- Embajador de Eslovaquia en Tel Aviv, Israel (1999)
- Jefe de Misión Adjunto, Consejero de la Misión de Eslovaquia ante la Unión Europea, Bruselas, Bélgica (1998)
- Director - Oficina del Ministro de Relaciones Exteriores (1998)
- Subdirector - Oficina del Ministro de Relaciones Exteriores (1997)
- Subdirector en el departamento de la Unión Europea y los países en la OTAN en el Ministerio eslovaco de Asuntos Exteriores (1996)
- Secretario de la Embajada de la República Federal Checa y Eslovaca, Ottawa, Canadá (1992)
- Tercer Secretario y Cónsul de la Embajada de la República Federal Checa y Eslovaca, Harare, Zimbabwe (1991-1992)
- Asesor del Primer Viceministro de Relaciones Exteriores checo y eslovaco. Ministerio de Relaciones Exteriores (1990)

### **ESTUDIOS**

- Dale Carnegie Associates, Tel Aviv, Israel (2000)
- Universidad Comenius de la Facultad de Derecho de Bratislava (estudios de postgrado en Derecho Internacional / Derecho Internacional Europeo) (1996-2000)
- La Universidad de Stanford, Hoover Institution, Stanford, EE.UU. (1991)
- Universidad Comenius de la Facultad de Derecho de Bratislava (Doctor en Derecho) (1990)
- Instituto Estatal de Moscú de Relaciones Internacionales, Rusia (1985-1990)
- Universidad de Economía de Bratislava, Eslovaquia (1984-1985)

**DATOS PERSONALES:** Nació el 24 de julio 1966, Bratislava.



**FRANCIS MAUDE**  
**MINISTRO DE LA OFICINA DEL GABINETE**

**ACTIVIDADES PARLAMENTARIAS**

- Ministro de la Oficina del Gabinete y Tesorero General de Reino Unido (2010- )
- Ministro de la Oficina del Gabinete Sombra (2007-2010)
- Diputado conservador de Horsham, West Sussex
- Presidente del Partido Conservador (2005-2007)
- Ministro de Relaciones Exteriores del Gabinete Sombra (2000-2001)

**ACTIVIDADES PROFESIONALES**

- Ministro de Estado del Ministerio de Asuntos Exteriores y de la Mancomunidad (1989-1990)
- Secretario de Finanzas del Tesoro (1990-1992)
- Concejal de la Ciudad de Westminster (1986-1992)
- Director no ejecutivo de ASDA Group
- Director de Salomon Brothers
- Director Gerente de Morgan Stanley

**ESTUDIOS**

- Estudio en la Universidad de Cambridge y la Escuela de Derecho, especializado en Derecho Penal.



**SRA. KAREN SHEPHERD  
COMISARIA DE CABILDEO**

### **ESTUDIOS**

- Maestría en Administración Pública por la Universidad de Carleton

### **ACTIVIDAD PROFESIONAL**

- Comisionada de Cabildeo (desde 2009)
- Participó en la creación de la Oficina de Alto Comisionado de Cabildeo
- Directora de Aeronáutica del sector Industrial de Canadá
- Ocupó varias posiciones en la Oficina de Impuestos de Canadá, la Oficina de Auditoría General, el Departamento de Energía, Minas y Recursos, y Empleo e Inmigración
- Representante de varios Foros Nacionales e Internacionales, Conferencias y Grupos de Trabajo.





**DIP. LUIZ ALBERTO DOS SANTOS  
VICEMINISTRO PARA EL ANÁLISIS Y  
SEGUIMIENTO DE POLÍTICAS DE GOBIERNO**

**ESTUDIOS**

- Sociología por la Universidad Federal de Bahía, Brasil
- Técnico en Administración por la Escuela Técnica Superior de Comercio, 1971-1974.

**ACTIVIDAD PARLAMENTARIA**

- Comisión de Desarrollo Económico, Industria y Comercio 2011-2012
- Comisión de Minas y Energía 2011-2012
- Comisión de Derechos Humanos y Minorías 2012-2013
- Comisión de Relaciones Exteriores y Defensa Nacional 2013
- Comisiones Permanentes en Agricultura, Ganado, Oferta y Desarrollo Rural 2010
- Comisión Permanente en Ciencia y Tecnología; Comunicación e Informática; Constitución Ciudadanía y Justicia 2005-2006
- Comisión Permanente Defensa del Consumidor; Medio Ambiente y Minorías; Desarrollo Económico, Industria y Comercio 2006.
- Miembro del Grupo Nacional de la Cámara de la Asamblea Interparlamentaria del Foro de los Parlamentos Brasil –Túnez.
- Miembro del Grupo. Parlamentario Brasil- Cuba

**ACTIVIDAD PROFESIONAL**

- Técnico Químico en PETROBRAS, Salvador, Brasil 1974-1994.

**DATOS PROFESIONALES**

- Nació el 1 de marzo de 1953, Maragogipe, Brasil.



**LYN TRYTSMAN – GRAY**

**VICEPRESIDENTA SENIOR,  
ASUNTOS EUROPEOS, GRUPO RTL**

#### **ACTIVIDADES PARLAMENTARIAS**

- Vicepresidente de Asuntos Europeos del Grupo RTL (2011)
- Es miembro fundador y ha trabajado en el Consejo de la Sociedad de Profesionales en Asuntos Europeos (SEAP) (2006-2012)

#### **ACTIVIDADES PROFESIONALES**

- Directora General de la ECA (Corte de Auditores), comercio internacional, sector del papel / envases / forestal (1993).
- Directora de Asuntos Públicos de Kraft Foods (2004)
- Presidente de la Autoridad Europea de Industria y Bebidas (CIAA) 's Grupo de dieta Fuerza, Presidenta del Comité de Asuntos Públicos de la Federación Europea de Café, Vicepresidente del Consejo Gastronomía Europea y participó activamente en muchas otras asociaciones industriales

#### **ESTUDIOS**

- Tiene una Licenciatura en francés, alemán y holandés.



**SRA. HUGHETTE LABELLE**  
**PRESIDENTA DEL CONSEJO PARA LA TRANSPARENCIA INTERNACIONAL**

**ESTUDIOS**

- Licenciada en Ciencias de la Educación de Enfermería
- Licenciatura y Maestría Ciencias de la Educación por la Universidad de Ottawa.
- Doctora en Administración de la Educación por la Universidad de Ottawa.

**ACTIVIDAD PARLAMENTARIA**

- Presidenta del Consejo para la Transparencia Internacional
- Miembro del Consejo del Pacto Mundial de las Naciones Unidas
- Miembro del Grupo de Asesores Externos de la Gobernabilidad del Banco Mundial y la Estrategia de Lucha contra la Corrupción
- Miembro del Grupo de Asesores sobre el Cambio Climático del Banco Asiático de Desarrollo
- Miembro del Consejo Ejecutivo de la Fundación para la Construcción de la Capacidad de África
- Miembro del Consejo del Centro Global para el Pluralismo
- Miembro del Consejo de Asesores de la Orden de Ontario
- Vicepresidenta del Consejo de Asesores de Alto Nivel de la Academia Internacional contra la Corrupción
- Asesora a Organizaciones nacionales e internacionales
- Durante 19 años fue Viceministro en diferentes departamentos del gobierno canadiense

**ACTIVIDAD PROFESIONAL**

- Presidente de la Asociación Canadiense de Enfermería,
- Presidente de la Sociedad de la Cruz Roja Canadiense,
- Miembro del Consejo de Administración de Colaboración para la Salud

**DATOS PERSONALES**

Nació en Rockland, Ontario.

# **DOCUMENTOS DE APOYO**





## TRANSPARENCY AND INTEGRITY IN LOBBYING

### Worldwide public concerns over lobbying and the OECD response

Concerns over lobbying practices and demands for transparency in public decision making have intensified debate worldwide. Lobbying can improve policy making by providing valuable data and insights. However, a sound framework for transparency in lobbying is crucial to safeguard the public interest, promote a level playing field for businesses and avoid capture by vocal interest groups.

The OECD developed the Principles for Transparency and Integrity in Lobbying to help decision makers address concerns raised by lobbying practices. These Principles are particularly timely in the context of the current crisis and for countries rewriting regulations for entire sectors. They are part of the OECD strategy for a stronger, fairer and cleaner economy.

### Lobbying in figures: Evidence of its size and impact

Lobbying employs considerable resources. For example, in the past years, lobbying spending at the federal level in the United States reached the record figure of USD 3.5 billion. Since 2005, the number of registered lobbyists at the federal level has been around 14 000. In Canada, their number at the federal level exceeded 5000. In Europe, over 5000 lobbyist have voluntarily registered with the European institutions.

An International Monetary Fund Working Paper analysed lobbying intensity in a variety of industries in the USA. According to the paper “firms lobbying in financial, insurance and real estate corporations (FIRE industry) spent approximately USD 480 000 per firm in 2006 compared to USD 300 000 per firm in defense or USD 200 000 per firm in construction.” The paper established a link between intensive lobbying by the FIRE industry and high-risk lending practices, for example by using more lax lending standards measured by loan-to-income ratio. It concluded that the “prevention of future crises might require weakening political influence of the financial industry or closer monitoring of lobbying activities to understand the incentives better.”

### What can governments do to enhance transparency and safeguard integrity?

The OECD reviewed data and experiences of government regulation, legislation and self-regulation of lobbyists. Based on the evidence and lessons learned from comparative reviews, country case studies and an analytical framework endorsed by governments, the OECD developed 10 Principles. They provide decision makers with guidance to meet expectations of transparency and accountability and support a level playing field in developing public policies.

#### What are the elements of strong lobbying regulation?

Experience suggests that effective regulation will depend on the following elements:

- Definition of lobbyist and lobbying activities targeted by regulation are clear and unambiguous.
- Disclosure requirements provide pertinent information on key aspects of lobbyists and lobbying such as its objective, beneficiaries, funding sources and targets.
- Rules and guidelines set standards for expected behavior, for example to avoid misuse of confidential information, conflict of interest and prevent revolving door practices.
- Procedures for securing compliance are framed in a coherent spectrum of strategies and mechanisms, including monitoring and enforcement.
- The organisational leadership promotes a culture of integrity and transparency in daily practice through regular disclosure and auditing to ensure compliance.

## Evidence from governments and lobbyists

### What are the experiences of governments to enhance transparency and promote integrity?

Lobbying is a global practice. However, only a quarter of OECD members have introduced government regulations and legislation. Many OECD countries rely on self-regulation of lobbyists. The experiences reviewed by the OECD show that regulating lobbying has proven difficult for decision makers due to its complexity and sensitive nature.

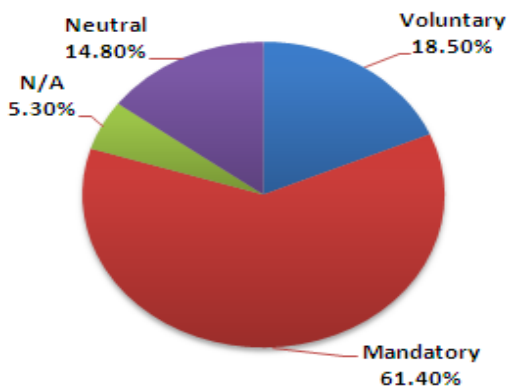
Australia, Canada, United Kingdom, United States, Poland, Hungary and most recently France have approved legislation and government regulations. The European Parliament and Commission have regulated lobbying. Israel, an OECD accession candidate country, recently amended legislation.

Italy, Korea, Mexico, Chile, Norway, Czech Republic and Slovak Republic have debated draft laws and bills on lobbying

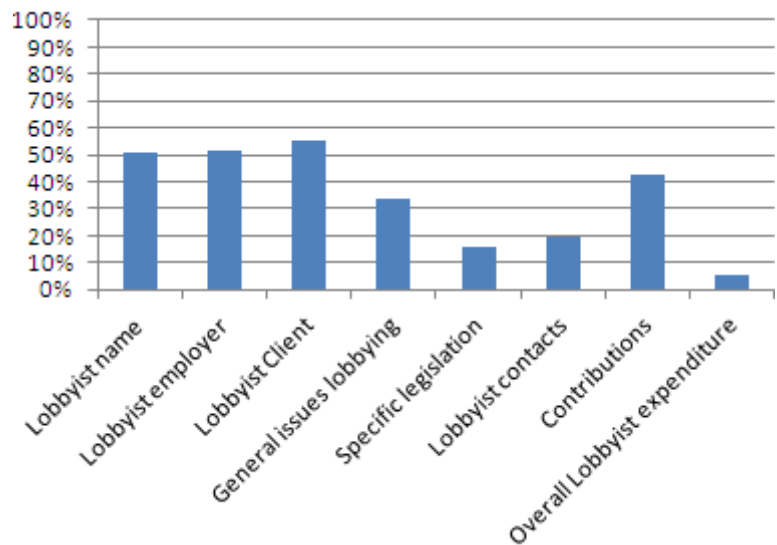
### What are the views of the lobbying industry?

“It takes two to lobby.” The OECD also reviewed self-regulation surveying the largest sample of lobbyists. The survey provides evidence of a consensus amongst lobbyists on the necessity of transparency within their profession. The type of information they commonly believe should be disclosed includes the name of client and employer, issues lobbied and contributions.

**Should transparency of lobbying activity be mandatory or voluntary?**



### Which lobbying activities, if any, should be subject to transparency and made public?



Despite the general perception that lobbyists prefer opacity with regards to the disclosure of their activities, the OECD survey shows that the majority of lobbyists surveyed supports mandatory disclosure of information.

Source: *Lobbyists, Government and Public Trust, Volume 2: Promoting Integrity by Self-regulation.*

# The 10 Principles for Transparency and Integrity in Lobbying

## I. Building an effective and fair framework for openness and access

### **1. Countries should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies.**

Public officials should preserve the benefits of the free flow of information and facilitate public engagement. Gaining balanced perspectives on issues leads to informed policy debate and formulation of effective policies. Allowing all stakeholders, from the private sector and the public at large, fair and equitable access to participate in the development of public policies is crucial to protect the integrity of decisions and to safeguard the public interest by counterbalancing vocal vested interests. To foster citizens' trust in public decision making, public officials should promote fair and equitable representation of business and societal interests.

### **2. Rules and guidelines on lobbying should address the governance concerns related to lobbying practices, and respect the socio-political and administrative contexts.**

Countries should weigh all available regulatory and policy options to select an appropriate solution that addresses key concerns such as accessibility and integrity, and takes into account the national context, for example the level of public trust and measures necessary to achieve compliance. Countries should particularly consider constitutional principles and established democratic practices, such as public hearings or institutionalised consultation processes.

Countries should not directly replicate rules and guidelines from one jurisdiction to another. Instead, they should assess the potential and limitations of various policy and regulatory options and apply the lessons learned in other systems to their own context. Countries should also consider the scale and nature of the lobbying industry within their jurisdictions, for example where supply and demand for professional lobbying is limited, alternative options to mandatory regulation for enhancing transparency, accountability and integrity in public life should be contemplated. Where countries do opt for mandatory regulation, they should consider the administrative burden of compliance to ensure that it does not become an impediment to fair and equitable access to government.

### **3. Rules and guidelines on lobbying should be consistent with the wider policy and regulatory frameworks.**

Effective rules and guidelines for transparency and integrity in lobbying should be an integral part of the wider policy and regulatory framework that sets the standards for good public governance. Countries should take into account how the regulatory and policy framework already in place can support a culture of transparency and integrity in lobbying. This includes stakeholder engagement through public consultation and participation, the right to petition government, freedom of information legislation, rules on political parties and election campaign financing, codes of conduct for public officials and lobbyists, mechanisms for keeping regulatory and supervisory authorities accountable and effective provisions against illicit influencing.

### **4. Countries should clearly define the terms 'lobbying' and 'lobbyist' when they consider or develop rules and guidelines on lobbying.**

Definitions of 'lobbying' and 'lobbyists' should be robust, comprehensive and sufficiently explicit to avoid misinterpretation and to prevent loopholes. In defining the scope of lobbying activities, it is necessary to balance the diversity of lobbying entities, their capacities and resources, with the measures to enhance transparency. Rules and guidelines should primarily target those who receive compensation for carrying out lobbying activities, such as consultant lobbyists and in-house lobbyists. However, definition of lobbying activities should also be considered more broadly and inclusively to provide a level playing field for interest groups, whether business or not-for-profit entities, which aim to influence public decisions.

Definitions should also clearly specify the type of communications with public officials that are not considered 'lobbying' under the rules and guidelines. These include, for example, communication that is already on public record – such as formal presentations to legislative committees, public hearings and established consultation mechanisms.



## II. Enhancing transparency

### **5. Countries should provide an adequate degree of transparency to ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities.**

Disclosure of lobbying activities should provide sufficient, pertinent information on key aspects of lobbying activities to enable public scrutiny. It should be carefully balanced with considerations of legitimate exemptions, in particular the need to preserve confidential information in the public interest or to protect market-sensitive information when necessary.

Subject to Principles 2 and 3, core disclosure requirements elicit information on in-house and consultant lobbyists, capture the objective of lobbying activity, identify its beneficiaries, in particular the ordering party, and point to those public offices that are its targets. Any supplementary disclosure requirements should take into consideration the legitimate information needs of key players in the public decision-making process. Supplementary disclosure requirements might shed light on where lobbying pressures and funding come from. Voluntary disclosure may involve social responsibility considerations about a business entity's participation in public policy development and lobbying. To adequately serve the public interest, disclosure on lobbying activities and lobbyists should be stored in a publicly available register and should be updated in a timely manner in order to provide accurate information that allows effective analysis by public officials, citizens and businesses.

### **6. Countries should enable stakeholders – including civil society organisations, businesses, the media and the general public – to scrutinise lobbying activities.**

The public has a right to know how public institutions and public officials made their decisions, including, where appropriate, who lobbied on relevant issues. Countries should consider using information and communication technologies, such as the Internet, to make information accessible to the public in a cost-effective manner. A vibrant civil society that includes observers, 'watchdogs', representative citizens groups and independent media is key to ensuring proper scrutiny of lobbying activities. Government should also consider facilitating public scrutiny by indicating who has sought to influence legislative or policy-making processes, for example by disclosing a 'legislative footprint' that indicates the lobbyists consulted in the development of legislative initiatives. Ensuring timely access to such information enables the inclusion of diverse views of society and business to provide balanced information in the development and implementation of public decisions.

## III. Fostering a culture of integrity

### **7. Countries should foster a culture of integrity in public organisations and decision making by providing clear rules and guidelines of conduct for public officials.**

Countries should provide principles, rules, standards and procedures that give public officials clear directions on how they are permitted to engage with lobbyists. Public officials should conduct their communication with lobbyists in line with relevant rules, standards and guidelines in a way that bears the closest public scrutiny. In particular, they should cast no doubt on their impartiality to promote the public interest, share only authorised information and not misuse 'confidential information', disclose relevant private interests and avoid conflict of interest. Decision makers should set an example by their personal conduct in their relationship with lobbyists.

Countries should consider establishing restrictions for public officials leaving office in the following situations: to prevent conflict of interest when seeking a new position, to inhibit the misuse of 'confidential information', and to avoid post-public service 'switching sides' in specific processes in which the former officials were substantially involved. It may be necessary to impose a 'cooling-off' period that temporarily restricts former public officials from lobbying their past organisations. Conversely, countries may consider a similar temporary cooling-off period restriction on appointing or hiring a lobbyist to fill a regulatory or an advisory post.

**8. Lobbyists should comply with standards of professionalism and transparency; they share responsibility for fostering a culture of transparency and integrity in lobbying.**

Governments and legislators have the primary responsibility for establishing clear standards of conduct for public officials who are lobbied. However, lobbyists and their clients, as the ordering party, also bear an obligation to ensure that they avoid exercising illicit influence and comply with professional standards in their relations with public officials, with other lobbyists and their clients, and with the public.

To maintain trust in public decision making, in-house and consultant lobbyists should also promote principles of good governance. In particular, they should conduct their contact with public officials with integrity and honesty, provide reliable and accurate information, and avoid conflict of interest in relation to both public officials and the clients they represent, for example by not representing conflicting or competing interests.

#### **IV. Mechanisms for effective implementation, compliance and review**

**9. Countries should involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance.**

Compliance is a particular challenge when countries address emerging concerns such as transparency in lobbying. Setting clear and enforceable rules and guidelines is necessary, but this alone is insufficient for success. To ensure compliance, and to deter and detect breaches, countries should design and apply a coherent spectrum of strategies and mechanisms, including properly resourced monitoring and enforcement. Mechanisms should raise awareness of expected rules and standards; enhance skills and understanding of how to apply them; and verify disclosures on lobbying and public complaints. Countries should encourage organisational leadership to foster a culture of integrity and openness in public organisations and mandate formal reporting or audit of implementation and compliance. All key actors – in particular public officials, representatives of the lobbying consultancy industry, civil society and independent 'watchdogs' – should be involved both in establishing rules and standards, and putting them into effect. This helps to create a common understanding of expected standards. All elements of the strategies and mechanisms should reinforce each other; this co-ordination will help to achieve the overall objectives of enhancing transparency and integrity in lobbying.

Comprehensive implementation strategies and mechanisms should carefully balance risks with incentives for both public officials and lobbyists to create a culture of compliance. For example, lobbyists can be provided with convenient electronic registration and report-filing systems, facilitating access to relevant documents and consultations by an automatic alert system, and registration can be made a prerequisite to lobbying. Visible and proportional sanctions should combine innovative approaches, such as public reporting of confirmed breaches, with traditional financial or administrative sanctions, such as debarment, and criminal prosecution as appropriate.

**10. Countries should review the functioning of their rules and guidelines related to lobbying on a periodic basis and make necessary adjustments in light of experience.**

Countries should review – with the participation of representatives of lobbyists and civil society – the implementation and impact of rules and guidelines on lobbying in order to better understand what factors influence compliance. Refining specific rules and guidelines should be complemented by updating implementation strategies and mechanisms. Integrating these processes will help to meet evolving public expectations for transparency and integrity in lobbying. Review of implementation and impact, and public debate on its results are particularly crucial when rules, guidelines and implementation strategies for enhancing transparency and integrity in lobbying are developed incrementally as part of the political and administrative learning process.

# The 10 Principles for Transparency and Integrity in Lobbying: A Good Governance Approach

## A comprehensive and non-prescriptive approach

The Principles present the available regulatory and policy options to decision makers. They reflect experiences of countries with diverse socio-political and administrative contexts. The Principles were developed in parallel with the European Transparency Initiative and the Code of Conduct for Interest Representatives of the European Commission.

## Whole of government scope

The Principles provide guidance to decision makers in the executive and legislative branches at both national and sub-national level.

## A unique international policy instrument

The Principles are part of the OECD strategy to build a stronger, cleaner and fairer economy. They link to a broader set of initiatives triggered by the financial crisis to set standards and principles for economic activity. These include the G8 'Lecce Framework' on Propriety, Integrity and Transparency in Business Activity and the G20 Global Charter for Sustainable Economic Activity.

## Wide multi-stakeholder consultation on the Principles for Transparency and Integrity in Lobbying

The OECD completed a wide consultation in December 2009 with over a hundred stakeholders, including legislators, representatives of the private sector, lobbying associations, civil society, trade unions, think tanks, academics, and international and regional government organisations. All stakeholders acknowledged that the Principles are timely and relevant. The feedback signaled that the Principles properly address the main concerns and provide pillars for applying good governance principles in lobbying, in particular:

- a) Recognising the shared responsibility of both public officials and lobbyists;
- b) Levelling the playing field to engage stakeholders in public policies;
- c) Making information on lobbying activities publicly accessible to allow scrutiny; and
- d) Setting up effective mechanisms for implementation and compliance.

Based on the results of the multi-stakeholder consultation, the consolidated Principles were adopted by the OECD Council as a Recommendation in February 2010. The OECD Recommendation demonstrates the commitment of countries to review practices and update their frameworks for transparency and integrity in lobbying. The Public Governance Committee will report on progress made in implementing the Recommendation in 2013.

## Further reading

A comparative review of potential and limitations of existing legislation and government regulations is available in *Lobbyists, Government and Public Trust, Volume 1: Increasing Transparency through Legislation*, OECD (2009).

A comparative analysis of laws, policies and measures taken in OECD countries for avoiding conflict of interest when officials leave public office is available in *Post-Public Employment: Good Practices for Preventing Conflict of Interest*, OECD (2010).

Results of the OECD survey conducted amongst the largest sample of lobbyists and experiences on self-regulation applied by lobbyist associations is available in *Lobbyists, Government and Public Trust, Volume 2: Promoting Integrity by Self-regulation*, OECD (2012).

# Clearer lobbying for cleaner policymaking

Rolf Alter, Director, OECD Public Governance and Territorial Development Directorate



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## The OECD has developed new guidelines to help make lobbying more transparent and even-handed.

The economic crisis has sparked loud calls to improve governance both in private sector boardroom practices and public sector management. It has also drawn attention to lobbying, as governments consider reforms that will affect business practices, taxation and more. Lobbying lies at the interface between governments, businesses, non-profit organisations and the population at large.

Lobbying is a channel that civil society uses for influencing public decision-making. Businesses, labour and non-governmental organisations all exploit it to varying degrees. Some 15,000 lobbyists are registered in Washington DC, and 5,000 in Ottawa. Nearly 3,000 lobbyists are registered with the European Commission in Brussels and over 4,500 in the European Parliament. Lobbying mobilises significant resources too: \$3.5 billion was disclosed for lobbying the US federal government in 2009. This figure is \$180 million higher than in 2008, indicating that lobbyists do not hold back during recessions, but work harder to influence reforms.

Interest groups will always seek to influence government decision-making and are a

reality in modern democracies. Indeed, lobbying can yield valuable information and data for more informed decision-making. But as lobbying happens on the sidelines, if not shadows, of the democratic process, it also brings risks of distorting policy and undermining wider public interests. Deals struck behind closed doors between lobbyists and public officials worry voters, in particular when the public picks up the bill. This behaviour fuels scepticism in democracy.

An IMF paper published in December 2009 links intensive lobbying and high-risk lending practices. The paper concludes that “the prevention of future crises might require weakening political influence of the financial industry or closer monitoring of lobbying activities to understand the incentives behind better”.

Little wonder that lobbying causes concern around the world, particularly if there are no clear standards for expected conduct of public officials and lobbyists.

The financial and economic crisis has reinforced these concerns. Governments had been rapidly reshaping regulations in the face of cries against business-as-usual and for changes to stop the crisis from happening again. True, governments saved the day by acting swiftly to take over failing

financial institutions and bail out firms through a quick and massive infusion of funds. But as many of these institutions are again making large profits while welfare remains threatened, people understandably wonder how far reforms will really go. Have lobbyists slowed the process down? Can lobbying be made to operate more fairly?

Developing or updating regulations and setting standards for enhancing transparency in lobbying are no easy matters. Policymakers and legislators must determine an appropriate, fair and enforceable response. Good judgement is needed to establish best practices.

The OECD, with its wealth of policy experience, has been leading a fact-based policy debate on how to enhance transparency and accountability in lobbying. We have reviewed lessons learned from legislation, government regulations and also self-regulations by lobbyists. And to be sure, OECD countries are taking action.

Some are implementing legislation and government regulations, notably in Australia, Canada, France, Hungary, Poland, the UK and the US. Recently, both houses of the French parliament issued codes of conduct for lobbyists and launched registers. The European Commission also recently strengthened its regulations on lobbying. Israel, an OECD accession candidate country, recently amended its legislation too, while Slovenia is debating changes.

Several OECD countries are at bill stage or are taking action in parliament, including the Czech Republic, Korea, Italy, Mexico, Norway and the Slovak Republic.

Self-regulation by lobbyists themselves is also on the rise: lobbying brings benefits, so best not to abuse it and lose it, seems to be the view. In other words, transparency is in everyone's interests.

An OECD survey of lobbyists shows that 76% agreed that transparency would

help alleviate the negative perception of inappropriate influence-peddling. Moreover, 61% of surveyed lobbyists would welcome mandatory disclosure of their activities.

To help address these concerns, OECD members have recently adopted a recommendation based on a set of 10 principles as guidance to decision-makers on how to promote good governance in lobbying. Particularly in the context of the current crisis and for countries that are rewriting regulations for entire sectors,

Some 61% of surveyed lobbyists would welcome mandatory disclosure of their activities

these principles will help rebuild trust, promote a level playing field for business and avoid potential hijacking by vocal interest groups.

The principles **support transparency**, for instance. This means decision-makers should know who the lobbyists are, and be prepared to disclose their names, objectives, clients and funding sources by keeping an up-to-date register. The US and Canada have long kept registers of lobbyists and encourage regular disclosure of lobbying activities both at the federal and sub-national levels. Other countries have acted more recently, such as Hungary, where the 2006 Act of Lobbying Activities now requires lobbyists to register with the justice authorities and to submit quarterly reports on their activities. In the same year, Poland also passed a lobbying law to promote registration and transparency.

Policymakers should use the principles to **foster integrity** by providing guidelines on expected standards of behaviour of public officials and lobbyists. They should take action to prevent conflicts of interest, protect confidential information and prevent the revolving-door phenomenon, whereby public officials work in client firms and then return to the public sector

again, bringing not so much expertise as insider information. France adopted rules of transparency and ethics for interest representatives in its lower house of parliament in July 2009, which includes a code that lobbyists must comply with. The French senate adopted a similar code in October 2009.

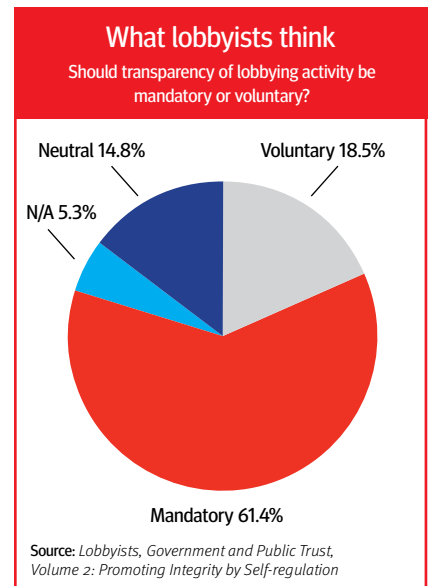
The OECD principles also encourage use of innovative technologies to **assure compliance**, transparency and enforcement. Canada and the US now use data systems for online search, transparency and disclosure.

To be fair, lobbyists do not always have to rely on government to oversee their trade. Compliance with codes of conduct can be achieved through self-regulation and with disciplinary procedures for violations. In Sweden and Ireland, for example, sanctions range from reprimand to expulsion from the professional associations.

The principles offer a menu of policy and regulatory options for decision-makers, ranging from legislation and government regulations to self-regulation. Each country can adopt the policies or regulations most suited to its needs.

The OECD principles on lobbying provide guidance to decision-makers at all levels of government and at both national and sub-national levels. They support the involvement of the private sector and civil society too. This underlines one of the essential thrusts of the new OECD principles, which is to encourage policymakers to **level the playing field** by dealing fairly and even-handedly with all interested stakeholders, and not just those with finance, in the democratic law-making process.

The new lobbying principles are now attracting attention in high-level global policy fora, and have been promoted in the OECD competition forums, the NATO assembly, and others. Our experts are actively involved in discussions on how



to establish and review rules, policies and practices to foster transparency and integrity in all member and partner countries. We are also reviewing how lobby regulations function in particular contexts, while continuing to compile the global evidence and data needed to reinforce good decision-making.

Remember that the new OECD principles are not an anti-lobbying tool. Indeed, several countries that have improved transparency have not visibly reduced lobbying. Rather, the aim is to improve lobbying practices as part of the drive to foster open governance and restore public trust in markets and democracy. The OECD principles are a vital component in this effort to make the world economy stronger, cleaner and fairer.

#### References

OECD (2009), *Lobbyists, Government and Public Trust, Volume 1: Enhancing Transparency through Legislation*, Paris.

OECD (2010) *Lobbyists, Government and Public Trust, Volume 2: Promoting Integrity through Self-Regulation*, Paris (forthcoming).

Visit [www.oecd.org/gov/ethics/lobbying](http://www.oecd.org/gov/ethics/lobbying)

# LOBBY REGULATION, TRANSPARENCY AND DEMOCRATIC GOVERNANCE IN LATIN AMERICA

Luiz Alberto dos Santos<sup>1</sup>

Latin America has been considered an outstanding case of endemic corruption. Surveys from institutions as Transparency International and Latinobarometer demonstrate that Latin American citizens perceive a high degree of corruption and undue influence in the decision-making process. Media and common sense always link lobbying with corruption or influence traffick, setting a perception that special interests are illegitimate, despite the fact that lobbying regulation is generally recognized as an important aspect of good governance (OECD, 2007: 17).

In this context, the virtuous role of interest groups as source of up to date information, or even the democratic requisite of a pluralist approach to public decision-making are often ignored as reasons to justify regulation. That is when citizens acquire a new level of awareness of the importance of transparency in general, and over lobbying activities specially, in order to tackle corruption (Caldas & Pereira, 2007: 73).

In February, 2010, OECD Council (OECD, 2010) approved the recommendation on principles for transparency and integrity in lobbying. In short, the OECD recommends that in order to meet public expectations for transparency and integrity, countries must adopt lobby regulations, defining lobby as “the oral or written communication with a public official to influence legislation, policy or administrative decisions”, often focuses on the legislative branch but that also takes place in the executive branch. One of the objectives of the regulation is to gain balanced perspectives on issues and lead to informed policy debate and formulation of effective policies, and allow all stakeholders, from the private sector and the public at large, fair and equitable access to participate in the development of public policies, that is crucial to protect the integrity of decisions and to safeguard the public interest by counterbalancing vocal vested interests.

Lobbying regulation is now a current challenge for policy-makers due to wide range of issues involved and the high expectations generated. Besides that, a political choice must be made in terms of the form, scope, content and instruments of the regulatory schemes according to its objectives.

In Chile, the Congress came to a decision in 2008 approving a bill under discussions for two years. With the inauguration of President Sebastian Piñera in 2010, the issue was reintroduced in the agenda. In January 2012, the government announced a new bill of law to be sent to Congress before July 2012, as part of the “Transparency Agenda”, in order do enhance citizen participation and transparency, and following the Bill of Law on Probity in Public Administration, sent to Congress in April 2011.

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In Argentina, in 1999, President de La Rúa established an Anticorruption Office. In December 2003, President Néstor Kirchner signed the Decree 1172/2003 aiming the “improvement of the quality of democracy and its institutions” (Johnson, 2008:90). The Decree regulates the right to participate in the policy-making process and, in order to guarantee the capacity of the public to do it properly, it stresses the relevance of ‘public information access’. This initiative represents an important movement made by the Argentinean government to reduce opportunities for corruption and influence trafficking. However, there is a long way for Argentinean democratic institutions to obtain sound results in terms of corruption perception among the public.

Peru was the first country in Latin America to have a law regulating lobbying. Since 2003, Law n° 28024 – the “Law on Interests Management in the Public Administration” - has established instruments and obligations as an attempt to bring more transparency to the Peruvian decision-making process, both at the Executive and the Legislative, in every layer of government. Some experts argue, though, that the Peruvian legislation is, itself, a barrier to its effectiveness: it is so comprehensive that avoids the formalization of lobby in Peru, what puts the need to simplify the requirements to justify lobby contacts (RPP, 2011) (Comisión, 2010).

In Brazil, there is not a specific legislation regulating lobbying. However, there are several rules that indirectly reach lobbyists. As far as the legislative procedure is concerned, Brazilian Federal Constitution states that the parliament committees are supposed to promote public audiences with civil society organizations. There is also, at the Legislative Branch, an internal code edited by the Low Chamber, requiring the registration of representatives of the Government and civil society. It was never enforced though. In 2007, only 146 entities had registered their representatives, most of them from the government (Santos, 2008: 416).

In the Executive Power, legislation and Presidential Decrees provide the rules for public consultation. The Presidential Decree 2.176/2001 permits the Civil House of the Presidency, the coordination body at the center of government, to decide about the submission for broad consultation to the public the drafts of proposed legislation of special political or social significance, in order to receive suggestions and contributions from public and private organizations, entities and persons.

In 1999, the Executive launched a self-regulatory code, forbidding the acceptance of gifts or hospitality, ensuring that any conflict of interest is informed, and other measures fostering the impartiality and transparency of public decision-making. Other Executive orders came afterwards, essentially dealing with proceedings within the Executive Branch to avoid ‘revolving doors’ and other inequities of lobbying activities. Congress has recently approved a bill of law that, starting on May 2013, will reframe entirely the conflict of interests regulation, increasing and expanding “cooling off” prescriptions.

Finally, it is important to mention that, historically, Latin American countries have imported institutions from different social and political contexts, not taking into account the changes and adaptations required to make them suitable to the new environment. Such mimetic institutional isomorphism is often a major cause for the failure of Latin American institutions in delivering their expected outcomes. In other words, results are yet to be seen and will be probably different according to

each local reality, since there is not a unique formula for all. Indeed, as far as lobbying regulation is concerned, and OECD stresses (OECD, 2007), no one size fits all.

Lobbying regulations bring better results when lying in a wider regulatory framework for good governance, such as rules for electoral financing, information disclosure and other measures concerning transparency and openness of decision-making process, including open access to the schedule of public agents (OECD, 2008: 19). Simple practices could sensibly improve the level of transparency and access of public decision making. For instance, any public meeting, whether in parliament committees or in executive agencies, should have their agenda disclosed, at least 24 hours in advance.

Regulation of lobby is pointed out by scholars as a symbolic indicator of governmental reaction against irregular behaviour (Lowery & Gray, 1997). Besides that, it can be said that it is a positive contribution to increase transparency. In transparent public decision-making settings, private interests are clearly identified and might be taken into account, though the strategies and resources of their advocates are necessarily revealed.

Furthermore, any regulation that respects Latin American local political culture must take into account, among other aspects, that lobbying is not appraised in the region as an inherent part of democracy. A public campaign to restore the image of lobbying must be launched. Indeed, lobbying must be controlled, not forbidden.

Considering the differences between the countries of the region, it is expected that especially Brazil, Argentina, Peru and Chile will have expressive gains developing and enforcing their regulatory framework for lobbying activities and transparency. Indeed, there will be positive gains on corruption perception and also on economic efficiency due to the reduction of transaction costs that often result from deceitful decision-making.

Finally, lobbying regulation schemes face great risks of distortion that must be avoided. First, regulations must not turn lobbyists into malign characters that must be hunted in the name of democracy. Second, there is a tendency in Latin America to build up bureaucratic controls that serve only as another barrier for public participation. Every initiative in the region must be designed taking these precautions. Otherwise, regulations will be utterly ineffective.

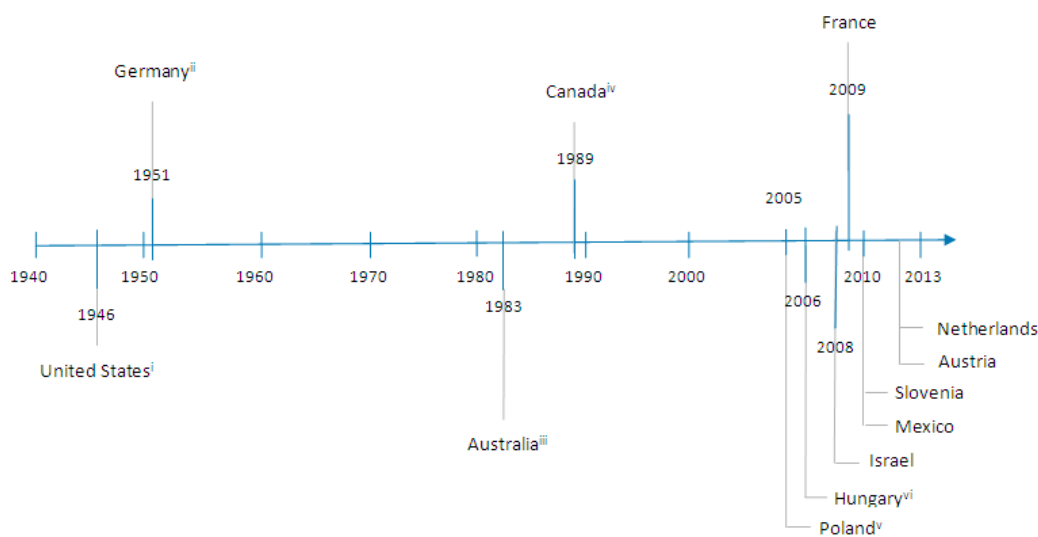
In the Brazilian case, the recent approval and implementation of the Law of Access to Information stresses the importance of lobby regulation by a piece of legislation constructed after the congressional debates and over premises and contributions for other's countries experiences, and as a result of a broad process of public debate and engagement of civil society and the press. This regulation must introduce a system of registration, monitoring and publicization of lobby activities fully functional and adjusted to the reality of the public administration and of the vested interests, citizen, civil society organizations and individuals in the policymaking process, avoiding bureaucratic requirements that can pose excessive barriers to the right of petition, freedom of expression or right of association, specially to those with less economical resources and, as a consequence, reduce the right of participation in public decision making.



## Regulations and Codes of Conduct on Lobbying in OECD countries

### Timeline of lobbying regulations

Even though lobbying is a global practice, only about a third of OECD members have introduced government regulations and legislation, but this situation appears to be changing. In recent years, countries have increasingly opted for regulation.



<sup>i</sup> The Federal Regulation of Lobbying Act of 1946 was replaced in 1995 by the Lobbying Disclosure Act

<sup>ii</sup> Lobbying was first regulated through Article 73 of the Rules of Procedure of the German Bundestag in 1951.

<sup>iii</sup> Lobbying was first regulated in Australia through the Lobbyist Registration Scheme of 1983, but the scheme was abolished in 1996. The current Lobbying Code of Conduct that also established a lobbyist registry was introduced in 2008.

<sup>iv</sup> The *Lobbyists Registration Act* of 1989 has been amended several times and was in 2008 renamed the *Lobbying Act*.

<sup>v</sup> The Act on Legislative and Regulatory Lobbying was passed by the Sejm (Lower House of Parliament) in July 2005. The Act was amended in 2011.

<sup>vi</sup> Hungary introduced the Act XLIX of 2006 on Lobbying Activities however repealed it in 2011, introducing the Government regulation of the integrity management system of state administration bodies and lobbyists (Magyar Közlöny 30. Szám (2013. február 25.) 50/2013. (II. 25.) Korm. rendelet) in February 2013.

# **TOOLKIT FOR INTEGRITY**

**MAY 2012**

## 5. Public sector integrity: providing services efficiently

The global crisis and its aftermath have seriously challenged the relationship between citizens and government. Efforts to strengthen public institutions need to be comprehensive and multi-faceted. In this context fostering transparency and integrity in the public sector and in its interactions with other stakeholders is essential to re-establish public trust in government and lay the foundations for long-term sustainable growth.

Promoting a culture of integrity requires coherent efforts to define expected standards of conduct, provide guidance and incentives, as well as monitor them in daily practice to ensure compliance. It also calls for pro-active efforts of governments to anticipate risks to integrity, identify sources of corruption and apply tailored countermeasures. Last but not least transparency is increasingly used as an instrument to foster accountability and control in relation to government functioning and processes to reinforce public trust.

Drawing on good practice from OECD and G20 economies, the OECD has developed OECD Recommendations to help governments ensure that openness and integrity translate into concrete improvements in key government activities. Key instruments include in particular:

- The Principles for Improving Ethical Conduct in the Public Service
- The Guidelines for Managing Conflict of Interest in the Public Service and the Post-Public Employment Principles
- The Guiding Principles for Open and Inclusive Policy Making

These instruments provide guidance for countries to implement international standards against corruption within the public sector in line with international good practice. They also support governments in the implementation of commitments in the framework of the Open Government Partnership in relation to corruption prevention. OECD instruments on public sector integrity are complementary to the work of the OECD on the “supply side” of bribery that is

carried under the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

To be effective efforts to promote transparency and integrity in the public sector need to be embedded in stable regulations that promote a level playing field for all stakeholders. OECD has a number of instruments to guide governments in these areas, such as the 2012 Principles for Regulatory Quality and Performance as well as the 2010 Principles for Transparency and Integrity in Lobbying, which can be found in the respective chapters of the Toolkit.

Also public sector integrity efforts will only be effective if they are supported by sound public governance conditions, such as transparent financial management, sound public procurement and merit-based human resource management. OECD has also developed instruments in these areas, in particular the Principles for Integrity in Public Procurement as well as the Best Practices for Budget Transparency which are presented in other pillars of the Toolkit.

## Priority checklist

1. Enabling environment - Do political leaders demonstrate high standards of propriety in the discharge of their official duties?
2. Integrity standards - Do public officials know the fundamental values of the public service and standards of conduct to apply in their daily work?
3. Risk mapping - Have risks to integrity been identified in key government activities and were countermeasures developed to manage these risks?
4. Controls - Are effective internal control mechanisms in place and are they closely coordinated with external controls to avoid loopholes?
5. Openness – Are mechanisms in place to enable civil society organisations, media and the wider public to scrutinise government actions?

## Implementation guidance

This guidance helps governments in addressing vulnerabilities to corruption as well as to assessing the implementation deficit of integrity measures in individual public organisations.

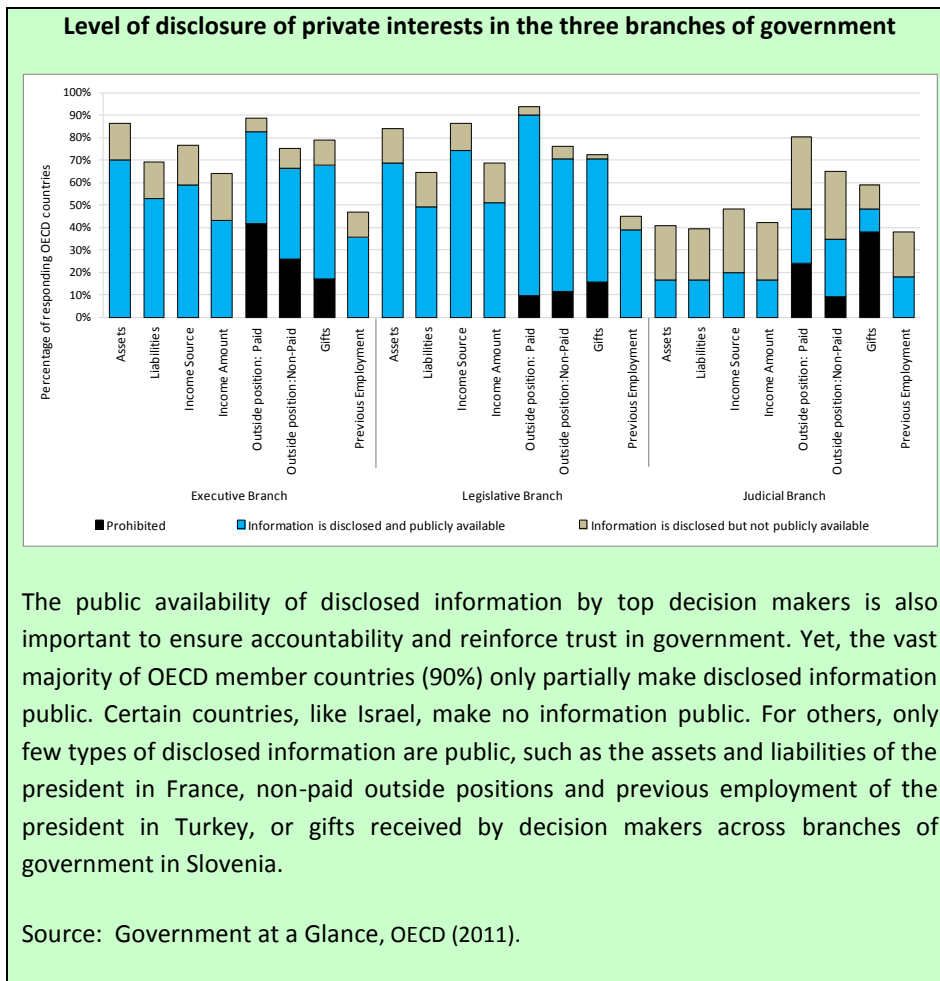
### 1. Enabling environment- Do political leaders demonstrate high standards of propriety in the discharge of their official duties?

Political leaders are responsible for maintaining a high standard of propriety in the discharge of their official duties. In particular they need to lead by example in the management of their private interests to prevent conflict of interest and demonstrate to the public that they are impartial stewards of the public interest. For example the public disclosure of private interests by political leaders contributes to fostering openness and maintaining public trust. Both political leaders and managers in individual public organisations play an important role model for other public officials by demonstrating what the expected standard is in their daily professional conduct.

Moreover, politicians should demonstrate their commitment not only by their personal example but also by taking action, for instance by creating legislative and institutional arrangements that promote a culture of integrity in government and create sanctions against wrongdoing. For example, to promote transparency in political financing many OECD countries regulate private funding to safeguard the independence of political parties. Also, political leaders need to 'walk the talk' by providing adequate support and budget for anti-corruption activities.

#### **Disclosure of private interests by top decision makers in government**

In OECD member countries, the disclosure of private interests by top decision makers is a common practice. The level of disclosure in the executive and legislative branches is comparably high relative to disclosure requirements in the judiciary. For example, top decision makers within the executive and legislature are required to disclose private assets in 81% and 87% of OECD countries, respectively. For officials working in the judiciary, however, only 42% of countries require the same. In some countries such as Hungary and Korea certain family members of top decision makers are also required to file separate disclosure statements. Paid outside positions are the most regulated private interests across the three branches of government.



## 2. Integrity standards – Do public officials know the fundamental values of the public service and standards of conduct to apply in their daily work?

Public officials need to know the fundamental values of the public service and the standards of conduct they are expected to apply to their work, including where the boundaries for acceptable behavior lie.

In particular a concise statement of standards of conduct expected of public officials, for example in the form of a code of conduct, helps create a common understanding within the government and the wider public. Also an increasing number of countries have developed specific conflict-of-interest standards, in line with the approach of the OECD *Guidelines for Managing Conflict of Interest in the*

*Public Service.* Experience of OECD countries shows the importance of the process of developing the code to ensure the implementation of standards of conduct.

Also, these standards of conduct should be embedded in laws to provide a comprehensive framework for corruption prevention, whistle blowing, investigation, and enforcement (e.g. for disciplinary action).

Guidance and internal consultation mechanisms help public officials apply basic standards of conduct in the workplace, for example when confronted with conflict-of-interest situations (e.g. receipt of a gift, validation before taking on additional employment). For example counseling and integrity training develop the capacity of public officials to resolve integrity dilemmas and ensure that their decisions are not biased by private interests. Also, public officials should know their rights and obligations in terms of exposing potential wrongdoing within the public service.

#### **Codes of conduct in Austria and Canada**

In Austria the 2008 Code of Conduct for the Civil Service was drawn up by a working group consisting of experts from ministries, highest offices and from regional and local authorities based on applicable law for all public sector employees (federal, local, municipal level). In order to ensure the comprehensive implementation of the Code, a special training programme based on a multi-level training approach was set up by the Federal Administrative Academy.

In Canada the Values and Ethics Code for the Public Sector sets forth the values and ethics of public service to guide and support public servants in all their professional activities. It also defines conflict of interest and post-employment measures. All federal public sector employees are required to adhere to the Code as a term and condition of employment. The code, which came into force in April 2012, applies to the entire public sector, which includes separate employers and parent Crown corporations. The Treasury Board of Canada Secretariat has also developed a separate Policy on Conflict of Interest and Post-Employment to complement the Public Sector Code.

Source: OECD Joint Learning Study: Implementing a Code of Conduct for the Public Sector in Jordan, OECD (2010).

### **3. Risk mapping – Have risks to integrity been identified in key government activities and were countermeasures developed to manage these risks?**

Promoting a culture of integrity requires to anticipate risks to integrity, identify sources of corruption and apply tailored countermeasures. Governments can map out risks to integrity in relation to specific government activities or positions with a view to strengthening the organisational resilience in response to integrity violations. The breaking down of barriers between public and private sectors has also created new risks to integrity, for example in the movement of personnel between the public and private sectors or in new forms of cooperation between the government and other actors such as public/private partnerships, contracting out, co-production or sponsorships.

Preventing risks to integrity is particularly important for good governance. In particular ensuring that the integrity of government decision-making is not compromised by public officials' private interests is a growing public concern. Accordingly governments have increasingly developed countermeasures to prevent conflict of interest in the public service. For example many governments have introduced a cooling-off period for public officials before taking on certain types of new employment outside the public service, which may create a conflict of interest. Also some governments have introduced specific restrictions in the form of incompatibilities (e.g. prohibition to cumulate different positions).



### Mapping out vulnerability to integrity breaches in the Netherlands

The Netherlands Court of Audit in co-operation with the Ministry of the Interior and the Bureau of Integrity of the City of Amsterdam have developed the Self-Assessment Integrity (SAINT) tool. SAINT is a self-diagnosis tool to help public organisations assess their vulnerability to integrity violations and resilience in response to those violations.

SAINT also yields recommendations on how to improve integrity management. Under the expert leadership of a trained moderator, the participants formulate recommendations for their own organisation. The report explains to management where urgent measures must be taken to strengthen the organisation's resilience in response to integrity violations. Participants assess the maturity of the integrity measures that together form the organisation's integrity management system:



Source : Benner, H. and I. de Haan (2008), "SAINT: A Tool to Assess the Integrity of Public Sector Organisations," *International Journal of Government Auditing*, April 2008, [www.intosajournal.org/pdf/april2008.pdf](http://www.intosajournal.org/pdf/april2008.pdf).

#### 4. Controls - Are effective internal control mechanisms in place and are they closely coordinated with external controls to avoid loopholes?

Internal controls provide a reasonable assurance that public organisations deliver quality services in an efficient manner, in accordance with planned outcomes, safeguard public resources against waste; maintain reliable financial and management information; and comply with applicable legislation. Internal controls can be effective to prevent corruption provided that there a number of guarantees in place to ensure the independence of internal audit, including the adequate capability of internal auditors (see box below).

At level of the individual public organisation a clear chain of responsibility is key for defining the authority for approval, based on an appropriate segregation of duties, as well as the obligations for internal reporting. In case of delegated authority it is important to explicitly define the delegation of power of signature, the acknowledgement of responsibility and the obligation for signature. Also it is imperative to track decisions with adequate records in writing or through electronic means. Without adequate records there is no trail to audit or enable public scrutiny.

##### **Real-time transparency of budget execution in Brazil**

The OECD carried out a survey in 73 ministries from 12 countries in 2010, which drew lessons on how internal control and audit can effectively help prevent corruption. The following conditions were identified, notably:

- A clear reporting line to highest authority is a key factor in guaranteeing the independence of internal audit;
- The formulation of what is meant by an “internal control framework” – e.g. avoiding the predominant focus on financial controls over other internal controls;
- The role of periodic reporting to management to enhance the prevention and detection of fraud and corruption; and
- Adequate professional capability of internal auditors, including raising their awareness of issues of fraud and corruption.

Source: Report on Internal Control and Internal Audit: Ensuring Public Sector Integrity and Accountability, OECD (2011).

Internal controls shall be proportionate to the risks involved. For example, depending on the level of risk, a system of multiple level review for specific matters, rather than a single individual with sole authority over decision making, can help introduce a level of independent verification. Also internal and external controls should be carefully coordinated to avoid loopholes. A systematic exchange of information between internal and external controls could be encouraged to maximize the use of information produced by the various controls. For examples when developing red flag indicators in public procurement processes these should developed jointly by internal and external controllers.

#### **5. Openness – Are mechanisms in place to enable civil society organisations, media and the wider public to scrutinise government actions?**

Open policy-making increases government accountability, prevents corruption and fosters public trust. An access to information law is a fundamental condition to provide civil society organisations, media, businesses, end-users and the wider public with the information they need to oversee and evaluate government decision making and public policies.

Experience in OECD countries shows that fundamental conditions need to be in place to enable effective access to information that is clear, understandable and easy to use. These include:

- Defining the scope of legislation on free access to information, especially with regard to the range of beneficiaries and the right to know;
- Circumscribing the discretion of the administration in deciding about the exceptions to the general principle of free access;
- Promoting the regular publishing of clear, understandable and easy to use information that may be of interest to a large number of individuals without harming relevant public or private interests;
- Setting up an independent and effective system of review over decisions refusing access to information through the set of administrative bodies such as information commissioners.

Public engagement can also create a shared responsibility for service delivery and a shared role for enhancing integrity. In particular the involvement of internal and

external stakeholders in the development of anti-corruption laws, policies or initiatives contributes not only to improving public awareness about the importance of integrity standards but also facilitates their implementation.

Government are increasingly working with civil society and private sectors to deliver “targeted” transparency – i.e. increasing the availability of and access to socially useful and focused information to the public (e.g. energy, health, social care, food safety). Also information can be made available on processes that are vulnerable to corruption in order to enable public scrutiny. For example e-procurement can be used as by potential suppliers an instrument to scrutinize the contract management, especially when there are substantial amendments to the contract. Also, an increasing number of countries are putting on-line information on real time execution of the budget.

### **Real-time transparency of budget execution in Brazil**

The OECD review of the public integrity system in Brazil in 2009 highlighted the pioneer role of the government of Brazil in promoting open policy-making. Brazil has taken innovative steps to promote transparency and citizens’ engagement, including the set up of a Transparency Portal of the Federal Public Administration.

The Transparency Portal of the Federal Public Administration ([www.portaldatransparencia.gov.br](http://www.portaldatransparencia.gov.br)) was created in November 2004 to provide free real time access to information on budget execution, as a basis to support direct monitoring of federal government programmes by citizens. Access to the Transparency Portal is available without registration or password. Data are automatically extracted and published on the portal from existing information systems of the federal public administration, removing the need for any specific actions by federal public organisations to publish information. Since May 2010, revenue and expenditure data available through the Transparency Portal is updated daily. Citizens’ use of the portal has grown since its launch from approximately 700 000 hits per month to approximately 2.3 million hits per month, with the number of users growing from approximately 10 000 per month to 230 000 per month. The Transparency Portal has received international recognition.

Source: OECD (2012), OECD Public Governance Review, OECD Integrity Review of Brazil: Managing Risks for a Cleaner Public Service

### **Integrity Reviews**

For an in-depth and independent assessment countries can request public sector integrity reviews based on international good practice. Integrity reviews systematically assess the functioning of corruption prevention measures within a government. The methodology for peer reviews involves the participation of lead-practitioners from OECD countries to facilitate benchmarking against other countries and identify a range of options for policy improvements. The G20 leaders have identified OECD Integrity reviews as a key methodology to help governments mitigate risks of waste and corruption. The OECD has carried out integrity reviews in various contexts, including in OECD (e.g. Italy), G20 (e.g. Brazil) and non-member countries (e.g. Jordan). The focus of a review is determined jointly with the country and is tailored to meet its specific needs and requirements.

## 9. Lobbying: influencing decision making with transparency and integrity

Private interests seeking to influence government decisions, legislation or the award of contracts is part of the policy-making process in modern democracies. Lobbying can improve government decisions by providing valuable insights and data.

Yet, lobbying can also lead to unfair advantages for vocal vested interests if the process is opaque and standards are lax. The interests of the community are at risk when negotiations are carried out behind closed doors. Moreover, informed voices have argued that recent economic crises were caused, partly, by the influence of specific interests on government decision-making. For example, an IMF working paper published in 2009 links intensive lobbying by the financial, insurance and real estate industries in the United States with high-risk lending practices.<sup>5</sup> The paper concludes that “the prevention of future crises might require weakening political influence of the financial industry or closer monitoring of lobbying activities to understand the incentives behind better.”

In addition, data is increasingly available to show the rising number of lobbyists and their annual spending. For example, almost 5 000 lobbyists are registered at the European Commission and Parliament and there are an estimated 15 000 lobbyists active in Brussels.<sup>6</sup> In the United States lobbying spending more than doubled between 1998 and 2011, increasing from USD 1.44 billion to USD 3.30 billion.<sup>7</sup> In view of the downside risks of lobbying and the impressive mobilisation of private resources, public pressure is rising worldwide to put lobbying regulations on the political agenda. Transparency, integrity and fairness in the

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<sup>5</sup> Igan et al, *A Fistful of Dollars: Lobbying and the Financial Crisis*, IMF Working Paper, 2009. See also OECD Transparency and Integrity in Lobbying.

<sup>6</sup> Access to the registries for both the European Commission and the European Parliament, [http://europa.eu/transparency-register/index\\_en.htm](http://europa.eu/transparency-register/index_en.htm).

<sup>7</sup> Center for Responsive Politics.

decision-making process are crucial to safeguard the public interest and promote a level playing field for businesses.

To help address these concerns, OECD member countries have adopted a Recommendation with Principles for Transparency and Integrity in Lobbying as guidance to decision-makers on how to promote good governance in lobbying. Public officials and lobbyists share responsibility to apply the principles of good governance, in particular transparency and integrity, in order to maintain confidence in public decisions.

### Priority checklist

1. Do all stakeholders have **fair and equitable access** to the development and implementation of public policies?
2. Do **rules and guidelines on lobbying** respect the socio-political and administrative context?
3. Are the rules and guidelines on lobbying **consistent with the wider policy and regulatory frameworks**?
4. Are the terms **“lobbying” and “lobbyist”** clearly defined in the rules and guidelines on lobbying?
5. Is sufficient **information on lobbying activities publicly available**?
6. Can lobbying activities be **scrutinised by stakeholders**?
7. Are there **clear rules and guidelines of conduct for public officials** on how to engage with lobbyists?
8. Do lobbyists comply with **standards of professionalism and transparency**?
9. Is there a coherent spectrum of **strategies and practices to ensure compliance** with rules on lobbying?
10. Is the functioning of rules and guidelines on lobbying periodically **reviewed** to ensure compliance?

## Implementation guidance

### 1. Do all stakeholders have fair and equitable access to the development and implementation of public policies?

Public officials should preserve the benefits of the free flow of information and facilitate public engagement. Gaining balanced perspectives on issues leads to informed policy debate and formulation of effective policies.

Allowing all stakeholders, from the private sector and the public at large, fair and equitable access to participate in the development of public policies is crucial to protect the integrity of decisions and to safeguard the public interest by counterbalancing vocal vested interests. To foster citizens' trust in public decision making, public officials should promote fair and equitable representation of business and societal interests. It is important to find the right balance between regulating lobbying and ensuring that the right to lobbying is not reduced and that access to the development of public policies is increased.

#### **Australia: Citizen summits help shape long-term strategy**

The Australian Government hosted the Australia 2020 Summit over the weekend of 18-19 April 2008. The Summit enabled the Australian Government to engage with 1 000 Australians to harness ideas and help shape a long-term strategy for the nation's future and to tackle the long-term challenges confronting Australia by thinking in new ways. The Summit was supplemented by over 500 local summits throughout Australia, a national Youth Summit, and almost 8 800 public submissions. The need to have a greater focus on the citizen in the delivery of government services was considered a priority at the 2020 Summit (For more information see: [www.australia2020.gov.au](http://www.australia2020.gov.au)).

*Source:* OECD Studies on Public Engagement, Focus on Citizens: Public Engagement for Better Policy and Services, 2009.

### 2. Do rules and guidelines on lobbying respect the socio-political and administrative context?

Countries should weigh all available regulatory and policy options to select an appropriate solution that addresses key concerns such as accessibility and integrity, and takes into account the national context, for example the level of



public trust and measures necessary to achieve compliance. Countries should particularly consider constitutional principles and established democratic practices, such as public hearings or institutionalised consultation processes.

Countries should not directly replicate rules and guidelines from one jurisdiction to another. Instead, they should assess the potential and limitations of various policy and regulatory options and apply the lessons learned in other systems to their own context. Countries should also consider the scale and nature of the lobbying industry within their jurisdictions, for example where supply and demand for professional lobbying is limited, alternative options to mandatory regulation for enhancing transparency, accountability and integrity in public life should be contemplated. Where countries do opt for mandatory regulation, they should consider the administrative burden of compliance to ensure that it does not become an impediment to fair and equitable access to government.

### **3. Are the rules and guidelines on lobbying consistent with the wider policy and regulatory frameworks?**

Effective rules and guidelines for transparency and integrity in lobbying should be an integral part of the wider policy and regulatory framework that sets the standards for good public governance. Countries should take into account how the regulatory and policy framework already in place can support a culture of transparency and integrity in lobbying. This includes stakeholder engagement through public consultation and participation, the right to petition government, freedom of information legislation, rules on political parties and election campaign financing, codes of conduct for public officials and lobbyists, mechanisms for keeping regulatory and supervisory authorities accountable and effective provisions against illicit influencing.

### **4. Are the terms “lobbying” and “lobbyist” clearly defined in the rules and guidelines on lobbying?**

Definitions of 'lobbying' and 'lobbyists' should be robust, comprehensive and sufficiently explicit to avoid misinterpretation and to prevent loopholes. In defining the scope of lobbying activities, it is necessary to balance the diversity of lobbying entities, their capacities and resources, with the measures to enhance transparency. Rules and guidelines should primarily target those who receive compensation for carrying out lobbying activities, such as consultant lobbyists and in-house lobbyists. However, definition of lobbying activities should also be

considered more broadly and inclusively to provide a level playing field for interest groups, whether business or not-for-profit entities, which aim to influence public decisions.

Definitions should also clearly specify the type of communications with public officials that are not considered 'lobbying' under the rules and guidelines. These include, for example, communication that is already on public record – such as formal presentations to legislative committees, public hearings and established consultation mechanisms.

### **A clear definition of lobbyist and lobbying**

In the United States, the Lobbying Disclosure Act of 1995 provides the following definition of “lobbyist”:

- Makes more than one lobbying contact with a covered official;
- Receives financial or other compensation for services that include more than one lobbying contact;
- Spends at least 20% of work time per client or employer on lobbying activities.

“Lobbying activities” are defined as “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.”

The Australian Lobbying Code of Conduct also provides for a clear definition of lobbyists with a detailed description of those not considered lobbyists:

“Lobbyist” means any person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client, but does not include:

- (a) charitable, religious and other organisations or funds that are endorsed as deductible gift recipients;
- (b) non-profit associations or organisations constituted to represent the interests of their members that are not endorsed as deductible gift recipients;
- (c) individuals making representations on behalf of relatives or friends about their personal affairs;
- (d) members of trade delegations visiting Australia;

(e) persons who are registered under an Australian Government scheme regulating the activities of members of that profession, such as registered tax agents, customs brokers, company auditors and liquidators, provided that their dealings with Government representatives are part of the normal day to day work of people in that profession; and

(f) members of professions, such as doctors, lawyers or accountants, and other service providers, who make occasional representations to Government on behalf of others in a way that is incidental to the provision to them of their professional or other services. However, if a significant or regular part of the services offered by a person employed or engaged by a firm of lawyers, doctors, accountants or other service providers involves lobbying activities on behalf of clients of that firm, the firm and the person offering those services must register and identify the clients for whom they carry out lobbying activities.

For the avoidance of doubt, this Code does not apply to any person, company or organisation, or the employees of such company or organisation, engaging in lobbying activities on their own behalf rather than for a client, and does not require any such person, company or organisation to be recorded in the Register of Lobbyists unless that person, company or organisation or its employees also engage in lobbying activities on behalf of a client or clients.

*Source:* United States Lobbying Disclosure Act of 1995 and Australian Lobbying Code of Conduct.

## 5. Is sufficient information on lobbying activities publicly available?

Disclosure of lobbying activities should provide sufficient and pertinent information on key aspects of lobbying activities to enable public scrutiny. It should be carefully balanced with considerations of legitimate exemptions, in particular the need to preserve confidential information in the public interest or to protect market-sensitive information when necessary.

Core disclosure requirements elicit information on in-house and consultant lobbyists, capture the objective of lobbying activity, identify its beneficiaries, in particular the ordering party, and point to those public offices that are its targets. Any supplementary disclosure requirements should take into consideration the legitimate information needs of key players in the public decision-making process. Supplementary disclosure requirements might shed light on where lobbying pressures and funding come from. Voluntary disclosure may involve social responsibility considerations about a business entity's participation in public

policy development and lobbying. To adequately serve the public interest, disclosure on lobbying activities and lobbyists should be stored in a publicly available register and should be updated in a timely manner in order to provide accurate information that allows effective analysis by public officials, citizens and businesses.

### **Lobbying Information Publicly Available in Canada**

The Canadian Lobbyists Registration Act requires all lobbyists to disclose certain information within time limits specified in the Act. This information includes:

- the names of their clients, or corporate or organisational employers;
- the names of the parent or subsidiary companies that would benefit from the organisational members of coalition groups;
- the specific subject matters lobbied;
- the names of the federal departments or agencies contacted;
- the sources and amounts of any government funding received; and
- the communication techniques used, such as meetings, the lobbying activity;
- the name or description of the specific legislative proposals, bills, regulations;
- policies, programmes, grants, contributions or contracts sought;
- the names of the federal departments or other governmental institutions lobbied;
- the source and amount of any government funding; and
- the communication techniques used, such as grassroots lobbying.

*Source:* Canada, the Lobbyists Registration Act, as amended in 1995 and 2005.

## 6. Can lobbying activities be scrutinised by stakeholders?

The public has a right to know how public institutions and public officials made their decisions, including, where appropriate, who lobbied on relevant issues. Countries should consider using information and communication technologies, such as the Internet, to make information accessible to the public in a cost-effective manner. A vibrant civil society that includes observers, 'watchdogs', representative citizens groups and independent media is key to ensuring proper scrutiny of lobbying activities. Governments should also consider facilitating public scrutiny by indicating who has sought to influence legislative or policy-making processes, for example by disclosing a 'legislative footprint' that indicates the lobbyists consulted in the development of legislative initiatives. Ensuring timely access to such information enables the inclusion of diverse views of society and business to provide balanced information in the development and implementation of public decisions.

### Canada's Registry of Lobbyists

The Registry of Lobbyists is the core tool of lobbying transparency in Canada. Registry information collected under the Lobbyist Registration Act and the Lobbyists Registration Regulations is a matter of public record so that information about who is being paid to communicate with federal public office holders is available. Accessible over the Internet ([www.ocl-cal.gr.ca](http://www.ocl-cal.gr.ca)), the Registry is well-known and heavily used by lobbyists, journalists, public office holders, citizens and others.

Anyone may search the Registry for information and produce reports from their own computer. Users can search and retrieve information on:

- who lobbies for which firms, corporations, organisations or associations;
- the parent and subsidiary companies or corporations that may benefit from the lobbying;
- the organisational members of coalition groups;
- the activities that corporations and associations engage in (a general description);
- the government of Canada departments or agencies being contacted;
- the names or descriptions of the specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts

being sought; and

- the positions former public office holders have held with the government of Canada.

Users can also produce their own summary reports on registered lobbyists, as well as copies of individual registration forms, directly from the Registry. It is also possible to access a list of recent registrations that includes all new registrations, amendments and terminations processed within the previous 30 days. Users who search and retrieve the data directly from their own computers may do so free of charge.

*Source:* Office of the Commissioner of Lobbying of Canada, the Registry of Lobbyists.

## **7. Are there clear rules and guidelines of conduct for public officials on how to engage with lobbyists?**

Countries should provide principles, rules, standards and procedures that give public officials clear directions on how they are permitted to engage with lobbyists. Public officials should conduct their communication with lobbyists in line with relevant rules, standards and guidelines in a way that bears the closest public scrutiny. In particular, they should cast no doubt on their impartiality to promote the public interest, share only authorised information and not misuse ‘confidential information’, disclose relevant private interests and avoid conflict of interest. Decision makers should set an example by their personal conduct in their relationship with lobbyists.

Countries should consider establishing restrictions for public officials leaving office in the following situations: to prevent conflict of interest when seeking a new position, to inhibit the misuse of ‘confidential information’, and to avoid post-public service ‘switching sides’ in specific processes in which the former officials were substantially involved. It may be necessary to impose a ‘cooling-off’ period that temporarily restricts former public officials from lobbying their past organisations. Conversely, countries may consider a similar temporary cooling-off period restriction on appointing or hiring a lobbyist to fill a regulatory or an advisory post.

### **Australia: Use of Separate Codes of Conduct for Politicians and Public Servants**

In Australia, post-employment for public servants is covered by the Australian Public Service (APS) Values and Code of Conduct. To assist APS employees in understanding the practical application of the APS Values and Code of Conduct relevant to post-public employment, the APS Values and Code of Conduct in Practice provides a specific chapter on post-separation employment.

For ministerial conduct, the Prime Minister issued Standards of Ministerial Ethics in December 2007 to replace the relevant part of the Prime Minister's Guide on Key Elements of Ministerial Responsibility, last issued in December 1998. This guide did not impose any legal restrictions on ministers' post-public employment activity, but it did provide that "Ministers should not exercise the influence obtained from their public office, or use official information, to gain any improper benefit for themselves or another." The Standards of Ministerial Ethics, however, includes a specific section on "post-ministerial employment" in which:

"Ministers are required to undertake that, for an 18-month period after ceasing to be a minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as minister in their last 18 months in office.

Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a minister, where that information is not generally available to the public.

Ministers shall ensure that their personal conduct is consistent with the dignity, reputation and integrity of the Parliament" (Australian Government, 2007).

In addition to ministers, the Lobbying Code of Conduct, released on 13 May 2008, places restrictions on former members of the APS senior executive service not to "engage in lobbying activities for a 12 month period on any matters on which they have had official dealings as public servants over the last 12 months".

*Source:* APS Values and Code of Conduct in Practice, Standards of Ministerial Ethics, Lobbying Code of Conduct.

## 8. Do lobbyists comply with standards of professionalism and transparency?

Governments and legislators have the primary responsibility for establishing clear standards of conduct for public officials who are lobbied. However, lobbyists and their clients, as the ordering party, also bear an obligation to ensure that they avoid exercising illicit influence and comply with professional standards in their relations with public officials, with other lobbyists and their clients, and with the public.

To maintain trust in public decision making, in-house and consultant lobbyists should also promote principles of good governance. In particular, they should conduct their contact with public officials with integrity and honesty, provide reliable and accurate information, and avoid conflict of interest in relation to both public officials and the clients they represent, for example by not representing conflicting or competing interests.

### **Self-regulation of the lobbying profession in the UK**

Founded in 1948 in London, the Chartered Institute of Public Relations (CIPR) is the leading public relations and lobbying association in Europe, with more than 9 000 individual members.

The CIPR has a highly developed and formalised ethics system for lobbyists and has developed a Code of Professional Conduct to which all members have to pledge adherence to. The Code of Conduct comprises principles that should guide the work of CIPR members, for example maintaining the highest standards of professional integrity and dealing honestly and fairly in business with employers, employees and clients. The Code of Conduct also states fundamental principles of good practice, namely integrity; competence; transparency and avoiding conflict of interest; confidentiality; and maintaining professional standards.

CIPR executive officers may initiate investigation into possible violations of the Code and complaints may be filed against a member for not respecting the Code.

*Source:* Lobbyists, Government and Public Trust, Volume 2: Promoting Integrity Through Self-regulation (forthcoming).



## 9. Is there a coherent spectrum of strategies and practices to ensure compliance with rules on lobbying?

Compliance is a particular challenge when countries address emerging concerns such as transparency in lobbying. Setting clear and enforceable rules and guidelines is necessary, but this alone is insufficient for success. To ensure compliance, and to deter and detect breaches, countries should design and apply a coherent spectrum of strategies and mechanisms, including properly resourced monitoring and enforcement. Mechanisms should raise awareness of expected rules and standards; enhance skills and understanding of how to apply them; and verify disclosures on lobbying and public complaints. Countries should encourage organisational leadership to foster a culture of integrity and openness in public organisations and mandate formal reporting or audit of implementation and compliance. All key actors – in particular public officials, representatives of the lobbying consultancy industry, civil society and independent 'watchdogs' – should be involved both in establishing rules and standards, and putting them into effect. This helps to create a common understanding of expected standards. All elements of the strategies and mechanisms should reinforce each other; this co-ordination will help to achieve the overall objectives of enhancing transparency and integrity in lobbying.

Comprehensive implementation strategies and mechanisms should carefully balance risks with incentives for both public officials and lobbyists to create a culture of compliance. For example, lobbyists can be provided with convenient electronic registration and report-filing systems, facilitating access to relevant documents and consultations by an automatic alert system, and registration can be made a prerequisite to lobbying. Visible and proportional sanctions should combine innovative approaches, such as public reporting of confirmed breaches, with traditional financial or administrative sanctions, such as debarment, and criminal prosecution as appropriate.

### **Enforcing Lobbying Guidelines and Rules in Canada**

A central part of the Commissioner of Lobbying's mandate is to conduct reviews and investigations to ensure compliance with the Lobbying Act and the Lobbyists' Code of Conduct. Administrative reviews and investigations are undertaken to examine alleged breaches of the Act or the Code. When the Commissioner concludes an investigation, she must table a Report on Investigation in both Houses of Parliament with her findings, conclusions and reasons for these.

The Commissioner also reviews requests for exemptions from the five-year prohibition on lobbying from former designated public office holders. The Commissioner may grant an exemption only if doing so as will not be contrary to the purposes of the Act. The Office has developed service standards for the exemption review process.

Sanctions for not complying with the lobbying guidelines and rules may vary between:

- a fine not exceeding CAD 50 000 or to imprisonment for a term not exceeding six months, or to both; and
- a fine not exceeding CAD 200 000 or to imprisonment for a term not exceeding two years, or to both.

*Source:* Office of the Commissioner of Lobbying of Canada.

## **10. Is the functioning of rules and guidelines on lobbying periodically reviewed to ensure compliance?**

Countries should review – with the participation of representatives of lobbyists and civil society – the implementation and impact of rules and guidelines on lobbying in order to better understand what factors influence compliance. Refining specific rules and guidelines should be complemented by updating implementation strategies and mechanisms. Integrating these processes will help to meet evolving public expectations for transparency and integrity in lobbying. Review of implementation and impact, and public debate on its results are particularly crucial when rules, guidelines and implementation strategies for enhancing transparency and integrity in lobbying are developed incrementally as part of the political and administrative learning process.

### **Reviewing the Lobbying Act of Canada every 5 years**

Canada has regularly reviewed the effectiveness and implementation of its Lobbying Act according to the following provision in the Act:

#### **REVIEW BY PARLIAMENT**

Marginal note: Review of Act by Parliamentary committee

14.1 (1) A comprehensive review of the provisions and operation of this Act must be undertaken, every five years after this section comes into force, by the committee of the Senate, of the House of Commons, or of both Houses of Parliament, that may be designated or established for that purpose.

Marginal note: Review and report

(2) The committee referred to in subsection (1) must, within a year after the review is undertaken or within any further period that the Senate, the House of Commons, or both Houses of Parliament, as the case may be, may authorize, submit a report on the review to Parliament that includes a statement of any changes to this Act or its operation that the committee recommends.

*Source:* Canada, the Lobbyists Registration Act.