REPORT ON THE CONSULTATION WITH STAKEHOLDERS
Draft Principles for Transparency and Integrity in Lobbying

At its 40th session the Committee supported the launching of an intensive and targeted consultation process on the draft Principles for Transparency and Integrity in Lobbying.

This document presents the results of the consultation on the draft Principles including the responses from OECD bodies and stakeholders.

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REPORT ON THE CONSULTATION WITH STAKEHOLDERS
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Introduction

Concerns over lobbying practices and demands for transparency in decision making in order to
avoid capture by interest groups have intensified debate worldwide. Lobbying improves policy making by
providing valuable data and insights. However, a sound framework for transparency in lobbying is crucial
to safeguard the public interest and promote a level playing field for businesses, particularly in the context
of reforms and economic crisis.

In order to properly capture the views on this complex and sensitive issue from parties concerned, the
Public Governance Committee agreed at its 40th session on 22 October to open a wide consultation with
key stakeholders. This Consultation was launched on 30 October 2009.

This report presents the results of the written consultation process on the draft Principles for
Transparency and Integrity in Lobbying.

Over one hundred stakeholders were consulted, including legislators; representatives of the private
sector, including lobbying associations; civil society; trade unions; think tanks and academics; and
international government organisations.

The consultation accomplished the following aims:

1. Raise awareness of the Principles through stirring debate on both the governance challenges and the
   options available to foster transparency and integrity in lobbying.

2. Promote understanding of the Principles and provide an avenue for key stakeholders to express their
   views and involve them in the development of an international instrument.

3. Ensure complementarities and synergies between the Principles and world-wide efforts of various
   actors to promote good governance in lobbying.

4. Build on the OECD multi-disciplinary approach to enhance transparency and integrity in lobbying,
   including trade facilitation, corporate governance, anti-bribery, development and multi-level
   governance perspectives.
Consultation process and key results

All involved parties welcomed the OECD’s invitation to participate in the consultation on the Principles for Transparency and Integrity in Lobbying. The OECD received over 60 responses. Stakeholders recognised that the Principles are timely and relevant to support countries’ efforts to consider policy and regulatory options for promoting good governance.

In light of the feedback and suggestions received, the Principles have been revised, including:

- Definitions of key terms in the document, such as ‘lobbying’ and ‘public official’ have been brought up to the introduction section (paragraph 1). Likewise, definition of terms such as ‘trading in influence’ has been linked to the definition of the global anti-corruption reference, the United Nations Convention Against Corruption (paragraph 5).

- The primary scope of the Principles remains to provide guidance on transparency and integrity in lobbying to decision-makers at national level. However, the revised Principles can also offer guidance to officials at sub-national level and international government organisations (paragraph 12).

- The revised text links the Principles to the on-going efforts of the G8 and G20 for supporting propriety, integrity and transparency in business activity. In addition to the explicit reference to the Lecce Framework and Global Charter, the Principles incorporate key terms such as ‘transparency’ and ‘integrity’ from both of these initiatives.

There is widespread recognition that the Principles’ approach properly addresses both public officials and lobbyists. The general feedback received signalled that there is a need to:

- Develop a comprehensive framework that stresses the shared responsibility of both public officials and lobbyists in promoting the application of good governance principles in lobbying.

- Provide a level playing field that facilitates the engagement and access of all stakeholders interested in participating in policy development.

- Ensure that information on lobbying activities is publicly accessible to allow scrutiny by stakeholders.

- Establish clear guidelines and rules of conduct for public officials and lobbyists for transparent lobbying practices.

- Set up effective mechanisms for implementation in order to promote a culture of compliance involving all key actors in the definition of standards and in providing a supervisory role.
List of stakeholders

The following list highlights the types of stakeholders and their representatives who provided feedback on the Principles. This list is supplemented by Annex 1 containing the suggestions and feedback received on the Principles from stakeholders, and by Annex 2 providing a detailed account of all stakeholders invited and OECD bodies (OECD Committees and its Working Parties), including the Working Group on Bribery in International Business Transactions, the Regulatory Policy Committee and the Development Assistance Committee Network on Governance (GOVNET).

- Business – The Business Advisory Committee (BIAC) disseminated the Principles to its Member organisations and individual experts and submitted a consolidated response. In addition, BIAC individual members provided feedback to the Principles (e.g. Business New Zealand, Canada Chamber of Commerce). Moreover, representatives from business umbrella organisations (e.g. International Federation of Consulting Engineers [FIDIC]) also shared their views.

- Lobbying Associations - from Europe (e.g. Society of European Affairs Professionals and the European Public Affairs Consultancies’ Association) as well as national lobbying associations (e.g. Germany, United Kingdom) provided their suggestions.

- Trade Unions – represented by the Trade Union Advisory Committee to the OECD (TUAC) circulated the draft amongst its member organisations and professional associations. TUAC and Public Services International, which is the largest trade union confederation, provided a consolidated response to the Principles.

- Legislators – Global groups of parliamentarians (e.g. Global Organisations of Parliamentarians Against Corruption [GOPAC]) and their regional affiliates from Latina America to Asia shared their feedback on the Principles. In addition, national parliament and legislative branches (e.g. Mexico, Storting in Norway, US Senate Office, Canada) also submitted their views.

- Government organisations - Specialised bodies in OECD member and non-member countries at national (e.g. Ministry of Justice in Brazil, Official Ethics Commission in Lithuania, Office of the Commissioner of Lobbying in Canada,) and sub-national level (e.g. Anti-Fraud Office in Catalonia, Commissaire au lobbyisme du Québec, Public Sector Commission in Western Australia).

- Civil society organisations – Transparency International and its national chapters. Also, think tanks involved in policy debate on lobbying (e.g. European Centre for Public Affairs, U4).

- International organisations – including the UN (e.g. UN Office on Drugs and Crime) and multilateral development banks (e.g. World Bank, Inter-American Development Bank, African Development Bank)

- Academics – Universities and research institutions in OECD countries (e.g. Spain, Germany, United Kingdom, Canada) and non-OECD countries (e.g. Brazil, China)

- OECD Secretariat-Including, the Public Affairs and Communication, the Partnership for Democratic Governance Initiative, the Trade and Agriculture, and Enterprise and Financial Affairs Directorates provided their views on the draft Principles.
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ANNEX 1

FEEDBACK FROM STAKEHOLDERS CONSULTED ON
DRAFT PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING
The following OECD Committees and Working Parties provided feedback on the draft principles:

1. The Regulatory Policy Committee

I very much welcome the opportunity to comment. I think this is a good practice which we should encourage between our respective groups.

As for the draft principles, I like the paper. It is well structured and -as far as I can see- covering most relevant issues relating to integrity. Two things came across my mind when reading:

- the paper is focusing on 'what', not so much on 'how'; The word 'should' is used quite often, indicating what governments should pay attention to but leaving the 'how' part open. I know it is not in the nature of 'principles' to add extensive descriptive material, but maybe there is a way in between (using boxes with two or three examples in every paragraph?)
- I think it would enrich the paper if it would contain a description of the parts in government / sort of activities which are especially vulnerable to lobbying and/or corruption (e.g. procurement)
  - can you go into the grey area of proper policy consultation mechanisms (which we promote) on the one hand and the issues we want to avoid on the other hand. Can we do this in terms of do's and don'ts?

Jeroen Nijland
Chair of OECD Regulatory Policy Committee
Director Regulatory Reform Group
Ministry of Finance/Economic Affairs
The Netherlands

After closely reviewing the draft on the Principles for Transparency and Integrity in Lobbying, I do not have specific comments on the content of the document. I find it compelling and complete. I agree on the postures taken, especially in the transparency elements. I do think that transparency is a key for a good democratic government. Government and lobbyist relations may sometimes seem as an opaque activity.

I do think that transparency is the most important element in this relation, but I also think that we should not hinder government and lobbyist relations.

Thank you very much for the opportunity to comment on this proposal.

Ivan Rivas Rodriguez
Bureau Member of OECD Regulatory Policy Committee
Secretaría de Economía
Secretaría Técnica de Competitividad
México
2. The Development Assistance Committee Network on Governance (GOVNET)

Draft Principles for Transparency and Integrity in Lobbying – Comments

Introduction p. 2 and points 17 and 20, p 5: The introduction attempts a definition of lobbying and lobbyists, while the principles only recommend that each country develops its own definition. That choice is questionable, a common broad definition could be adopted and then contextualized and specified for each country within their framework. For the broad definition, the definition adopted in the report (cited in reference 1, p. 8 stating that "lobbying means activities carried out with the objective of influencing the policy formulation and decision-making processes of government institutions") is more comprehensive than the one presented in the introduction, which refers only to legislation, policy and administrative decisions.

It would be worth to further define the possible scope of lobbying which can take the forms of direct lobbying versus indirect. Indirect lobbying may be omitted while it can indeed have sometimes more impact, it covers activities linked to advertisements in the media or public opinion campaigns aimed at influencing or putting under pressure public office holders. This is clearly identified in the 2007 report "Developing a legal framework for lobbying and the registration of lobbyists: the Québec experience". If indirect lobbying is considered, then some points should address cooperation with the media.

Point 20, p. 6 refers to the definition of lobbyists with a narrow meaning on consultant lobbyists and in-house lobbyists. Nevertheless, lobbyists are not often declared as such which may go in favour of a wider target group. In addition there is not enough injunction in the principles for the implementation of a registration of lobbyists along with a code of conduct. There should as well be a mention on the necessity to identify lobbying techniques.

Point 17, p 5: Recording on the government obligation to provide all stakeholders with fair and equitable access.... It is good to recall this foundation obligation but it needs further development whether the obligation should be fulfilled in a passive or active way. For example lobbyists representing different stakeholders may be granted same access, etc... which would be the most immediate way to fulfill the obligation. But there is no safeguard system that would allow stakeholders with less financial resources, voiceless groups (due to discrimination, inequities, poverty, reduced capacity, poverty, etc..) to ensure they can participate in lobbying activities. In this sense the equitable representation turns into an equitable representation of favorite groups who can afford to fund lobbying activities, leading to the paradox that the public official is placed in a position where it should safeguard public interests while being submitted to the influence of only a few. In this aspect, costsharing mechanisms for underrepresented public interests with governments and the lobby (for example as a tax on lobbying) could be proposed.

Point 19, p 5: Mention should be made on ethics of lobbying. Without challenging freedom of expression and acknowledging the complexity of the problem, there should be a mention on undue lobbying if such activities are in contradiction with Human Rights Declaration and notably promotes discrimination, racism, xenophobia, revisionism, etc.

Point 21, p 6: not sure what is the intention of this paragraph. Nevertheless it omits to mention the economical context.

Point 22, p 6: Seems too strong on protecting confidential information, undermines the attempt to provide a transparent feedback on lobbying activities.

Point 27: it should be prohibited to lobby for a contingency fee or in return for compensation from a grant or loan from the government.
Point 29: an complement could be issued to propose a set of implementation and controlling instruments.

Berne, 18 November 2009

René Holenstein
Chair
DAC Network on Governance

3. The Working Group on Bribery in International Business Transactions

The WGB Members had until 27 November 2009 to comment on the draft principles. Professor Mark Pieth, Chair of the Working Group on Bribery in International Business Transactions informs you that only Norway provided comments on the Draft Principles.

Feedback from the Norwegian Ministry of Trade and Industry:

- The text of draft Principles for Transparency and Integrity in Lobbying should reflect that it applies to both public and elected officials, as both groups are exposed to various types of lobbying.
- Transparency is one of the most important measures to avoid professional misconduct. Proper journals for incoming mail and contact registers should be maintained. Laws on Freedom of Information (as the Norwegian Open Files Act) should be introduced, and correspondence should be reflected in a public journal. If this is not done with "political letters" it can lead to misuse or unregistered influence. Furthermore, calendars of public officials and politicians should be available to the organisation, and preferably open to the public as well. The same should apply for travel expense reports.
- Introduction of new laws and regulatory frameworks should always be submitted to public inquiry.
- There is a fine line between lobbying, bribery and corruption, such as dinners, seminars, invitations to events, travelling, etc. The pharmaceutical industry's different activities with the aim to sell their products are a known example. Other examples are the Norwegian state owned company Statkraft's "salmon seminars" and different events hosted by private and public companies. Transparency on lists of participation is necessary. Rules and regulation for public officials on accepting gifts or advantages that may influence their work, should be enforced.
- In paragraph 16, the OECD Guidelines on Corporate Governance of State-Owned Enterprises, adopted in 2005, should be mentioned. The principle of a level playing field is a prominent element in the guidelines.
OECD INSTITUTIONAL PARTNERS

The Secretariat of the following OECD institutional partners submitted consolidated comments from its membership on the draft Principles.

1. The Business and Industry Advisory Committee

Paris, December 18 2009

BIAC appreciates the opportunity to provide comments on the OECD Draft Principles for Transparency and Integrity in Lobbying, which are intend to promote a level playing field and greater transparency in lobbying activities across all actors engaged in the process, including business and civil society. That in turn should foster greater professionalism among lobbyists and public officials.

The document very rightly says that lobbying is widely considered a legitimate activity per se, given the complexity of modern government decision making and the wide spread impact of public policies. Indeed, the right to petition the State goes back at least as far as the Magna Carta of 1215 and is a legally protected right in most OECD countries.

The forms and procedures of lobbying are changing as a result of ongoing globalization and is broadening in its scope crossing sectors and borders. In a number of jurisdictions, including the United States, interaction between business and government is subject to strict rules that effectively become global rules for many companies.

The governance of lobbying should foster transparency and integrity in these activities no matter the type of organization undertaking them. Companies today consider transparency a fundamental element of their business strategies and CSR activities. BIAC thus agrees with the objective of the OECD Principles improve transparency and better communication of lobbying activities, and to foster greater accountability between actors engaged in lobbying activities and public authorities.

With this in mind, BIAC suggests that the Principles include consideration of the following points:

- Any rules and guidelines must meet the objective of creating transparency while not compromising the basic right to petition the State and the valuable role that lobbying plays in the public policy process. Care must be taken to ensure the essential role government consultation plays in the public policy process is not compromised.

- The Principles should apply equally to all who engage in lobbying activities. A wide range of actors lobby, including private citizens, civil society organizations, trade unions, business and governments at all levels, both foreign and domestic. The current draft of the principles tend to imply private sector lobbying as being somewhat suspect, and requiring review by civil society. It is important to stress that the definition of lobbyist should include all of the actors that actually engage in lobbying as listed above.

- Not all lobbying occurs at the initiative of lobbyists, i.e., there are occasions when governments seek the perspectives of corporations and civil society in the policy formulation process.
Lobbying is often a very organic process, i.e., does not always occur in a structured, document-driven process.

The principles are especially important for counties where lobbying is not strictly controlled, and where decision making is opaque. In particular where there are many companies/organizations that are partly state and partly privately owned. In the current economic crisis, with significant government bailout programs having been implemented, this may remain an important issue.

The integrated approach of the OECD Principles should not lead to any binding standards or rules undermining the day to day business and activities of companies. The proposed Principles should respect the diversity in ways and instruments and specific conditions in which companies are operating, and guarantee their voluntary nature.

The OECD draft Principles should be managed in line with other activities that have emerged at different levels in the ILO and in the EC. The business community is working to speak with one voice, providing consistent messages at these various levels.

Specific Comments to the Text:

The Principles should explicitly recognize that the right to petition the State is a fundamental element of democratic societies and is legally protected in most OECD countries.

The Principles should clearly state that they apply to all types of organizations that engage in lobbying activities, including private citizens, civil society organizations, trade unions, business and governments at all levels, both foreign and domestic. As currently drafted, there is too much of a presumption that lobbying is limited to corporate actors. Therefore we recommend that the text be revised to more specifically reflect this reality in paras 1, 11, 20, 23 and 24, including the title of Principle 5.

Accessibility of lobbying processes should have greater stress in the document, in line with other important concepts such as openness, transparency and integrity.

In para 6 suggest to add “and not easily accessible” to the words “process is opaque” in the second sentence. Add same reference to Para 17, first bullet, and in the first draft principle headline.

Para 6: Stress that a sound framework for lobbying is always important and not just particularly important in times of financial and economic crisis.

Principle 1 should be revised take account of input to sensitive policy debates such as trade negotiations where access may be limited to certain individuals with required security clearances.

The title of Principle 2 should be revised to delete the phrase “proportionally address the perceived problem and risk,” since the meaning of this phrase is not clear and the remaining text clearly articulates the principle.

Lobbying activities are always performed in a certain socio-political and constitutional/legal environment that may differ from one country to another. A practice that might seem unacceptable in one country can be justified in another jurisdiction due to the specific socio-political and/or
constitutional/legal circumstances. We therefore welcome that the draft document states that in the application of the proposed principles the national context needs to be taken into account (annotations to principle 2). However, in our view the relevant passage in the text ought to be further elaborated and that the Principles should contain a reference in this case to state "subject to national context". Some Remaining Questions

- What happens when a lobbying activity defined as legitimate in one country is deemed illegal by another? What guidance can OECD give to help prevent such conflicts from occurring, especially as a number of states are currently attempting to increase extraterritorial reach in areas such as anti-bribery?

We again thank you for this opportunity to provide comments. Please feel free to contact me with any questions.

Tadahiro Asami
Secretary General
Business Industry Advisory Committee
http://www.biac.org/
2. The Trade Union Advisory Committee and Public Services International

Joint Submission by the TUAC & the PSI
Paris, 30 November 2009

The TUAC and the PSI welcome the opportunity the comment on the draft OECD Principles for Transparency and Integrity in Lobbying which were developed by the OECD Public Governance Committee. The following provides general comments on the draft (Part 1) and specific editing proposals in the form of a marked-up of the existing text (Part 2).

Protecting democratic processes

The initiative by the OECD to draft principles on lobbying is welcome and timely. In principle, lobbying activities can foster pluralistic decision making processes and democracy within society and with policymakers. In practice however, and in absence of proper public accountability safeguards, lobbying has been associated with opaque power networks that have weakened, not strengthened democratic processes and in which financial retribution has taken precedence over evidence-based analysis and advocacy. The line between lobbying activities and outright corruption of policy makers – government and members of parliaments – blurs rapidly. When that happens, lobbying becomes a threat to democracy and to the accountability of elected governments to the citizens.

The control of these opaque power networks will only be partial, if the control over lobbying does not combine with control over election financing. If lobbyists are able to have in their pockets the ability to influence the movement of millions of dollars in campaign financing, then all other efforts to exercise some control over lobbying will be of marginal effect.

The financial crisis to some extent is testimony to the need for greater public control and accountability of lobbying activities. The lack of financial regulation, and the inefficiency of existing regulations and supervision of financial markets rank among the causes for the crisis that we face today globally. In many OECD countries, particularly among the largest ones, this failure of regulation is partly the result of years of “regulatory capture”. Regulators have been subject to intense and undue lobbying by the regulatees to ensure accommodating regulatory provisions to the detriment of market integrity and public interest.

- We propose amendments to Principle & Annotation I.2 that reference the need to protect democratic institutions and processes from undue lobbying, to tie election financing laws with lobbying rules and to tackle problems of “regulatory capture”.

Level playing field, fair and equitable access to public policies

There is, in the text and in principle I.1 in particular, a sense that all lobbying activities are equal and that everyone must have the same access to lobbyists. In reality, the practice of lobbying is done by the large and well financed organizations, and any lobbying done by non-profit organizations is largely a pale image of the lobbying done by the already powerful.

It would be useful for the Principles to recognize this reality and make some recommendations as to how the playing field could be levelled by governments, so that those without power in the first place can get state assistance in putting their views forward.

- We propose amendments to Principles & Annotations I.1 that acknowledge the link between financial power and wealth and access to lobbying of public policy making.
Reference to executive and legislative, central and local government institutions

Principle II.4 on transparency of lobbying targeted at “key players in the public decision-making process” does not make an explicit distinction between various levels of government: executive versus legislative, central versus regional/local levels. While the text should avoid unnecessary detailed discussion on various, we believe that such distinctions should be made explicit. Similarly, the disclosure requirements as suggested in paragraph 23 should be strengthened notably with respect to financial retributions.

- **We propose amendments to Principle & Annotation II.4**

Enhancing the rights of civil society and the media as a tool for public accountability

Principle II.5 on the enabling of civil society and media is welcome. However current annotations to do not reflect adequately the aspiration and content of the Principle itself.

- **We propose amendments to Principle & Annotation II.5**

Recognising the importance of the ultimate ordering party

A major concern with the current text is the absence of consideration for the ordering party, or ultimate beneficiary of lobbying activity, which can be the one and the same with the lobbying entity – case of in-house lobbyists – or a separate entity – case of for profit lobbying firms. Ch III sets requirements for governments and lobbyists themselves, but not for the ordering party. Furthermore, because in-house lobbyists are covered by Principle I.3 there is – we suspect – a loophole in the current text. It seems that applying the Principles as such, would require trade unions and NGOs who indeed employ “in-house lobbyists”, that is situations where the ordering party and the lobbyist are one and the same, to comply with the Principles III.6 & III.7, while ordering parties of the private sector that employ lobbying firms would not.

- **We propose amendments to Principle & Annotation III.6 & III.7 on the responsibilities of the ordering party**

Ensuring effective implementation

Preamble to the Draft Principles explicitly say that they “do not advocate rules as the sole possible solution” (para 10). That is surprising. Having acknowledged the power of lobbyists and lobbying, it may be seen contrador to then state that voluntary non-enforceable guidelines might be sufficient. One would think that concrete and enforceable rules would be an absolute requirement for any effective action in this area. The preamble goes further at one point to say that self-regulation might even be sufficient. While that may be a desired approach at international and OECD levels, it is not at the national level.

Lobbying can have a huge influence on the detailed functioning of democratic systems. But having correctly identified this as a serious area, the Draft Principles fall short of effective rules for bringing such a powerful and potentially unbalanced set of forces under public control.

- **We propose amendments to Principle & Annotation IV.8**

Furthermore Adoption of the Principles should be supported by decision to engage formal peer review processes among OECD member countries. Implementation should go hand in hand with other key OECD agreements and guidelines, as listed in paragraph 19 of the introduction.
Once the Principles are formally adopted, the OECD should engage without delay proper peer review process of member states implementation.

Pierre Habbard
Political Adviser
Trade Union Advisory Committee to the OECD
www.tuac.org

Consolidated specific comments from TUAC and PSI in track changes (see text underlined)

DRAFT PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING
DRAFT FOR COMMENT

Introduction

Lobbying: Global practice and concerns
1. Private interests seeking to influence legislation and government decisions are part of the policymaking process in modern democracies around the globe. Lobbying can improve decision making by providing valuable insights and data, but it can also lead to unfair advantages for vocal vested interests if the process is opaque and standards are lax. A sound regulatory framework for lobbying is particularly important in the context of financial and economic crisis, when critical decisions are taken quickly, massive amounts of public monies are spent and regulations for entire industries are rewritten.

2. Lobbying involves oral or written communication with a public official to influence legislation, policy or administrative decisions. While lobbying often focuses on the legislative branch at the national and sub-national levels, it also takes place in the executive – for example, to influence the adoption of regulations or the design of projects and contracts.

3. Actual lobbying practices are deeply embedded in a country’s democratic and constitutional contexts. They are related to constitutional rights to petition government, interest representation, and statutory consultation mechanisms, such as tripartite ‘social dialogue partnerships’ between government, employers and trade unions, and public hearings.

4. But there are risks when citizens perceive that lobbying is unfair and procedures are not transparent – and citizens lose confidence in the integrity of democratic institutions. These concerns have intensified worldwide public debate on lobbying and governments should take a role in these debates. In many societies, the public fears that the impressive mobilisation of private financial resources through lobbying gives unfair advantages to privileged “vocal vested interests” and overrides the “wishes of the whole community”. When that happens and when public scrutiny over local or national election financing is weak, lobbying becomes a threat to democracy and to government accountability. These concerns were cited as a major threat to public trust by the Chair of the OECD 2005 Ministerial meeting on Strengthening Trust in Government: What Role for Government in the 21st Century? Moreover, allegations are often made that, too frequently, lobbying borders on exercising undue influence.

Enhancing transparency, integrity and propriety in lobbying: The good governance approach
5. Lobbying is widely considered a legitimate activity per se, given the complexity of modern government decision making and the widespread impact of public policies. However, it has been negatively perceived in many countries. To combat outright abuses, legislators have established criminal provisions against illicit influencing of public decision making, such as trading in influence, bribery and corruption. However, merely penalising illicit influencing of public officials is not sufficient to maintain trust in government – especially in the face of concerns that accessibility to public officials by the
privileged’ results in potential bias or lack of transparency and accountability in government decision making.

6. There is a growing recognition that disclosure of information on key aspects of communication between public officials and lobbyists is essential for transparency in 21st century democracies. Transparency in lobbying activities will inform the development of public policies and enable citizens to exercise their right to public scrutiny. Effective standards and procedures that ensure openness, transparency and integrity will provide a level playing field for all stakeholders in the development of public policies, and reinforce public trust. Measures promoting a culture of integrity – particularly those that clarify expected standards of conduct for both public officials and lobbyists – are a vital part of ‘good governance’.

7. Increased public expectations of openness, transparency, accountability and integrity in public life have given new impetus to revisit existing governance arrangements in recent years. Lobbying is on the political agenda in the Americas, Europe, Asia and Australia. Many countries are considering or developing guidelines and rules requiring lobbying disclosure in order to address demands to shed light on communications between public officials and lobbyists.

8. Since ‘it takes two to lobby’, both public officials and lobbyists share responsibility to apply good governance to lobbying. To avoid the stigmatisation of lobbying, both sides should make efforts to foster transparency and integrity. For instance, encouraging voluntary disclosure of “public policy positions and participation in public policy development and lobbying” is an emerging corporate governance good practice to promote social responsibility.

Aims and structure of principles
9. Many countries obtained political support in developing or updating guidelines and rules on lobbying. Setting standards and procedures for enhancing transparency in lobbying, however, has proved difficult in several cases. This exercise can easily become a sensitive political issue. When lobbying reaches the political agenda, policy makers and legislators must quickly decide whether to develop guidelines and rules. If the response is yes, the challenge is how to achieve a framework that is balanced and fair to all stakeholders, and which adequately addresses concerns within the socio-political and administrative contexts.

10. The principles are a point of reference to provide decision makers with directions and guidance, in particular when the policy debate calls for a timely response. The principles do not advocate rules as the sole possible solution. On the contrary, they allow decision makers to take into account all available regulatory and policy options in order to meet public expectations for openness, transparency, accountability, integrity and efficacy when they consider, draft, debate or implement relevant guidelines or rules.

11. The principles are a policy instrument from the Public Governance Committee to support the OECD strategic response to build a stronger, cleaner and fairer economy. The principles are part of a broader set of initiatives triggered by the financial crisis to set standards and principles for economic activity, such as the G8’s ‘Lecce Framework’ on integrity, propriety and transparency in business, and the G20’s Global Charter for Sustainable Economic Activity.

12. The principles are primarily directed at decision makers at the central government level. The principles can also provide general guidance for sub-national level governments to enhance transparency and integrity in lobbying, and improve their governance systems.

13. Rather than providing detailed provisions and technical advice, the principles address a series of
interrelated issues that logically steer the development of guidelines and rules into a consistent country framework for enhancing transparency and integrity in lobbying. Guidelines stimulate the application of values and principles by fostering appropriate behaviour. Enforceable boundaries on what is acceptable might be set in the form of self-regulation, regulation requiring voluntary or mandatory compliance or even legislation. The principles are structured as follows:

Building an effective framework for openness, transparency and integrity to promote a level playing field, through developing guidance and rules that adequately address public and corporate concerns related to access to public officials – including civil and public servants, employees and holders of public office whether elected or appointed in the executive and legislative branches. The framework should also conform to the socio-political, legal and administrative context, and suitably define the actors and lobbying activities covered.

Enhancing transparency through disclosure of key aspects of lobbying such as its objective, beneficiaries, funding sources and targets.

Fostering a culture of integrity by providing guidelines and rules on expected behaviour in lobbying for both public officials and lobbyists.

Creating mechanisms for effective implementation and compliance by putting in place a coherent spectrum of strategies and practices. This is particularly challenging when countries address new concerns, such as transparency in lobbying.

14. The principles were developed on the basis of experiences with both government regulation/legislation and self-regulation of lobbyists in OECD member and non-member countries. The lessons learned from comparative reviews, country case studies, and an analytical framework endorsed by the Public Governance Committee provided the ground for developing the guiding principles. They reflect experiences of countries with diverse socio-political and administrative contexts. The principles were developed in parallel with the Green Paper of the European Transparency Initiative and the Code of Conduct for Interest Representatives developed by the European Commission as part of its European Transparency Initiative at the supra-national level in Europe.

15. The principles are intended to be used in conjunction with relevant policy and legal instruments and guidance to promote good governance at the national and international levels. These include, in particular:

Promoting integrity in the public service, for example by the 1998 OECD Recommendation on Improving Ethical Conduct in the Public Service, the 2003 OECD Recommendation on Guidelines for Managing Conflict of Interest in the Public Service, and the 2008 OECD Recommendation on Enhancing Integrity in Public Procurement.

Engaging citizens for better policies and services, for example by the Guiding Principles for Open and Inclusive Policy Making revised in 2009.

Improving access to and use of public sector information, for example by the 2008 OECD Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information.

Enhancing quality of government regulations, for example by the 1995 OECD Recommendation on Improving the Quality of Government Regulation, and the 2005 OECD Guiding Principles for Regulatory Quality and Performance.

Promoting good corporate governance, for example by the OECD Principles of Corporate

DRAFT PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING

I. Building an effective framework for openness, transparency and integrity

1. Governments should provide a level playing field by granting all stakeholders that are representative of society fair and equitable access to the development and implementation of public policies and where needed, by providing support to disadvantaged groups.

17. To foster citizens’ trust in public decision making, governments should make careful efforts to ensure fair and equitable representation of positions within society. Because lobbying efficiency to a large extent will depend on mobilisation of adequate financial resources, governments may want to facilitate assistance to those parties that are financially disadvantaged. This will preserve the benefits of free information flow, which is indispensable to obtaining balanced information that leads to informed policy debate and formulation of effective policies. Allowing all stakeholders that are representative of society 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.

2. Guidelines and rules on Regulation of lobbying should proportionally address the perceived problem and risk, be consistent with democracy and the wider policy and legal frameworks that foster good governance and respect the socio-political and administrative context.

18. Countries should particularly consider constitutional principles, established democratic practices and traditions – such as public hearings, or institutionalised consultation processes that engage representatives of employers and employees in ‘social partnerships’. They should not directly copy guidelines and rules from one jurisdiction to another, as each political system views the intention of guidelines and rules differently. Instead, they should consider all regulatory and policy available options to select a suitable solution that addresses key concerns like accessibility and integrity, and takes into account the national context, for instance the level of trust and measures necessary to achieve compliance. Governments should also consider the scale and nature of the lobbying industry within their jurisdictions; where professional lobbying is limited, leaders should contemplate alternative options to regulation for enhancing transparency, accountability and integrity in public life.

19. Effective guidelines and rules for openness, transparency and integrity in lobbying should be an integral part of the wider policy and regulatory framework that sets the standards for good governance. Governments should take into account guidelines and rules already in place to foster a culture of openness, transparency and integrity. This includes citizen engagement through public participation and the right to petition government, freedom of information legislation, and rules on political parties and election campaign financing, public accountability of arms-length government and supervisory authorities and codes of conduct for public officials and lobbyists, as well as provisions against illicit influencing. In particular the regulatory framework for lobbying activities will only be partial, if it does not combine with appropriate controls over election financing, or with proper accountability mechanisms of independent government agencies and supervisory authorities.

3. Countries should clearly define the terms “lobbying” and “lobbyist” when they consider or develop guidelines and rules on lobbying.
20. Definitions of “lobbying” and “lobbyists” should be robust and sufficiently explicit to not allow space for misinterpretation. In defining the scope of lobbying activities, it is necessary to balance the diversity of entities and individuals that might engage in lobbying activities with the measures to enhance transparency, taking into account the specificities of various stakeholders (such as their capacities and resources). Guidelines and rules should primarily target those who receive compensation for carrying out lobbying activities, such as consultant lobbyists and in-house lobbyists. Where public concern demands, definition of lobbying activities should be considered more broadly and inclusively to provide a level playing field for all interest groups that aim to influence public decisions.

21. Definitions should clearly specify what actors or activities are not covered by guidelines and rules, for example the compensation is below agreed threshold or the communication is already on public record, such as formal presentations to legislative committees, public hearings and established consultation mechanisms. Such exceptions should reflect constitutional conventions, the socio-political context and practical realities.

II. Enhancing transparency

4. Countries should provide an adequate degree of transparency to supply public officials and citizens with sufficient information on lobbying that aims at influencing government decisions at local, regional or national levels.

22. Disclosure of lobbying activities should provide sufficient information to enable public scrutiny; it should be carefully balanced with considerations of legitimate exemptions, in particular the protection of confidential information. Meaningful disclosure should provide pertinent but parsimonious information on key aspects of lobbying activities.

23. Core disclosure requirements should elicit information that captures the objective of lobbying activity, identifies its beneficiaries, and points to those 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, for example to understand where lobbying pressure and resources come from and whether they reflect broad domestic public opinion. Voluntary disclosure may involve social responsibility considerations about a corporation’s participation in public policy development and lobbying. To adequately serve the public interest, disclosure on lobbying activities should be contained in a registry and should be updated in a timely manner in order to provide accurate information that allows effective analysis by public officials and citizens.

5. Countries should enable civil society organisations, the media and the general public to scrutinise lobbying activities.

24. The public has a right to know how public institutions and public officials manage their contacts with lobbyists. Countries should consider using new information and communication technologies, such as the Internet, to make information available in an accessible and cost-effective manner. A vibrant civil society, including independent media, observatories, “watchdogs” and representative citizens groups are key to ensure proper scrutiny of lobbying activities. Public scrutiny should also be facilitated by processes that ensure timely access to disclosed information. This, in return, enables the inclusion of diverse views to provide balanced information in the development and implementation of public policies.

III. Fostering a culture of integrity

6. Governments should foster a culture of integrity in public organisations and decision making by providing clear guidelines and rules of conduct for public officials contacted by lobbyists.
25. Governments should provide principles, standards, rules 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 guidelines and rules in a way that bears the closest public scrutiny. In particular, they should maintain impartiality and avoid preferential treatment, share only authorised information and not misuse ‘confidential information’, and avoid conflicts of interest. Decision makers should set an example by their personal conduct in their relationship with lobbyists.

26. Governments should also consider establishing specific restrictions for public officials leaving office in order to prevent the misuse of ‘confidential information’ and ‘switching sides’, in a specific process in which former officials were substantially involved. To maintain trust in government it may be necessary to impose a ‘cooling-off’ period that restricts ‘revolving door’ practices in which former public officials lobby their past organizations employers.

7. Lobbyists should follow comply with regulatory standards of professionalism and transparency; in-house lobbyists, consultant lobbyists they and their clients share responsibility for fostering a culture of integrity, transparency and propriety in lobbying.

27. Governments have the primary responsibility for establishing a proper regulatory framework including clear standards of conduct for public officials who are lobbied. Since ‘it takes two to lobby’, however, in-house lobbyists, consultant lobbyists and their clients lobbyists should also ensure that they avoid exercising undue influence and comply with follow professional standards in their relations with public officials, with other lobbyists and, with their clients and with the public.

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

7. Lobbyists are representatives of and advocates for their organizational employer or client. Because that ordering party is the actual source of ongoing influence on government, and the lobbyist by definition acts in its interest and on its instruction, regulations should not single out lobbyists to the exclusion of officials and other agents of ordering parties for special restrictions on access or participation in governmental decision-making and governmental employment.

IV. Mechanisms for effective implementation and compliance

8. A coherent spectrum of strategies and mechanisms proper regulatory framework should carefully balance incentives and sanctions, and involve key actors to achieve compliance.

29. Compliance is a particular challenge when countries address new concerns such as transparency in lobbying. Setting clear and enforceable guidelines and rules is necessary, but alone is insufficient for success. To ensure compliance and deter and detect undue lobbying activities, countries must design and apply a coherent spectrum of strategies and mechanisms including binding regulation and properly resourced monitoring and enforcement. Mechanisms must raise awareness of expected standards and rules; enhance skills and understanding of how to apply them; encourage leadership to foster an organisational culture of integrity and openness; as well as mandate formal reporting or audit of implementation and compliance. All key actors – including particular public officials, political parties and, representative of the lobbying consultancy industry, relevant civil society institutions and independent “watchdogs” – should be involved both in establishing standards and rules and putting them into effect. This helps to
establish 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.

30. 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 access to relevant documents and consultations by an automatic alert system, convenient registration and reporting through electronic filing, or making registration a prerequisite to lobbying. Visible and proportional sanctions should combine new innovative approaches, such as public reporting of confirmed breaches, with traditional financial or administrative sanctions, such as debarment and criminal prosecution in cases of illicit influencing.

9. Countries should review the functioning of guidelines and rules related to lobbying on a periodic basis and make necessary adjustments in light of experience with implementation.

31. Countries should review the implementation of guidelines and rules on lobbying and their impact to better understand what factors influence compliance. Refining specific guidelines and rules 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 is particularly crucial when guidelines, rules and implementation strategies for enhancing transparency and integrity in lobbying are developed incrementally as part of the political and administrative learning process.

1. Lobbyists, government and public trust: Increasing transparency through legislation, OECD, 2009; Lobbyists, government and public trust: Promoting integrity by self-regulation. OECD, GOV/PGC(2009)9 According to the Green Paper of the European Transparency Initiative “lobbying means all activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions.” The Green Paper defines lobbyists “as persons carrying out such activities, working in a variety of organisations such as public affairs consultancies, law firms, NGOs, think-tanks, corporate lobby units (“in-house representatives”) or trade associations”.


3. For example, the Global Reporting Initiative (GRI) requires disclosure on lobbying and participation in public policy development, as well as the total value of financial and in-kind contributions to political parties, politicians and related institutions. For further information, consult the GRI Reporting Framework at www.globalreporting.org/ReportingFrameworkDownloads/.


6. The three Recommendations on public service integrity can be consulted at www.oecd.org/document/53/0,3343,en_2649_34135_2516085_1_1_1_1,00.html.


9. The Recommendation and Guiding Principles can be consulted at: www.oecd.org/document/38/0,3343,en_2649_34141_2753254_1_1_1_1,00.html.


11. The OECD Convention and country monitoring reports can be consulted at
12. The Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones can be consulted at http://www.oecd.org/document/26/0,3343,en_2649_34889_36899994_1_1_1_1,00.html.
Legislators

High level representatives of the following Parliamentarian Groups were invited to comment on the draft principles:

Global Groups of Parliamentarians and Supra-national Parliament

1. Global Organisations of Parliamentarians Against Corruption (GOPAC)

I am writing in response to Mr. Rolf Alter’s letter of October 30, 2009 in which he asked me to comment on the draft Principles for Transparency and Integrity in Lobbying.

The draft Principles are comprehensive, with all the key components for an effective regime for lobbying well articulated. I believe the Principles will be a useful tool for public officials to develop a rigorous regime that will enhance the public’s perception of the integrity and transparency of the decision making system in government.

As you know, GOPAC’s is an international network of parliamentarians dedicated to good governance and to improve parliaments as institutions of oversight with transparency, integrity and accountability. As an example of our various activities, I am pleased to attach for your information the Handbook on Parliamentary Ethics and Conduct which was released at the Doha Conference earlier this month. Please note that the Handbook is undergoing a final editorial review, so the 'final' publication will not be exactly the same as the attached version. However, any changes will be minor and will not affect the substantial content of the publication.

I believe our mandate aligns well with the work of OECD’s Integrity Framework. I look forward to exploring opportunities for collaboration with OECD to advance our respective objectives.

Martin Ulrich
Executive Secretary
GOPAC
http://www.gopac.org/
Regional Groups of Parliamentarians

1. Inter-Parliamentary Forum of the Americas

I am writing in regards to your letter inviting Mr. Luiz Carlos Hauly, President of the Inter-Parliamentary Forum of the Americas (FIPA) to provide feedback on the draft Principles for Transparency and Integrity in Lobbying. Mr. Hauly, through the Technical Secretariat of FIPA, has brought your letter to my attention and I am pleased to provide some additional information for your reference.

In Canada, parliamentary lobbying is subject to law under the Lobbying Act and is administered with oversight by the Office of the Commissioner of Lobbying of Canada. The Commissioner of Lobbying is an independent Agent of Parliament and is responsible for establishing and maintaining the Registry of Lobbyists, as well as a Lobbyists' Code of Conduct.

The current Commissioner of Lobbying Ms. Karen E. Shepherd would be best placed to provide input or feedback on the draft Principles for Transparency and Integrity in Lobbying and I recommend that you contact her office for further information on Canadian policy, law and regulation in this regard. Office of the Commissioner of Lobbying of Canada

*James Bezan, M.P.*  
*Chair*  
*FIPA, Canadian Section*  
Ottawa, Ontario
2. North American Parliamentarians Against Corruption

The comments which follow are my personal observations and not necessarily the views of the Global Organization of Parliamentarians against Corruption (GOPAC) or the North American Parliamentarians Against Corruption (NAPAC). Given our recent pre-occupation with the Parliamentary Forum in Doha at the meeting of the State Parties to the UN Convention Against Corruption, we have been unable to constitute GOPAC or NAPAC to review your paper.

Interestingly, since retiring from the House of Commons in 2008, I am involved in selected lobbying activities and, at the federal level. I am registered with the Office of the Commissioner of Lobbying of Canada. In addition to serving on the Executive Board of Directors of GOPAC, and leading GOPAC's Anti-money Laundering Global Task Force, I offer my perspective as a lobbyist as well.

Overall, I believe the draft principles are balanced, sound and comprehensive.

Principle 2: In addition to responding to perceived problems and risk, one needs also to implement guidelines and rules where the perceived benefits exceed their cost (i.e. benefit/cost).

Principle 3, item 20: Why should guidelines and rules be primarily targeted to those who receive compensation for carrying out lobbying activities? Is this consistent consistent with Principle 1, i.e. providing a level playing field?

Principle 3, item 21: It would be useful to also define which 'public officials' come within the radar of the rules and guidelines. Should the most junior officials, who typically lack authority and decision-making capacity, be the subject of the rules and guidelines? For example, in Canada lobbyists are required to report communications with Designated Public Office Holders only (defined in the Lobbyists Registration Act to include ministers ministerial staff, deputy ministers and chief executives of departments and agencies, officials in departments and agencies at the rank of associate deputy minister and assistant deputy minister, as well as those occupying positions of comparable rank.

Principle 6, item 26: see item immediately above re: defining 'public officials'.

You may wish to consider adding something about conflict of interest and interference with the public duties of a public office holder. Canada's Commissioner of Lobbying offers the following -

".....a conflict of interest may exist because of a “reasonable apprehension” of an apparent conflict of interest, rather than a demonstration of interference with the public duties of a public office holder.

The determination of what constitutes an improper influence upon a public office holder must remain a question of fact in each case. As a result, depending on the specific circumstances, a competing obligation or private interest could arise from factors such as, but not limited to:

- the provision of a gift, an amount of money, a service, or property, without an obligation to repay;
- the use of property or money that is provided without charge or at less than its commercial value, and
- political activities.

Lobbyists should endeavour to conduct themselves in the highest ethical manner thus avoiding situations which could create a real or apparent conflict of interest for a public office holder".

Regards,

Hon. Roy Cullen, P.C., C.A.
Senior Public Policy Consultant
North American Parliamentarians Against Corruption
http://www.parlcent.ca/americas/index_e.php
9. South East Asian Parliamentarians Against Corruption

Thank you for sending me the Draft Principles for Transparency and Integrity in Lobbying. The OECD's efforts at coming up with a set of guidelines for decision makers at the central government level on the issue of lobbying is quite commendable. If I may give a few comments:

1. International best practices are valuable in ensuring the effective implementation of rules and guidelines in lobbying.
2. Non-government watchdogs play a crucial role in monitoring the legislative process.
3. To enhance transparency in lobbying and prevent the monopolization of interests, there should be active civil society participation. This can be done through information dissemination of current legislative proposals, which will encourage people to become more interested in the lawmaking process.
4. The media is a key factor in promoting transparency in lawmaking. There should be a shift in reportage, from politicizing the conduct of lawmakers to tackling the issues they represent. This will also encourage a healthy public debate on pending legislative measures.
5. Legislative public hearings should be announced and frequently updated in Congress' websites and the government television station so that people who have an interest in a particular bill may have a chance to submit a position paper or ask to be invited to speak at the hearing.

EDGARDO J. ANGARA
Senator of the Philippines
National Parliament and Legislative Branches

1. United States Senate Office, Superintendent of Public Records

Mr. Rolf Alter  
Director  
Public Governance and Territorial Development  
Organization for Economic Cooperation and Development  
2 rue Andre-Pascal  
75775 Paris Cedex 16 France

Dear Mr. Alter:

Thank you for the opportunity to comment upon the draft Principles for Transparency and Integrity in Lobbying. I believe that the draft principles accurately capture the essence of the discussions started over two years ago. They are a solid foundation upon which a government may formulate a vibrant lobbying disclosure law that enhances transparency and promotes integrity in lobbying.

In my view, the draft principles do not need amendment. It is my hope that the OECD Council approves the final version. Again, thank you for the opportunity to participate.

Sincerely,

Pamela Gavin
Superintendent  
United States Senate Office – Office of Public Records  
www.senate.gov/

2. Presidium of the Storting, Norway

Thank you for your letter concerning Consultations on the draft Principles for Transparency and Integrity in Lobbying.

I have read the draft with great interest, and I believe the proposed principles will be an important contribution to the combined effort made by the international community to promote a stronger, cleaner and fairer economy.

The Storting has been engaged in the debate on the issue at hand for some time. A proposal to establish a separate register of lobbyists who contact the Storting, the Ministries and the Prime Minister’s Office was discussed previously, and has now been brought before the Storting once again. There are different political views on this proposal, with the result that it has so far not gained sufficient support to be adopted.
In general, the Storting has chosen a broad approach to improve transparency in lobbying by prioritizing rules and regulations enhancing public access to the information presented by lobbyists. A couple of examples:

- The Storting’s rules on freedom of information follow the same principles as the public administration. The legislation was recently revised to enhance public access to information and gives a solid basis for public inspection.
- Since 2002, the Storting’s standing committees as a main rule have held public hearings concerning the different issues dealt with by the committees and - consequently - by the Storting. These hearings may be followed directly on the Storting’s web-site.

Furthermore, I would like to underline the importance of transparency concerning funding of the political parties and party groups in the Storting. New guidelines were adopted in 2006, concerning the spending of the Party Group’s funds allocated to them by the Storting. The guidelines also establish an obligation of auditing and secure public access to the accounts. In 2005 the Storting adopted a bill that improved transparency and established a registration system for the political parties. The law stipulates for example that all financial contributions to a party’s main organization that exceed NOK 30 000 pr. annum, should be made public.

I have noticed that the OECD underlines that the draft principles do not advocate rules as the sole solution to improve transparency and integrity in lobbying, but allow decision makers to take into account all available options in order to meet public expectations for openness, transparency and accountability. In my view this is an important aspect of the draft, which shows a necessary degree of flexibility concerning the wide range of measures available.

Dag Terje Andersen
Speaker of the Storting

3. Parliament of Mexico

Comentarios al proyecto de Principios para la transparencia y la integridad en el cabildedo de la OCDE.

El documento es coherente y completo. Por su visión global y enfoque, y por tomar en cuenta las experiencias de la Unión Europea y diversos países más, será un instrumento de gran utilidad para los gobiernos de los Estados miembros y no miembros del organismo que decidan construir o desarrollar mecanismos formales de cabildeo apegados sus condiciones específicas, sus marcos constitucional, jurídico y político, su cultura y costumbres.

Ejercido con base en códigos de ética, autorregulación y normas de observancia obligatoria, el cabildeo es una actividad consustancial a la democracia porque responde al interés legítimo de particulares, grupos y sociedad civil de influir en los procesos de elaboración de leyes, formulación y aplicación de políticas públicas y, por lo mismo,

Por ser un mecanismo de participación en el diseño, ejecución y evaluación de las políticas y programas públicos, el cabildeo debe garantizar la equidad en el acceso a los órganos legislativos y de gobierno, debe alentar la confianza de la sociedad en las instituciones, en los funcionarios públicos y en las personas.
físicas y morales dedicadas a esta actividad. Estas cualidades lo convierten en un recurso apreciable de gobernanza.

Hasta el último lustro del siglo XX, el cabildeo era una práctica poco arraigada en México, aunque ya desde mediados de los años ochenta el gobierno había contratado empresas estadunidenses de relaciones públicas y lobbying para mejorar la imagen del país y, poco después, para promover el Tratado de Libre Comercio de América del Norte.

En nuestro país, siempre hubo canales informales y no permanentes de comunicación entre el poder público, por una parte, y la sociedad y sus organizaciones, por la otra; pero el ejercicio del cabildeo como actividad profesional surgió a raíz de un fenómeno político relevante: la ampliación significativa de la oposición en El Congreso de la Unión, derivada principalmente de la reforma electoral de 1996.

A medida que se ha pluralizado la composición del Poder Legislativo, las dependencias del Ejecutivo Federal han reforzado sus oficinas de vinculación con el Congreso de la Unión y se han sistematizado y formalizado los mecanismos de relación directa de las organizaciones empresariales y civiles con los legisladores. El 30 de julio de 2002 se creó la Subsecretaría de Enlace Legislativo en la Secretaría de Gobernación.

En los últimos años, varios grupos parlamentarios del Congreso de la Unión han formulado iniciativas de ley para institucionalizar, transparentar y delimitar las actividades de cabildeo, que se han desarrollado con celeridad. En general se busca establecer principios, normas y procedimientos que incidan tanto en el ejercicio de las funciones públicas como en las conductas de los organismos privados que se ocupan de estas tareas. Se considera conveniente establecer un Registro que reúna la información básica y dé seguimiento a esta actividad relativamente reciente como tal en nuestro medio.

Como lo propone la OCDE, la práctica sana del cabildeo debe inscribirse en un marco de conjunto que incluya la igualdad de condiciones de acceso a la definición e implementación de políticas públicas, su congruencia con el orden constitucional y legal y con el contexto social, político y administrativo de los países. Es fundamental la definición precisa de conceptos como cabildeo, cabildero, funcionario público, cliente, grupos de presión, beneficiario y objetivo transparente de la gestión de cabildeo o presión.

No cabe duda de que la mejor garantía de la equidad y rectitud en esta actividad es la información abierta sobre los objetivos y procedimientos de los cabilderos, con los mismos fundamentos legales y éticos de los mecanismos de acceso a la información pública que operan en algunos países, como México. Las empresas especializadas en esta actividad deben suministrar y actualizar la información que requiere la autoridad competente para garantizar la transparencia.

El cabildeo es una actividad legítima porque, como lo reconoce el documento de la OCDE, todos los particulares tienen derecho a ser escuchados por las instancias de gobierno en defensa de sus intereses; pero la elaboración de leyes, la adopción de políticas y su implementación deben atender al interés de la sociedad y no ser objeto de privilegios o exclusiones, pues el poder que ejercen los órganos del Estado les ha sido delegado por el pueblo como un todo. Este equilibrio entre el interés particular y el general es el núcleo de toda actividad legítima de cabildeo.

Una vía es que tanto las actividades de los agentes privados como las decisiones de los funcionarios públicos estén abiertas al escrutinio de la sociedad y los medios de comunicación, como una modalidad permanente de la rendición de cuentas y prevea un Registro Público permanente de fácil acceso y sin limitaciones de acceso a la información, salvo las que prevea la Ley. 

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Vemos con particular simpatía la noción de la “cultura de la integridad” y su relación con directrices y normas de conducta que fomenten el profesionalismo de los cabildos y la honestidad de los servidores públicos que toman decisiones. La formación de esa cultura debiera ser uno de los objetivos explícitos de los sistemas educativos de los países.

Los principios relativos a los “Mecanismos para una implementación y cumplimiento eficaces” están más vinculados a la operación y, tal como se plantea en el documento, deben hacer énfasis no sólo en el equilibrio entre incentivos y sanciones, sino en su revisión periódica a la luz de los resultados.

Considero, en síntesis, que el proyecto de Principios para la transparencia y la integridad en el cabildo de la OCDE es un referente necesario para avanzar en la formalización de una práctica que tiende a generalizarse en el siglo XXI. Felicito al organismo, a sus directivos y expertos por este importante trabajo.

Diputado Francisco Rojas
Coordinador del Grupo Parlamentario del P. R. I.
en la LXI Legislatura
SPECIALISED BODIES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING AT
NATIONAL AND SUB-NATIONAL LEVEL

1. Office of the Commissioner of Lobbying, Canada

I would like to thank you for providing the Office of the Commissioner of Lobbying with an opportunity to comment on the OECD's draft Principles for Transparency and Integrity in Lobbying. We have reviewed the document and the consensus within the Office is that it is a well thought out paper which covers the key principles found in modern lobbying legislation. We find many of those same principles reflected in Canada's Lobbying Act and the Lobbyists Code of Conduct. Given this we have no comments or suggestions on how to improve the paper. We are certainly interested in how the draft principles in this paper are received by other members of the OECD.

Karen E. Shepherd
Commissioner of Lobbying | Commissaire au lobbying
Office of the Commissioner of Lobbying | Commissariat au lobbying
http://www.ocl-cal.gc.ca/eic/site/lobbyist-lobbyiste1.nsf/eng/home

2. Official Ethics Commission, Lithuania

I'm writing on behalf of Mr. Stasys Velyvis, acting Chairman of the Chief Official Ethics Commission.

Allow me, first of all, to congratulate you on excellent document, which definitely will provide decision makers with general guidance to enhance transparency in lobbying.

I presented all relevant information to the Chairman of Commission. However we don't have any comments or suggestions which might significantly improve quality of the document.

Is there a possibility that OECD will release more concrete provisions and technical advice for enhancing transparency in lobbying? A toolkit, maybe? Similar to the toolkit “Managing conflict of interest in the public service”...

Stasys Velyvis
Acting Chairman of the Chief Official Ethics Commission, Lithuania
Official Ethics Commission, Lithuania

Remigijus Rekerta
Head of the Prevention Division
Official Ethics Commission, Lithuania
3. Commissaire au Lobbyisme, Québec

En réponse à votre demande du 4 novembre dernier, et à la demande du commissaire au lobbyisme, M.François Casgrain, j’ai plaisir de vous faire parvenir nos commentaires dans le cadre de la consultation sur le projet de principe pour la transparence et l’intégrité des activités de lobbyisme. Nous regrettons de n’avoir pu le faire avant le 30 novembre, tel que demandé.

Nos commentaires seront brefs. Ils sont à l’effet que le projet, dans son ensemble, est d’une excellente facture, tant sur le plan du fond que sur celui de la forme. Nous n’avons donc rien de substantiel à ajouter, si ce n’est les commentaires suivants :

À la section IV. Mechanisms for effective implementation and compliance, paragraphe numéro 29 : « ….as well as mandate formal reporting or audit of implementation and compliance. » Si notre compréhension est exacte, le texte réfère à des mesures d’auto-contrôle ou de contrôle interne, appliquées par les titulaires de charges publiques et les lobbyistes eux-mêmes. Notre expérience et nos observations sont à l’effet que l’intervention d’une autorité publique externe et indépendante, qui possède des pouvoirs d’inspection, de vérification et d’enquête, est nécessaire. S’agissant rien de moins que d’un véritable changement de culture, l’inertie inhérente aux grands systèmes, telles les grandes administrations, et la résistance naturelle au changement nous portent à penser que la seule intervention des acteurs-clés, bien que souhaitable et nécessaire, ne suffit pas. Cela dit, notre expérience est forcément liée au territoire où nous exerçons notre mandat, et il vous appartient de juger de sa pertinence eu égard aux diverses juridictions où la politique trouvera application.

Enfin, nous portons à votre attention une erreur de numérotation des paragraphes à partir du paragraphe 22, à la section II de la version française : il y a 2 paragraphes qui portent le numéro 22. S’ensuit un décalage dans la numérotation, jusqu’à la fin du texte.

Voilà les quelques commentaires que nous avions à faire. En espérant qu’ils vous soient utiles, nous vous prions d’accepter l’expression de nos sentiments distingués.

Denis Coulombe
Secrétaire général
Commissaire au lobbyisme du Québec
http://www.commissairelobby.qc.ca/commissaire/

4. Public Sector Commission, Western Australia

Thank you for the opportunity to comment on the OECD’s draft Principles for Transparency and Integrity in Lobbying. Please note, these comments are provided by the Public Sector Commission (PSC) in Western Australia, and not the Western Australian Government.

In April 2007, Western Australia became the first Australian jurisdiction to establish a Contact with Lobbyists Code (the Code). The rationale for establishing the Code was to meet heightened community expectations of transparency, integrity and honesty within the lobbying industry. The lobbyist register is administered by PSC. The Code requires all lobbyists representing third-party clients to register on an Internet database prior to making contact with any government representative (the definition of which includes Western Australian Government Ministers, Parliamentary Secretaries, ministerial staff members and anyone contracted or engaged by a public sector agency). Consequently, Chief Executive Officers in public sector bodies were required to amend their respective codes of conduct to reflect the content of the Code and make their staff aware of its guidelines.
PSC supports both the approach taken by the OECD in developing a set of clear principles for transparency and integrity in lobbying, as well as the nine principles as drafted.

You may be interested to know that PSC is currently developing legislation to establish the current Code as a statute. Doing so would meet a Western Australian Government election commitment. It is anticipated that the proposed legislation will be introduced in the Western Australian Parliament in 2010. Consequently, it is useful to have been given access to the draft principles at this time.

Once again, thank you for giving PSC the opportunity to comment on the draft principles.

Alistair Conwell
Senior Policy Officer
Public Sector Commission

5. Oficina Antifrau de Catalunya

a) General comments

- Taking into account that not all OECD countries have identified and regulated lobbying professionals, the principles should be better entitled “principles for transparency and integrity in lobbying activities”, making more clear that the principles try to address not only the activity of professional lobbying but any influential actions on public authorities conducted by stakeholders of any kind. It should be understood that the paper is not about “the lobbies” but about how lobbying activities should be conducted.

b) Comments on the “Draft principles…”

1. “Governments should provide…”

- It could be pointed out the difference between “Governments” and “Administrations” in the sense that, out of the Anglo-Saxon sphere “Governments” refer to the executive power (e.g Council of Ministers) whereas “Administration” means “Government”. Together with this suggestion, and in order to widen the scope of “Governments and Administrations” a reference could be made to public authorities and regulatory powers, including national, regional and local governments and parliaments or deliberative bodies” [this reflection can be applicable to some other paragraphs of the document in which the expression “governments” is used.] The principles should have not only a vertical application and effect but a horizontal one.

17. “…to ensure fair and equitable representation of positions…”

- A reference could be made to the need to identify all stakeholders (including the less visible ones), to classify them by its strength or influence capacity and to pay attention to the specific situation of weak stakeholders, ensuring that their voice could be adequately heard.

2. “Guidelines and rules…”

19. “Effective guidelines…”
• The list of the regulatory framework should be enriched with local government regulations (rules for local government councillors), parliament’s regulations (rules for MPs), and clarify it includes all legislation on financing of political parties and its depending foundations and organisations. Some regulations can apply to members of the Government (e.g. conflict of interests regulations, “cooling-off periods”, “revolving door”) but a Code of Ethics for lobbyist should be implemented with clear, simple and precise rules in order to define their ethical duties and obligations).

3. Definition of lobbying

20. A proposal of definition could be “Any activity or planned communication process carried out under the principles of transparency, accessibility and responsibility, aiming to influence the draw up of policies or the public sector decision makers.”

4. “Countries should provide…”

22. “Disclosure…”

23. “Core disclosure…”

5. “Countries should enable…”

24. “The public has a right…”

• Understanding that the draft papers is a set of “principles” (and consequently has a broad scope) suggestions of this paragraph could be more concrete, giving more examples of how to fulfil transparency requirements (e.g. creation of a mandatory registry). Two possibilities to be considered could be:

  o Creation in the parliaments and in governments departments’ registries of the visits received by MPs and authorities (name and institution of the visitors and a brief of the purpose of the visit).

  o The letters and other formal documents sent from external stakeholders to authorities and MPs should always be registered by the public registry of the institution, identifying its purposes.

• All these registries should be public and accessible through internet. In doing so, caution should be exercised not to violate laws on protection of personal data. Some exceptions to general disclosure could be established if confidentiality of the visits is necessary by reasons of efficacy of public policies.

• Creation of a mandatory register of lobbying activity, covering all those involved in accessing and influencing public-sector decision makers (with some exceptions). The register should be managed by an independent body (of both Government and lobbyists).

6. “Governments should foster…”

25. “Governments should provide…”

26. “Governments should also…” “…to impose a cooling-off period…”

• Cooling-off period: should be long enough to avoid undue influences. Governments and Administrations should agree on the necessary time frame to avoid undue influence and monitor “the revolving door”.

Other comments and possible additions to this last paragraph:

• The engagement of former public servants in lobbying activities should be extended also to MPs.
• The involvement in lobbying activities which should be avoided could be conducted by individuals or on behalf of a firm.

• The lobbying activities which are to be avoided should not be limited to their former organisation, and should cover any other organisations with which they have had any involvement or, being more strict, with any public institution related or not with its former position.

• Countries should adequately regulate the situation of former public officials allowing, when necessary, compensations and/or job opportunities that disincentive them from “selling their influential capacities” through engaging in lobbying.

8. A coherent spectrum…

30. Comprehensive implementation

We totally agree with the idea of providing with incentives the registered lobbies.

• To reinforce the idea of fair play, registered lobbies should have a guaranteed right to be heard in a set period of time, and –in the contrary- unregistered organisations should know that their visits, e-mails and telephone calls could be systematically rejected by public institutions, which should only be obliged to accept formal petitions presented through the official registry of the institution [Countries should analyse these questions in the framework of their applicable laws on administrative procedures]. The access to the registry should be an easy process (very simple administrative procedure with very few requirements to fulfil) to allow the registration of the maximum number of lobbyists.

• On other side, registered lobbies should implement codes of conduct or ethic codes, such us not maintaining meetings outside of official premises. In the other hand, if any registered lobby did breach such code, a report could be submitted to the competent authorities.

• Any participation in public consultative bodies of organizations representing interests should be disclosed, making clear that the organisation represents and defends such interests.

• To ensure the necessary transparency the law or executive order of such a consultative body should always motivate the participation of determinate organisations and identify clearly which sectors, companies, professions, collectives, persons and positions are represented by each of the member organisations.

• Additionally if other stakeholders affected by the relevant policies are not represented, the law should explain the reasons of their lack of representation and the alternative mechanisms to hear their views.

The participation of policy makers in forums and conferences, invited by organisations representing interests, should be transparent and never remunerated or compensated.

• The participation of public authorities, MP, judges or other public servants in events organised by private corporations is logical and could be positive. But it should be stressed out that, in any case, the public servant should be informed of the purpose of the meeting and the real reasons for their invitation to participate in such events.

• Moreover the public servant should never be paid or personally compensated with inadequate gifts or gratuities. The only acceptable compensation should be the payment of travel and lodging expenses, if necessary, which should be administratively managed through their institution.
The financial supporters of NGO and public and private events should be disclosed

- The website of any NGO or private organisation and of any event, organised by private or by public corporations should disclose the financial sources which made it possible. In the case of NGO and events partially financed by public funds this could be enforced by conditioning the public funds to the adequate disclosure of all financial funds.

Transparency on the lobbying activity performed by consultants and lawyers

- Companies Registry should identify lobbying as an activity of the registered companies even if it is not its main area of activity.
- The amount of business derived from lobbying services should also be identified in the annual accounts.
- The contracts signed by lawyers or consultants should, when applicable, identify the performance of lobbying activities as separated from those of consultancy or legal assistance.

All public institutions should identify external relations with stakeholders

- Each institution should create a public registry, accessible through internet, in which were identified all lobbies, think tanks, NGOs, trade unions, industry and other enterprises’ associations, professional associations and private entities of any other kind, susceptible to defend interests of individual groups which are participating in drafting public policies through formal or informal consultations or consultative bodies.
- Moreover, the accompanying memory of any draft law, executive order or policy paper should identify any professional, lobby or stakeholder which views have been exchanged or consulted during its drafting, as well as the access to their clients lists.

Some examples of inappropriate conduct by MPs, local councillors and public authorities when dealing with lobbies could be added

- Accepting payments, gifts, benefits or gratuities.
- Accepting political donation in return for public decisions or a “reward of past favours”.
- Granting access to some individuals or organisations while unreasonably denying it to others.
- Disclosing confidential information.
- Being involved in potential conflicts of interest, by being lobbied by relatives, close friends or associates.
- Accepting informal discussion or private meetings on important matters.
- Accepting lobbying from a tenderer.

Moreover some good practices on how to ensure transparency when being lobbied could also be added.

Reference should be made to political parties and its sources of financing
• Political donations from stakeholders should be, when possible, totally prohibited or, at least, not allowed from organisations being recently or in the near future affected by governmental or parliamentary decisions and should be totally transparent.

• Any donations which could create the perception to influence decision-making should be avoided.

Avoid misuse of lobbying meetings
• Using formal lobbying meetings to (additionally) informally discuss concrete situations affecting an individual or a certain company or organisation should be forbidden.

Avoid undeclared use of public funds for lobbying
• Any organisation asking for public funds should be obliged to declare if performs or will perform in the future lobbying activities, and if the demanded funds would, directly or indirectly, contribute to finance lobbying activities.

7. Secretariat for Legislative Affairs, Ministry of Justice, Brazil

December 7th, 2009.

Dear Mr. Rolf Alter,

In response to your letter from November 27th, in which we were invited to present our comments on the OECD draft Principles for Transparency and Integrity in Lobbying, we would like to thank you for the opportunity and offer the following considerations.

Introduction:

Considering that countries should take into account the national context, not directly copying guidelines and rules from one jurisdiction to another (principle #2, paragraph 18);

Considering the recent attempts to regulate lobbying in Latin America, especially in Peru, Argentina, Chile and Mexico;

We believe that the OECD Principles for Transparency and Integrity in Lobbying must not:

i) Deal with the disclosure of communication/connection between lobbyists and public officials as the main target of lobbying regulation (paragraphs 2, 6, 7, 24 and 25);

ii) Suggest the need for registration of lobbyists (paragraphs 23 and 30).
i) Communication as the main target:

In general terms, the guidelines should not try to control the communication, the contacts between public officials and lobbyists. It should focus on turning decision-making processes more transparent, allowing public assessment of the impact of every decision and, consequently, the interests in dispute.

The means used to reach decision-makers are impossible to get under strict control. Even technology works against the effort of controlling and registering contacts and communication. It is said in Brazil that if you lock up a decision-maker in an empty room, lobbyists will immediately develop telepathic abilities.

I agree with paragraph 25 when it says that public officials should conduct their communication with lobbyists in a way that bears the closest public scrutiny. It is OK as a general principle, but not as an argument to focus the lobbying regulation on controlling - by filling registration forms - personal engagement between lobbyists and public officials that is, as I said, uncontrollable.

I also agree when it is said, in paragraphs 25 and 27, that governments are responsible for establishing directions on how public officials engage with lobbyists and also standards of conduct for public officials who are lobbied. However, these directions and standards of conduct cannot depend on bureaucratic registration of every form of contact between citizens and government agents. Thus, I believe that the usual anti-corruption set of measures is able to define the expected standards of conduct for both public officials and lobbyists - for instance, criminal provisions against trading in influence and bribery and also the monitoring of public officials’ wealth. The main problem is the enforcement of such provisions.

Apart from this the best we can do is to make it mandatory that every decision-making process have a specific procedure for the public official to justify the decision taken and explain its impact. This procedure must enable the assessment of who is affected by the decision and which interests’ goals are being achieved or denied. Doing this it would become clear who convinced the decision-maker, no matter how the arguments were delivered.

In the Introduction of the ‘Draft Principles for Transparency and Integrity in Lobbying’ – paragraph 6 – it is stated that ‘transparency in lobbying activities will inform the development of public policies and enable citizens to exercise their right to public scrutiny’. As a matter of fact, I think it is the other way around: transparency in the development of public policies will disclosure lobbying activities and enable citizens to exercise their right to public scrutiny.

Considering the contents of the ‘2005 OECD Guiding Principles for Regulatory Quality and Performance’, it can be said that procedures for ‘regulatory impact assessment’ are crucial for lobby disclosure. The RIA is an element of good governance because it is a fact that every decision taken by a public official must be properly justified and explained, in terms of its expected impact and in terms of who will be affected by it. As mentioned
above, when you are able to clearly identify the interests that will benefit from the decision, you consequently know who influenced it, no matter how.

ii) Registry:

As far as registry is concerned, it is important to mention that, in recent democracies, such as Brazil and other Latin American countries, registration might become a barrier for the participation of groups with fewer resources. Indeed, in our current stage of democratic development, the free and unlimited access to policy-makers – who were completely isolated a few years ago and still have an entrenched authoritarian culture – is essential for an equitable access to public decision-making, which is the core of the first draft principle: ‘governments should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies’.

In a later stage it might be possible to create general obligations for interest groups. However, at the present moment, any registration requirement would exclude less institutionalized interest groups, even if you define that such interest groups are not covered by guidelines, which would be extremely difficult to do since the criteria to define them could not be the amount of compensation received, which is often impossible to accurately define due to the level of informality of such groups.

It is important to mention that I do agree with paragraph 20 statement that, in defining the scope of lobbying activities it is necessary to take into account the ‘specificities of various stakeholders (such as their capacities and resources)’.

iii) Other suggestions:

First, in paragraph 22 the term parsimonious does not seem to be appropriate. Should meaningful disclosure provide parsimonious information? It is a fact that the information must be relevant and pertinent. However, as long as it is pertinent, it should be provided with no parsimoniousness.

Second, differently of what is said in paragraph 28, I think that conflict of interest between lobbyists and their clients it is a private matter, an issue that concerns only to them: the lobbyist and its client. At the end, market tends to adjust such situations. Then, in my opinion it is not well settled along with other principles for transparency and integrity in lobbying.

Third, another aspect that could be emphasized within the principles is the path to reach office. In other words, how costly it is and who pays the price required from candidates to become a public official. In this sense, as briefly mentioned in paragraph 19, rules for election financing are essential to avoid the unbalanced influence of money on the decisions of people who will need to finance themselves to keep their jobs. In my opinion, the document could develop the issue further.
Conclusion:

Thus, I suggest the modifications below:

2. Lobbying involves oral or written communication with persuasion of a public official to influence legislation, policy or administrative decisions. While lobbying often focuses on the legislative branch at the national and sub-national levels, it also takes place in the executive – for example – to influence the adoption of regulation or the design of projects and contracts.

6. There is a growing recognition that disclosure of information on key aspects of communication between public officials and lobbyists public decision-making process is essential for transparency in 21st century democracies. Transparency in lobbying activities will inform the development of public policies and enable citizens to exercise their right to public scrutiny. Transparency in the development of public policies will disclosure lobbying activities and enable citizens to exercise their right to public scrutiny. Effective standards and procedures that ensure openness, transparency and integrity will provide a level playing field for all stakeholders in the development of public policies, and reinforce public trust. Measures promoting a culture of integrity – particularly those that clarify expected standards of conduct for both public officials and lobbyists – are a vital part of ‘good governance’.

22. Disclosure of lobbying activities should provide sufficient and pertinent information to enable public scrutiny; it should be carefully balanced with considerations of legitimate exemptions, in particular the protection of confidential information. Meaningful disclosure should provide pertinent but parsimonious information on key aspects of lobbying activities.

23. Core disclosure requirements should elicit information that captures the objective of lobbying activity, identifies its beneficiaries, and points to those 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, for example to understand where lobbying pressure and resources come from and whether they reflect broad domestic public opinion. Voluntary disclosure should involve social responsibility considerations about a corporation’s participation in public policy development and lobbying. To adequately serve the public interest, disclosure on lobbying activities should be contained in a registry and should be updated in a timely manner in order to provide accurate information that allows effective analysis by public officials and citizens.

24. The public has a right to know how public institutions and public officials manage their contacts with lobbyists make their decisions. Countries should consider using new information and communication technologies, such as the Internet, to make information
available in an accessible and cost-effective manner. Public scrutiny should also be facilitated by processes that ensure timely access to disclosed information. This, in return, enables the inclusion of diverse views to provide balanced information in the development and implementation of public policies.

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

30. 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 access to relevant documents and consultations by an automatic alert system. It is also possible to provide them access to decision-making process by allowing them to make their contributions through the Internet, convenient registration and reporting through electronic filing, or making registration a prerequisite to lobbying. Visible and proportional sanctions should combine new innovative approaches, such as public reporting of confirmed breaches, with traditional financial or administrative sanctions, such as debarment and criminal prosecution in cases of illicit influencing.

Finally, just one formal consideration: paragraph 16 should be another bullet point of paragraph 15.

*Paulo Mauricio Teixeira da Costa*
*Director*
*Department of Legislative Process*
*Ministry of Justice, Brazil*
PRIVATE SECTOR

The leadership of the following private sector umbrella organisations and lobbying associations provided feedback on the draft Principles:

1. Canada Chamber of Commerce

Thank you for the opportunity to comment on the draft Principles for Transparency and Integrity in Lobbying.

It is the position of the Canadian Chamber of Commerce that the governance of lobbying fosters transparency and integrity in these activities no matter the type of organization undertaking them. We suggest that the Principles include consideration of the following:

- Any rules and guidelines must meet the objective of creating transparency while not compromising the valuable role lobbying often plays in the public policy process. Care must be taken to ensure the essential role government consultation plays in the public policy process is not compromised,

- Not all lobbying is undertaken by corporations and those representing them, i.e., the Principles should apply to those lobbying on behalf of civil society as well,

- Not all lobbying occurs at the initiative of lobbyists, i.e., there are occasions when governments seek the perspectives of corporations and civil society in the policy formulation process, and

- Lobbying is often a very organic process, i.e., does not always occur in a structured, document-driven process.

We hope our comments are a helpful contribution to your work.

Shirley-Ann George
Senior Vice-President, Policy
Canada Chamber of Commerce
http://www.chamber.ca/
2. **International Federation of Consulting Engineers (FIDIC)**

With regard to Lobbying Principles, again, a quick perusal only at this stage. The main problem it seems, especially in non-OECD countries, is how to foster citizens' participation in public decision making. In paragraph 17 the principles read that "governments should make careful efforts to ensure fair and equitable representation of positions" but no mention is made as to how to do this.

Similarly with transparency. Paragraph 23 mentions a public registry open to everybody (a good idea espoused by other organisations as well eg UN and TI) and paragraph 24 mentions that countries should consider using the internet for this purpose. But there is little information on how this might be done.

Integrity. Paragraph 28 describes that lobbyists should follow standards of integrity but, again, doesn't say how.

Overall, I think this is a good document but I believe that the Principles could possibly use much stronger language. It seems that Principles alone have limited power (eg the PACI Principles, TI Principles etc).

*Enrico Vink*
*Managing Director*
*International Federation of Consulting Engineers (FIDIC)*
*http://www.fidic.org*
3. Business NZ, New Zealand

Thank you for the opportunity to comment on the OECD’s draft principles for transparency and integrity in lobbying.

The draft principles are pertinent and relevant to the key issues posed by lobbying activity.

Business NZ would like to recommend two areas in which the draft principles may be improved: they relate to regulation and fairness.

Self-regulation – the New Zealand experience

Lobbying is one of the elements of advocacy conducted by Business NZ in the context of a New Zealand public policy environment that scores highly for freedom from corruption.

The experience in this country is that self-regulation within a participative democracy with a tradition of freedom of speech and media is a desirable framework in which advocacy and lobbying can take place.

Our experience is that self-regulation by advocacy organisations supported by professional bodies or industry organisations with their own standards and guidelines for conduct, is an effective approach.

In conjunction with freedom of speech and media which allows for breaches of conduct to be publicly aired, this approach fosters transparency and integrity and avoids the need for regulation, litigation and bureaucracy.

OECD draft principles: regulatory approach

In contrast to New Zealand’s history of and preference for self-regulation, the OECD’s draft ‘principles’ document takes a more regulatory approach.


This approach if adopted by the OECD Public Governance Committee would conflict with best practice in New Zealand.

Adoption of this regulatory approach in New Zealand would require the establishment of legislation or regulation and a bureaucracy for its enforcement, a costly undertaking that is unwarranted in the New Zealand environment.

Recommendation: principles as foundation

Given the wide variety of countries to which the proposed principles will apply, Business NZ recommends amending the document to allow for a less prescriptive approach.

This may be achieved by inserting the terms ‘principles’, ‘recommendations’ or ‘guidelines’ in place of ‘rules’ and ‘restrictions’, and by removing reference to legal sanctions and prosecutions.

This would allow for a foundation approach, where the principles would form the foundation for achieving corruption-free lobbying in all member countries.

Countries would be free either to use the principles as voluntary guidelines, or where appropriate to build on that foundation and impose regulation based on those principles.
This would allow countries with widely differing constitutions and policy frameworks to work, in differing ways depending on their circumstances, towards the same goal.

**Recommendation on fairness and equity**
The other aspect of the draft principles that Business NZ would like to comment on is the proposal for governments to intervene in ‘granting all stakeholders fair and equitable access’ and in providing ‘a level playing field for all interest groups’.

Separate from the issues of governments enforcing regulations to achieve such outcomes as discussed above, is the issue of whether fairness and equity is meaningful in this context.

One problem is in the difficulty of gaining an objective view on what is fair in any given situation, given the different perspectives of opposing interest groups.

A related problem would be that of defining a ‘level playing field’. The differing perspectives of different interest groups would be sure to bring many different definitions, and governments, themselves representing certain ideological viewpoints, would not be objective arbiters.

The issue arises in the context of access to decision-makers. In this context the issue is not ‘fair’ access, but access itself.

The proposed principles should promote *access for everyone* (with the denial of access for anyone being unfair), rather than promoting “fair” access.

Given the difficulties in ascribing meaning and achieving objective judgment on terms relating to fairness and equity, Business NZ recommends their deletion from the document.

Business NZ considers that the initiative by the OECD in advancing principles for the guidance of member countries in lobbying and advocacy activities is worthwhile and timely.

Thank you for this opportunity to contribute to their development.

*Phil O’Reilly*
*Chief Executive*
*Business NZ, New Zealand*
*http://www.businessnz.org.nz/*
LOBBYIST ASSOCIATIONS

1. Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU)

The Alliance for Lobbying Transparency and Ethics Regulation in Europe (ALTER EU) welcomes the opportunity to respond to the consultation on the draft Principles for Transparency and Integrity in Lobbying. ALTER EU strongly supports the OECD’s continued commitment to establishing and promoting best practice in relation to lobbying. We offer our comments and observations on the draft principles in the spirit of fostering dialogue and informing decision making in relation to this crucial aspect of policy and legislation. ALTER EU believe that raising citizen awareness about the role and influence of lobbying is an important element to enabling better scrutiny and accountability of decision makers. We are committed to openness and transparency and therefore wish our contribution to be on the public record.

We note that the OECD draft principles were ‘developed in parallel with the Green Paper of the European Transparency Initiative and the Code of Conduct for Interest Representatives developed by the European Commission’.

ALTER EU’s response to the draft principles is informed by our active role in the ongoing debate in Brussels on the European Transparency Initiative. Our response also draws upon lessons we have taken from our member organisations across the EU on the challenges of making lobbying more transparent and accountable.

We would like to offer some general comments on the introduction to the draft principles as well as specific comments on the individual principles as outlined. We recognise the difficulty of translating principles into practice and think that a slightly different emphasis in the preamble to the principles might give policy makers and citizens a clearer sense of the purpose and benefits of lobbying transparency.

1. Transparency & Accountability
A key starting point is the rather obvious but important link between transparency and accountability. The draft principles make the connection between transparency and integrity, but it is equally important to stress that without transparency there can be limited public knowledge and information about the political process. If the public (citizens, voters and those active in civil society) do not have proper information about political decision making they cannot act to hold elected representatives and appointed decision makers to account.

Therefore transparency is as much about scrutiny and accountability as it is about integrity and trust. In this context the wider benefits of lobbying transparency are more obvious. It is perfectly possible for lobbyists and officials to behave ethically, to abide by various codes of conduct, and to act with integrity and still produce policy outcomes and decisions that the public may dislike or disapprove. In such circumstances a robust lobbying disclosure system will allow the public to understand where lobbying pressure has been brought to bear on decision making. This may be information that subsequently informs voter preferences: in principle, then, lobbying transparency can aid democratic accountability. It is not only about ensuring that undue influence peddling is curtailed.

2. Problems with voluntary approaches

ALTER EU’s analysis of lobbying concludes that there is a clear public interest in establishing transparency so that citizens, media, officials and elected representatives can clearly see what organisations and interests are lobbying decision makers and legislators, on what issues, who is doing the lobbying, and how much resources are spent on the lobbying effort. Without such information in the public domain it is difficult to see how there can be proper, informed scrutiny of decision makers and public policy. The introduction to the Draft Principles refers to the risks associated with citizen perceptions that lobbying is unfair or unduly responsive to ‘vocal vested interests’. One of – perhaps the only – means available to correct such perceptions, in the sense of ensuring that such beliefs are not based on misconceptions or partial information, is for data about lobbying to be disclosed in the public domain in a routine, timely and reliable manner. It remains a significant risk that public perceptions of lobbying may lead to increasing cynicism about government and the political system. It is widely acknowledged that trust in politicians and the political class is at an all time low in many developed liberal democracies. In such circumstances voluntary measures are unlikely to match public expectations of disclosure and transparency.3

Therefore, it is important that the framing and guidance of the Draft Principles is not divorced from practice and evidence. There is widespread consensus that more transparency is desirable. ‘About 9 out of 10 lobbyists surveyed believe that the public perceives there is a frequent or occasional problem of inappropriate influence-peddling by lobbyists, and most recognise that the profession needs to take steps to counter this cynicism. More than three-quarters of lobbyists believe that transparency will go a long way toward alleviating public concerns, and a mandatory registry is just such a step’.4 The OECD’s own report on lobbying self-regulation identifies several problems with the self regulatory approach. Lobbyists themselves are aware of both the inadequacies of voluntary and self-policing measures. Moreover, the analysis suggests that European lobbyists clearly see the short-comings of sanctions associated with voluntary approaches to regulation: ‘the current systems of inducements and sanctions are generally viewed as ineffective by a majority of respondents (71.9 percent believe positive inducements are ineffective, and 50.8 percent believe that the existing penalties are ineffective)’.5 The OECD review of self-regulatory approaches also concludes that the evidence of the efficacy of self-regulatory oversight and compliance is ‘unconvincing’, noting that ‘only four formal disciplinary proceedings across Europe have been reported by professional associations in not-so-recent history suggests a very low level of enforcement.’

One can only conclude that there remain serious problems in relation to lobbying transparency: the mismatch between public perceptions of lobbying (i.e. that there are frequent problems and instances of inappropriate lobbying) and self-regulatory oversight (i.e. there are hardly ever any problems with lobbying) suggests that independent and verifiable means of assessing lobbying processes and practices are urgently required.

In reading the introduction to the Draft Guidelines the findings which indicate some fundamental weaknesses in voluntary approaches to lobbying transparency are not sufficiently reflected in the presentation of guidance to policy makers. The section discussing the ‘Aims and structure of the principles’ simply suggests a palette of policy options: ‘The principles do not advocate rules as the sole possible solution. On the contrary, they allow decision makers to take into account all available options in order to meet public expectations for openness, transparency, accountability, integrity and efficacy’.6

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3 Ibid.
5 Ibid, p. 63.
6 OECD (2009) Draft Principles for Transparency and Integrity in Lobbying, p.3
Regrettably, this guidance does not explicitly acknowledge the numerous problems identified with voluntary lobbying disclosure systems. It is to be expected that a document dealing with principles should be drafted in such a way as to allow for variability among political cultures and create space for discretion and divergence in how these principles might be put into practice. Nevertheless, the guidance could easily be sharpened to clearly draw out the costs and benefits of mandatory versus voluntary approaches. These can be fairly and simply stated: mandatory lobbying disclosure systems are universal and reliable, compliance is secured, they can command public trust, though they require careful drafting and political will to create; voluntary approaches do not make all lobbying transparent, are often unreliable (despite the best efforts of those in charge of reporting), they do not enjoy wide public confidence, they are difficult to enforce, but do not require legislation or political will to establish.

Comments on Draft Principles.
1. We agree with this principle and would add that governments and decision makers should equally guard against privileged access to the policy process by powerful and organised interests. The language in paragraph 17 suggests that allowing access for all stakeholders is sufficient to secure the public interest. This is a necessary but insufficient condition, as access does not equate to influence, and counter-balancing interests are not always easily mobilised or organised to participate in policy making.

2. The principle as expressed in draft is somewhat unsatisfactory as it hinges on judgements about what is proportionate, and the notion that concerns about lobbying transparency are as much problems of perception as practice. The direct injunction in paragraph 18 that policy makers and regulators ‘should not directly copy guidelines and rules from one jurisdiction to another’ appears to steer those tasked with developing systems to foster lobbying disclosure away from best practice and the lessons that can be learned from other jurisdictions. It seems unlikely that this is the intention of this principle, so it might be better expressed as suggesting that consideration is given as to how best to apply the lessons of other systems in specific political cultures and contexts.

Paragraph 18 advises that where lobbying is relatively underdeveloped ‘alternative options to regulation for enhancing transparency, accountability and integrity in public life’ should be contemplated. It is not clear why regulation should not be considered in such circumstances, as in principle, the early development and embedding of clear rules for lobbying disclosure could help promote transparency, trust, and good governance. Equally, the draft narrative fails to suggest how polities with very developed and advanced lobbying industries should approach the question of regulation. Is the implication that developed systems should contemplate regulation? We would suggest that a greater emphasis on the benefits of mandatory registration and regulation is needed to contextualise this principle.

3. We fully support and endorse this principle. ALTER EU believes that it is important to emphasise that in principle all lobbyists are treated equally. Paragraph 20 identifies commercial lobbyists and in-house lobbyists as the prime targets for the definition of lobbying activity. We believe that the focus of rule making in this area is most important where direct financial interests are at stake. At the same time regulation must not over-emphasise commercial and professional lobbyists, but should include ‘all interest groups that aim to influence public decisions’. Such an approach prevents loopholes and equally does not allow any lobbying group to claim special or privileged status.
To prevent loopholes it is important that the scope of the definition of lobbying activities should be as comprehensive as possible. In principle definition should not exclude specific lobbying forms or instruments. It is important that the intention ‘to balance the diversity of entities and individuals that might engage in lobbying activities with the measures to enhance transparency’ does not become a means of creating exemptions. We think including a general recommendation that the scope of the definition should be comprehensive and avoid creating loopholes or exemptions that may be exploited to avoid transparency by those the regulation is intended to capture. In this regard we would also suggest that where lobbying related communication or activity (such as presentations and evidence furnished legislative committees or regulators, and other consultation mechanisms etc) is not already on public record that it is included in any lobby disclosure system. For example in Germany there is no disclosure obligation for experts in parliamentary hearings. We would recommend the principles communicate clearly that exemptions should be reasonably narrow and should avoid creating unequal conditions for different lobbyists.

ALTER EU fully supports this principle. However, the intention of this principle is undermined in paragraphs 22 and 23 which suggests a preference for a minimalist form of lobbying disclosure, and runs against the logic of principle 5. The suggestion that ‘meaningful disclosure should provide pertinent but parsimonious information of key aspects of lobbying activities’ is perhaps too directive. The parsimony of any particular disclosure regime should reasonably be left to the discretion of the relevant authority. Principle 2 already enshrines the concept of proportionality in the advice on offer. For effective disclosure, and subsequent scrutiny, some level of detail is required. This need not be a large bureaucratic burden, as experience from developed systems in North America clearly demonstrates.

Exemptions from a lobbying disclosure should always be justified, and examined on a case-by-case basis. Blanket exemptions due to commercial confidentiality, the national interest, or national security concerns, must be avoided. There is a compelling public interest in making the most politically and commercially sensitive policy decisions accountable. A robust lobbying register can make meaningful information available to the public and thereby contribute to good governance.

More worryingly, paragraph 23 omits financial resources devoted to lobbying, and the names of those conducting the lobbying, from the core disclosure requirements. ALTER EU firmly believes that this is a fundamental weakness in the Draft Principles. Without information on who is lobbying and how much is being spent to influence policy and legislation, a lobbying disclosure system loses purpose and utility. We would recommend that that the Draft Principles are redrawn to reflect the OECD’s own analysis: ‘The question whether public policy is being formulated in the public’s interest or in the interest of powerful financial interest groups, represented by paid lobbyists, is at the bottom line of concerns over undue influence-peddling. So when we discuss the options for enhancing transparency and accountability in government, we are in fact discussing how to reassure the public that governmental decisions are not being made simply in the interests

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of well-paid lobbyists and those who can afford to hire them. Such reassurance comes from opening the books and letting the public know who is paying how much to influence what. Public officials especially would benefit from this information in evaluating the merits of a lobbying campaign knocking at their door.\textsuperscript{8}

One of the key lessons that can already be drawn from the novel EU experiment with lobbying registration is that without clear disclosure of who is lobbying, and accurate financial reporting, transparency is seriously compromised. For example, under the current voluntary EU system it is not possible to tell what the objectives of the declared lobbying might be (registrants only need to indicate their interest in general policy arenas and portfolios), how much financial resource is devoted to lobbying (information is only declared in very broad bands or as a proportion of turnover), who is conducting the lobbying (without such information it is difficult to assess potential conflicts of interest). Comparability of lobbying data, between registrants, industries, and over time is therefore not possible. The contrast between the transparency delivered by this voluntary system, and that available under mandatory schemes is striking, and reflects the evidence on the weaknesses of voluntary systems identified in the OECDs own analysis.

We would suggest that the principles include some advice that clearly communicates to policy makers that compromises to the concerns of lobbyists / stakeholders in defining a registration or disclosure system inevitably undermine the degree of transparency and accountability made possible by disclosure. The consequences of such trade-offs must be clearly understood and justified by those charged with developing disclosure systems.

5 ALTER EU fully supports this principle. We believe that the realisation of this principle ultimately requires mandatory lobbying disclosure.

6 ALTER EU endorses this principle. We are encouraged that the issue of revolving door conflicts of interest are identified as an area of substantial concern. It is important that a culture of integrity in developed across the public sector and realised in rules and conventions that govern revolving doors. The lead taken by the Obama administration in prohibiting lobbyists entering the administration is an important development in this regard. Paragraph 26 might usefully include a recommendation that independent monitoring mechanisms are considered and that a clear public complaint procedure for post-employment rules. Experience shows that these rules are often administered by the public authorities themselves and that this can lead to weak implementation. We would also note that provisions that guard against conflicts of interest should apply to the range of expert and advisory groups now routinely created by governments and regulators. This relates to the question of ‘fair and equitable access’ (paragraph 17) and could find expression in a recommendation that governments and regulators ensure that all expert and advisory groups are balanced in their composition.

7 ALTER EU supports this principle.

\textsuperscript{8} Holman and Susman (2009), ibid, p. 70.
ALTER EU is fully supportive of compliance with lobbying disclosure. We welcome the recognition that lobbying transparency requires ‘properly resourced monitoring and enforcement’.\(^9\) Drawing on the lessons of the ETI and the launch of the European Commission’s lobbying register in Brussels it is clear that oversight and enforcement are critical to establishing the credibility of any lobbying disclosure system. There needs to be mechanisms in place for verifying the accuracy of disclosures, and equally, sanctions in place to discourage and manage misleading declarations. The efforts of the European Commission to encourage participation in the voluntary lobbying disclosure system illustrate the problems of maintaining coherence and incentivising take-up. The Commission’s promise to include lobbyists automatically in consultation exercises was widely derided as a cosmetic distraction and a very poor inducement that could easily be ignored.\(^10\) Subsequent revelations that the Commission does not audit the entries in the lobbying database have raised serious questions about the reliability of the data submitted. In effect the current EU experiment illustrates the difficulty of achieving compliance voluntarily. ALTER EU’s analysis of the register shows that it clearly fails to cover all lobbying entities (for instance law firms engaged in lobbying work are virtually absent from this register and many Brussels based lobbying organisations have clearly decided not to register despite repeated exhortations by the Commission). It is difficult to envisage how this situation can be remedied without some mandatory system. We would therefore strongly recommend greater weight and emphasis placed on the advantages of mandatory rules in achieving compliance.

We would be reluctant to grant lobbyists privileged access to government documents compared to ordinary citizens. This kind of incentives runs contrary to the aim of creating a level playing field (principle 1). In paragraph 29 we think some mention of the importance of creating and promoting clear mechanisms for monitoring and enforcement is desirable, as is a well defined public complaint mechanism.

ALTER EU agrees with this important principle. The efficacy of disclosure regimes should be kept under review. It is also important that criteria for evaluating the efficacy of success of disclosure regimes are widely known, agreed and clearly understood. Withholding key evaluation and benchmarking criteria undermines confidence in review.

William Dinan  
Steering Committee Member  
Alter-EU  
http://www.alter-eu.org

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2. Association of Professional Political Consultants (APPC), UK

Thank you for giving the Association of Professional Political Consultants (APPC), the self-regulatory UK body for public affairs consultants, the opportunity to comment on the OECD’s draft principles for transparency and integrity in lobbying.

Our overall view is that there is merit in having such a set of principles, that these are, for the most part, appropriate and that they should be of assistance to member governments.

We welcome the paper’s understanding that lobbying is part of the policy-making process in modern democracies around the world and that it can improve decision making by providing valuable insights and data.

We also welcome the recognition that actual lobbying practices are deeply embedded in a country’s democratic and constitutional contexts.

However, we do take issue with the way in which lobbying for “vocal vested interests” is contrasted with “the wishes of the whole community” and would argue that this way of looking at things has a particular provenance in the member state in which the OECD happens to be headquartered. We would suggest that it is more accurate to think of civil society as a network of different stakeholders, all of whom have the right to make their case to have it listened to by governments and Parliaments.

We welcome the paper’s recognition that different countries will choose different ways of dealing with issues around lobbying and that self-regulation has a part to play. It is interesting to note that the member government to have considered this issue most recently (ie the UK) chose to reject a call from a Parliamentary committee for statutory regulation in favour of self-regulation by lobbyists.

Our specific comments on each of the OECD’s proposed nine principles follow:

1. Governments should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies
   We consider this to be the most important principle. Whenever public authorities make rules about lobbying, it is essential that they do not discriminate between different types of stakeholder, but allow all citizens to lobby in the same manner.

2. Guidelines and rules on lobbying should proportionally address the perceived problem and risk, be consistent with the wider policy and legal frameworks that foster good governance and respect the socio-political and administrative context
   We welcome both the emphasis on proportionality and the recognition that there is no single “one size fits all” solution for all jurisdictions.

3. Countries should clearly define the terms “lobbying” and “lobbyist” when they consider or develop guidelines and rules on lobbying
   We think that simple definitions are best. So, for example, lobbying could be defined as communication with public officials to influence legislation, policy or administrative decisions. We agreed that guidelines or rules should primarily target those who receive compensation for carrying out lobbying activities, such as consultant lobbyists and in-house lobbyists. However, we also believe it to be very important that guidelines or rules should not discriminate against any
citizen who wishes to exercise their right to lobby and should not provide special privileges to any particular class of lobbyist.

4. Countries should provide an adequate degree of transparency to supply public officials and citizens with sufficient information on lobbying that aims at influencing government decisions

   We welcome both the emphasis on transparency and the recognition that what is required is not total transparency about every detail, but enough transparency to serve the purpose. We note the suggestions about what should be disclosed, but note also that in the UK, for example, there is a broad consensus in the consultancy context that identification of the client and of the staff who are lobbying is sufficient. We agree that the information disclosed should be contained in a registry.

5. Countries should enable civil society organisations, the media and the general public to scrutinize lobbying activities

   In our experience, the role of a free media in operating as a watchdog provides a crucial safeguard and operates as a powerful deterrent to unethical behaviour.

6. Governments should foster a culture of integrity in public organisations and decision making by providing clear guidelines and rules of conduct for public officials contacted by lobbyists

   As the paper correctly notes “it takes two to lobby” and so it is important that governments should take seriously their responsibility for establishing clear standards of conduct for public officials who are lobbied.

7. Lobbyists should follow standards of professionalism and transparency; they share responsibility for fostering a culture of integrity, transparency and propriety in lobbying

   We agree and note that one of the advantages of a self-regulatory approach is that it encourages peer pressure and compliance with the spirit as well as the letter of rules for lobbyists.

8. A coherent spectrum of strategies and mechanisms should carefully balance incentives and sanctions, and involve key actors to achieve compliance

   This is the only principle with which we, in part, take issue. The description of strategies and mechanisms for effective implementation and compliance is appropriate and sensible. However, we do not agree with the concept of special incentives or privileges for good behaviour applicable to a narrow class of lobbyists. We think this is wrong in principle, since it stands in contradiction to principle 1. (a level playing field for all stakeholders), with which we agree. All citizens have an equal right to lobby and governments and parliaments have a duty to be accessible to all, not just some.

9. Countries should review the functioning of guidelines and rules related to lobbying on a periodic basis and make necessary adjustments in light of experience with implementation

   Whether or not it deserves the status of a principle, we agree that this is common sense.

Mary Shearer
Secretary
Association of Professional Political Consultants (APPC)
http://www.appc.org.uk/
3. Chartered Institute of Public Relations

Introduction

1. The Chartered Institute of Public Relations (CIPR) is the representative body of the UK public relations industry. Established in 1948, and with over 9,500 individual members, the CIPR is Europe’s largest professional body for public relations practitioners, and includes in its membership a large number of communications professionals who specialise in public affairs. The CIPR is responsible for promoting the standards of excellence expected of its members and by their clients in their professional relationships and business dealings.

2. The CIPR was granted its Royal Charter in 2005, after an exhaustive process of examination by the Privy Council. In the course of that process, the Government accepted the CIPR to be fully representative of the public relations industry, and acknowledged that we operate in the public benefit, with a full education and training structure underpinning membership. Crucially, we also operate a rigorous Code of Conduct, to which all members must adhere.

3. This feedback is in response to a letter from Mr. Rolf Alter, Director of the Public Governance and Territorial Development Directorate at the Organisation for Economic Co-operation and Development (OECD).

Comments

4. Rules and guidance must apply to all lobbyists to ensure that there is not a two-tier system of those talking to government. Any system of self-regulation must be seen to have integrity, the key points to this are the provision of a level playing field and universality – lobbyists from whatever background or employer must be transparent and honest advocates. It is also important that regulation is financially and administratively accessible to all, from sole traders to larger consultancies.

5. Through the CIPR Code of Conduct our members adhere to the highest standards of professionalism. We have no objection to the idea that those engaging in lobbying should be covered by rules and guidelines provided that:
   - It is specified exactly who is controlled by such regulation.
   - Such a system is not merely a ‘box ticking’ exercise.
   - Government and other authorities recognise that they have an important role to play in ensuring regulation of the system, and that loopholes such as describing meetings as ‘fact finding’ or making arrangements involving only junior officials are avoided.
   - Regulation does nothing to interfere with the essential democratic role of lobbyists to help ensure that governments and regulators have essential information before them when making decisions.

6. In order to set clear boundaries for rules and guidelines it is vital that the terms “lobbying” and “lobbyist” are defined. Through our work with the implementation of the UK Public Affairs Council we know that this is not a straightforward process and would advise that each country consult with lobbyist and government officials to agree on a clear and definitive definition.

7. The CIPR supports the proposal of a register and is working with the UK Public Affairs Council to introduce a mandatory register. In a previous consultation with members on this matter we were informed that is was considered bad practice to fail to disclose who you are representing or acting
on behalf of. However we do have valid concerns about a client’s desire for confidentiality. These are:

- Consultancies carrying out public affairs work on behalf of a client which may be linked to other work that they may not wish to disclose;
- The risk of harassment of practitioners based on their client lists if these are ‘controversial’ or ‘difficult’ clients.
- What is the position on overseas contracts? Many consultancies often work for clients in other countries – would disclosure apply to international clients? If so, there could be a commercial disadvantage to firm, which are large net exporters of services.
- This information is only relevant to those being lobbied.
- Smaller consultancies and sole traders have reason to believe that larger consultancies may use published client lists to target and ‘poach’ clients.

8. The CIPR supports the public right to know how public institutions and officials manage their contacts with lobbyist. However, we feel that full disclosure of minutes from meeting’s could have damaging effects. For example:

- Disclosing market sensitive information could have a negative impact on a company’s share price. There are cases where disclosure of details of meetings would not necessarily be in the public interest – for example, financial rescue packages for banks and other institutions.
- Disclosure of lobbying activity related to procurement could compromise the confidentiality of the tendering process on both sides.
- Sections of the media are hostile to lobbyists particularly those who represent business interests. They seize upon information relating to perfectly legitimate meetings as examples of how the system is bent. We fear that if such information was published as a matter of course it would harm the democratic process. Civil servants and Ministers who feared media attack would be much less likely to meet with advocates and would therefore be less well informed.
- Disclosing meetings which relate to a county’s policy position within the EU, the OECD or the G20, for example, would have a detrimental impact on UK negotiations
- Routinely disclosing all minutes of meetings and contacts between business and government might make both government and business less inclined to engage with each other and to engage in full discussions. This could harm both ‘UK plc’ and the effectiveness of government policy.

9. An alternative option may be to amend the principles to define what would come under confidential information.

10. CIPR policy is to ensure that all of our members adhere to the highest standards of professionalism as set out in our Code of Conduct, and would support any clear guidelines and rules for public officials working with lobbyists.

11. The CIPR believes that a system that restricts ‘revolving door’ practices should be considered.

12. One way to foster a culture of integrity, transparency and propriety in lobbying may be to introduce a kite mark for registered lobbyists.

13. A kite mark could provide a commercial advantage and as such may contravene competition law. If it were to be introduced it would have to set a universally high standard, be monitored, regulated and meaningful and should include training provision on Codes of Conduct and ethical issues.
14. There are questions over how this requirement could apply to companies rather than individuals, and whether governments would offer assurances that the kite mark would be actively used by them in procurement. Awarding a kite mark could be linked to a code of conduct and some form of training in this. Anyone listed on the register would have to be properly trained for a company to achieve the kite mark.

15. The CIPR believes that a mandatory register would be the only mechanism that would raise standards and implement rules, as it guarantees a form of universality – although this would depend on the definition of ‘lobbyist’ used by countries. Everyone has a legitimate right to lobby the legislature so a level playing field must apply. While the CIPR recognises that there is a difference between activities of ‘professional lobbyists’ and individual members of the public contacting government, such a distinction should not exist between charities / not for profit / businesses, individually or through associations – whether working for consultancies or not. All of these individuals are paid by their employers or clients to undertake lobbying activity.

16. The CIPR is concerned that a distinction has arisen in the public mind between “good” and “bad” lobbyists which is harmful to good government. Broadly speaking, this distinction seems to set the activities of corporate lobbyists (the ‘bad’) against “good” lobbyists who are often identified as those advocates who represent charities, NGOs or environmental campaigners. Whilst such groups tend to eschew the term lobbying, there should be no doubt that this is what they are doing. Standards of scrutiny and transparency must apply to all lobbyists and not just those representing business.

17. A voluntary scheme could affect only those who tend to comply anyway without addressing those who are less reputable. The CIPR has considerable doubts that a voluntary register could work unless there are adequate incentives to register and sanctions for failure to do so. However, if government officials refused to deal with those not on the register, it would become mandatory by default and this would put the responsibility on government as well as lobbyists. This should apply to contacts with advocacy as the objective, rather than fact-finding.

18. In the Public Administration Select Committee of the House of Commons report “Lobbying: Access and influence in Whitehall” they recommended the establishment of a single umbrella body covering all those involved in lobbying and challenged the different bodies representing those involved in lobbying to come forward and work together on a proposal.

19. By involving all key actors the UK is building a co-ordinated system that will promote openness, transparency and high standards of professional conduct through the maintenance of a publicly-available register and enforceable standards of behaviour.

20. For any new regulation to grow and meet expectations a system of evaluation and measurement needs to be introduced. All actors should take part in the review so that the necessary adjustments can be made to improve compliance and implementation.

Conclusion

21. The CIPR commends the work done by the OECD on their principals and believes they will provide general guidance for central governments to enhance transparency and integrity in lobbying. We hope this evidence will provide an insight into our concerns around disclosure and mandatory regulations.
The CIPR is committed to working with the British Government and the different bodies representing those involved in lobbying to work towards a UK Public Affairs Council. We would be happy to advise other professional bodies or governments on this work.

Elizabeth Bowen
Public Affairs Officer
Chartered Institute of Public Relations
http://www.cipr.co.uk/

4. Deutsche Public Relations Gesellschaft

Preliminary remarks

The Deutsche Public Relations Gesellschaft e.V. (DPRG) welcomes the consultation process on the “Principles for Transparency and Integrity in Lobbying” that has been initiated by the OECD. The draft on the principles does justice to the complexity of the “Lobbying” issue and thus differs fundamentally and positively from the previously known discussion and regulation processes at EU level as well as at the levels of individual national states. We welcome in particular the OECD’s approach to regard lobbying as a natural and legitimate part of democratic decision processes and to describe the responsibility for transparency and integrity as a common task for all those involved.

The OECD’s approach of embedding transparency and integrity in lobbying in the context of “Good Governance” offers political decision makers, interest representations and the social environment the possibility of conducting what has become in some cases a bitter debate on the influence of lobbyists in a reasonable manner. The “Principles for Transparency and Integrity in Lobbying” provide the opportunity of developing rules for lobbying on the basis of a thorough analysis of the social, economic and political expectations and framework conditions. Where lobbying is to be found on the public agenda, the debate is frequently reduced to instruments of control (as for example a register of lobbyists) – without first reaching agreement amongst all those concerned about what the actual aim of these instruments is to be. Here the OECD approach goes considerably further – it provides valuable ideas for an intensive and public debate that does justice to the importance of the issue, that can achieve a balance of interests between all those involved and that, per se, already makes a contribution to greater transparency and integrity. The development and implementation of rules and standards for dealing with lobbying and the improvement of transparency are then the result of such a debate.

In Germany, the public debate about lobbying is currently being conducted very one-sidedly – the critics primarily call for less influence for lobbyists and more sanctions against “dishonest” lobbyists. The OECD “Principles” preempt this one-sided view by emphasizing the “level playing field” in approaching political decision processes and the balance between incentives and sanctions. In our opinion, the OECD approach to “Principles for Transparency and Integrity in Lobbying” is an important step away from mutual mistrust between politicians, society and interest representations and towards a factual and fair balance of interests between all those involved.

Suggestions 2
1. We would appreciate it being made even clearer in the OECD “Principles for Transparency and Integrity in Lobbying” that a transparent and public discussion process on “Good Governance” and the partial aspect of “Lobbying” already means per se an initial and important step in the direction of greater transparency and integrity. If all the relevant political and social actors are included in such a discussion process, this can in itself already secure or restore a certain degree of trust in political decision processes and the democratic system. This trust is an essential condition for the acceptance of the ensuing development and implementation of rules and standards for dealing with lobbying. The substantial participation of all the relevant political and social actors in such a discussion process enhances not only the formal but also the “ideal” binding force of the measures that have been developed – whoever has participated in this also grasps the principles instinctively as meaningful (“because I want it like that”) and not only as necessary (“because it is wanted like that”).

2. Public mistrust regarding the influence of lobbying on political decision processes or decision makers is also fueled by the fact that the political decision makers themselves are more likely to deal with the issue of lobbying coyly and in some cases not very self-confidently. Here the OECD could possibly make it even clearer that lobbying plays an important role in the balancing of social and political interests and is not only part of the democratic system but promotes the democratic system – on condition that rules and standards are observed. This determination to balance interests even basically finds expression for example in the German Constitution.

3. We suggest that the term “public scrutiny” should be replaced by a term that means rather “verifiability” as “control”. In democratic systems like the one in Germany, the members of parliament are voted by the population for example to fulfill a control function vis-à-vis the executive. It is not intended, not does it make sense, that members of parliament are “controlled” by the public in a narrower sense. However, in order that voters have a sound basis for the way that they vote, they have a right to know that political processes and decisions are “verifiable”. Rules and standards for dealing with lobbying must meet these requirements.

4. Many draft bills are initially drawn up in the ministries in question – accordingly the staff who are involved are very frequently the targets for lobbying or these members of staff themselves specifically ask for the advice and expertise of companies, NGOs, social partners or “think tanks”. In other words, as a rule many external comments have already been incorporated in the draft bills that are then submitted to parliament for consultation and decision – but this is not very transparent to the members of parliament. We therefore suggest that this level should also be taken into consideration in the “Principles for Transparency and Integrity in Lobbying” and here to think about possibilities for achieving better verifiability.

5. “Dishonest” lobbying is frequently talked about in the public debate on lobbying without there being a narrower definition of this term. We suggest that the section on “define the terms lobbying and lobbyist” should be supplemented so that a clear definition of lobbying also describes the forms of attempted exertion of influence that is not expressly covered here. Lobbying must be clearly defined as legitimate, desired and beneficial in the sense of democracy – anything that does not meet this requirement is not lobbying!

In such a definition process, the term “key aspects of lobbying activities” used by the OECD should also be phrased as exactly as possible. It is necessary to know in everyday practice what the key aspects are – otherwise this is left to the interpretation of the individual actors or interest representations and is bound to lead to conflicts.
6. We agree with the OECD that what is known as the “revolving door effect” can be detrimental to the public’s trust in politicians and democracy. Therefore the call for a “cooling-off period” is understandable. However we would ask it to be considered that such a cooling-off period could lead to undesirable effects: It is expressly desired in Germany that bearers of political office and mandates do not remain so for life but return to a “civil” profession after a political phase. The introduction of a cooling-off period would considerably curb the willingness to emerge from a “civil” profession and stand for a political office.

We would welcome the OECD opening an intensive debate on this issue. The problems that could result from a “revolving-door effect” should be described and analyzed in detail in order to be able consequently to develop suitable instruments. For example an obligatory revision is conceivable: People withdrawing from a political office must disclose the political decisions in which they were substantially involved over a certain period in the past.

And the same applies here: Whoever moves to a company or an association after holding a political office must adhere to the “Principles for Transparency and Integrity in Lobbying” – this offers the best protection against democracy’s the reputation being damaged.

5. European Public Affairs Consultancies’ Association

EPACA welcomes the request from the OECD to contribute our experience and expertise to the current OECD work to provide governments with coherent guidelines on self regulation or regulation of lobbying activities.

As you will know, EPACA is the representative trade body for public affairs consultancies working with EU institutions. As an association, EPACA is at the forefront of the current effort of promoting ethical practices and transparency for lobbying activities. We consider transparency as our license to operate and have created a unique system to promote and police our members’ ethical behavior. Our code of conduct, first promulgated 16 years ago, has served as a basis for the European Parliament’s Code, and more recently the European Commission’s own Code in the framework of the European Transparency Initiative.

EPACA has continued to develop its capabilities for application of our Code of Conduct, and self-regulation of our profession, including by strengthening of our Professional Practices Panel, and the reinforcement of our training and code-signing processes among our membership. Our members are required to sign our Code each year, and each year to supply to EPACA a statement of their processes for its application to staff.

We welcome the work of the OECD in the direction of principles for transparency and integrity in lobbying. The principles included in the OECD guidelines are helpful and could on the one hand be used by the European Commission in the framework of its ongoing review of its register, and on the other hand, could benefit from the experience gained from the Commission register, and in particular what could be improved in practice.

Allow us to share the following specific comments with regards to the draft principles which you forwarded on 3rd of November:

1. Scope and level playing field: Lobbying is an activity that is legitimately conducted by many different forms of operators. Individuals, company representatives, association representatives (including ‘NGOs’), consultants, lawyers etc. It is preferable to regulate or self regulate the ‘activity’ of lobbying, rather than
focus on who is a lobbyist. This approach would enable the capture of all lobbying activities and avoid stigmatization of certain categories of professionals, whilst *de jure* or *de facto* exempting others. From that point of view, we would suggest deleting the reference made in article 20 to the view that “guidelines and rules should primarily target… consultant lobbyists and in-house lobbyists”. Our own experience suggests that some of the most egregious examples of poor ethics in lobbying would fall outside this definition.

2. **Definition**: We welcome the clarity of the OECD’s suggested definition of lobbying, designed to capture all activity that ‘involves oral or written communication with a public official to influence legislation, policy, or administrative decisions’. This is a superior approach to the current vague and very general definition of the European Commission in the framework of the ETI. The focus on the contact or communication with elected or public officials is also the option chosen eg. for the US system, or the European Parliament’s approach and code.

3. **Confidential and commercially sensitive information**: we note with interest the reference under article 22, that exemptions of disclosure rules can be granted for the protection of confidential information. This is a delicate notion which could lead to a lessening of the transparency objectives – it is currently being used by law firms and bar associations who are reluctant to join the European Commission’s system even when they compete vigorously with consultancies for the same business. It would be preferable to refer to ‘genuinely confidential or commercially sensitive information’, which in our view would not exempt either lawyers nor consultants from providing the names of clients to whom they supply lobbying services, or participation on an equal basis of any reasonable transparency tools promulgated by public authorities.

4. **Privileged access and scrutiny**: Chapter 5 of the guidelines mentions that Countries should enable the media, the general public, and civil society organizations to scrutinize lobbying activities. We would recommend producing a definition and criteria with regards to this latter category before granting them a special role. There is indeed a tendency from certain organizations to use a civil society label which is not grounded in a democratic process to advance their own political agenda (this has been the case at EU level with Euro-skeptics, or anti-liberal movements). Granting a special status to organizations whose motivation is to undermine the credibility of the institutions in the public’s eye will not serve the objective of building trust with the citizens with regards to the democratic process, transparency and the legitimacy of ethical lobbying.

EPACA stands ready to continue working constructively with the OECD, the European Commission and the European Parliament on these matters. We welcome the OECD work in this field which aims at providing OECD countries governments with guidance with a view to facilitating transparency without applying a bureaucratic straightjacket.

Yours sincerely,
Jose Lalloum
Chairman
6. International Public Relations Association
First of all, I would like to thank you very much for inviting IPRA for feedback and opinion regarding the Draft Principles for Transparency and Integrity in Lobbying. We created a special committee that worked on the suggestions regarding the proposed principles.

Attached are two documents:

1. The proposed changes in the Draft Principles for Transparency and Integrity in Lobbying.
2. IPRA Code of Brussels - Conduct of Public Affairs Worldwide - adopted by IPRA in 2006. I hope it will be useful as well.

Maria Gergova
Managing Director
International Public Relations Association
http://www.ipra.org/

Specific Comments from IPRA on draft Principles

DRAFT PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING

IPRA Comments in Bold after each item – cf also the IPRA Code of Brussels (attached)

I. Building an effective framework for openness, transparency and integrity
1. Governments should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies.

To foster citizens’ trust in public decision making, governments should make careful efforts to ensure fair and equitable representation of positions. This will preserve the benefits of free information flow, which is indispensable to obtaining balanced information that leads to informed policy debate and formulation of effective policies. Allowing all stakeholders 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.

Lobbying is not so much about share of voice but the communication of opinion from specialists to generalists

2. Guidelines and rules on lobbying should proportionally address the perceived problem and risk, be consistent with the wider policy and legal frameworks that foster good governance and respect the socio-political and administrative context.

Countries should particularly consider constitutional principles, established democratic practices and traditions – such as public hearings, or institutionalised consultation processes that engage representatives of employers and employees in „social partnerships“. They should not directly copy guidelines and rules from one jurisdiction to another, as each political system views the intention of guidelines and rules differently. Instead, they should consider all available options to select a suitable solution that addresses key concerns like accessibility and integrity, and takes into account the national context, for instance the level of trust and measures necessary to achieve compliance. Governments should also consider the scale and nature of the lobbying industry within their jurisdictions; where professional lobbying is limited,
leaders should contemplate alternative options to regulation for enhancing transparency, accountability and integrity in public life.

Effective guidelines and rules for openness, transparency and integrity in lobbying should be an integral part of the wider policy and regulatory framework that sets the standards for good governance. Governments should take into account guidelines and rules already in place to foster a culture of openness, transparency and integrity. This includes citizen engagement through public participation and the right to petition government, freedom of information legislation and rules on political parties and election campaign financing, codes of conduct for public officials and lobbyists, as well as provisions against illicit influencing.

**Agreed**

*Countries should clearly define the terms “lobbying” and “lobbyist” when they consider or develop guidelines and rules on lobbying.*

Definitions of “lobbying” and “lobbyists” should be robust and sufficiently explicit to not allow space for misinterpretation. In defining the scope of lobbying activities, it is necessary to balance the diversity of entities and individuals that might engage in lobbying activities with the measures to enhance transparency, taking into account the specificities of various stakeholders (such as their capacities and resources). Guidelines and rules should primarily target those who receive compensation for carrying out lobbying activities, such as consultant lobbyists and in-house lobbyists. Where public concern demands, definition of lobbying activities should be considered more broadly and inclusively to provide a level playing field for all interest groups that aim to influence public decisions.

*This is overly narrow and misses huge sectors which wield influence on policy makers*

Definitions should clearly specify what actors or activities are not covered by guidelines and rules, for example the compensation is below agreed threshold or the communication is already on public record, such as formal presentations to legislative committees, public hearings and established consultation mechanisms. Such exceptions should reflect constitutional conventions, the socio-political context and practical realities.

*Compensation is a poor guide to those who wield influence*

**II. Enhancing transparency**

*Countries should provide an adequate degree of transparency to supply public officials and citizens with sufficient information on lobbying that aims at influencing government decisions.*

Disclosure of lobbying activities should provide sufficient information to enable public scrutiny; it should be carefully balanced with considerations of legitimate exemptions, in particular the protection of confidential information. Meaningful disclosure should provide pertinent but parsimonious information on key aspects of lobbying activities.

Core disclosure requirements should elicit information that captures the objective of lobbying activity, identifies its beneficiaries, and points to those 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, for example to understand where lobbying pressure and resources come from and whether they reflect broad domestic public opinion. Voluntary disclosure may involve social responsibility
considerations about a corporation's participation in public policy development and lobbying. To adequately serve the public interest, disclosure on lobbying activities should be contained in a registry and should be updated in a timely manner in order to provide accurate information that allows effective analysis by public officials and citizens.

Agreed

5. Countries should enable civil society organisations, the media and the general public to scrutinise lobbying activities.

The public has a right to know how public institutions and public officials manage their contacts with lobbyists. Countries should consider using new information and communication technologies, such as the Internet, to make information available in an accessible and cost-effective manner. Public scrutiny should also be facilitated by processes that ensure timely access to disclosed information. This, in return, enables the inclusion of diverse views to provide balanced information in the development and implementation of public policies.

This principle misses the point that civil society organisations, the media and the general public may all themselves be lobbyists. Scrutiny is best provided by transparency not oversight by potentially competing opinions.

III. Fostering a culture of integrity

6. Governments should foster a culture of integrity in public organisations and decision making by providing clear guidelines and rules of conduct for public officials contacted by lobbyists.

Governments should provide principles, standards, rules 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 guidelines and rules in a way that bears the closest public scrutiny. In particular, they should maintain impartiality and avoid preferential treatment, share only authorised information and not misuse „confidential information”, and avoid conflicts of interest.

Decision makers should set an example by their personal conduct in their relationship with lobbyists. Governments should also consider establishing specific restrictions for public officials leaving office in order to prevent the misuse of „confidential information” and „switching sides”, in a specific process in which former officials were substantially involved. To maintain trust in government it may be necessary to impose a „cooling-off” period that restricts „revolving door” practices in which former public officials lobby their past organisations.

Agreed

7. Lobbyists should follow standards of professionalism and transparency; they share responsibility for fostering a culture of integrity, transparency and propriety in lobbying.

Governments have the primary responsibility for establishing clear standards of conduct for public officials who are lobbied. Since „it takes two to lobby”, however, lobbyists should also ensure that they avoid exercising undue influence and follow professional standards in their relations with public officials, with other lobbyists, with their clients and with the public.
To maintaining trust in public decision making, lobbyists should also promote principles of good governance. In particular, they should conduct their contact with public officials with integrity and honesty, disclose reliable and accurate information, and avoid conflict of interest in relation to both public officials and their clients, for example not to represent conflicting or competing interests.

Fully agree – the IPRA Code of Brussels is an example of such a global code

IV. Mechanisms for effective implementation and compliance

A coherent spectrum of strategies and mechanisms should carefully balance incentives and sanctions, and involve key actors to achieve compliance.

Compliance is a particular challenge when countries address new concerns such as transparency in lobbying. Setting clear guidelines and rules is necessary, but alone is insufficient for success. To ensure compliance, countries must design and apply a coherent spectrum of strategies and mechanisms including properly resourced monitoring and enforcement. Mechanisms must raise awareness of expected standards and rules; enhance skills and understanding of how to apply them; encourage leadership to foster an organisational culture of integrity and openess; as well as mandate formal reporting or audit of implementation and compliance. All key actors – in particular public officials and lobbyists –should be involved both in establishing standards and rules and putting them into effect. This helps to establish 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 access to relevant documents and consultations by an automatic alert system, convenient registration and reporting through electronic filing, or making registration a prerequisite to lobbying. Visible and proportional sanctions should combine new innovative approaches, such as public reporting of confirmed breaches, with traditional financial or administrative sanctions, such as debarmentand criminal prosecution in cases of illicit influencing.

Agreed

9. Countries should review the functioning of guidelines and rules related to lobbying on a periodic basis and make necessary adjustments in light of experience with implementation.

Countries should review the implementation of guidelines and rules on lobbying and their impact to better understand what factors influence compliance. Refining specific guidelines and rules 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 is particularly crucial when guidelines, rules and implementation strategies for enhancing transparency and integrity in lobbying are developed incrementally as part of the political and administrative learning process.

Agreed
7. Society of European Affairs Professionals

1. Thank you for Mr Alter’s letter dated 30 October SEAP asking SEAP to respond to your consultation. As a body committed to ethics and integrity in public affairs, we are happy to do so. We are convinced that transparency is one of the ways to ensure high standards of ethical behaviour in policy making.

About SEAP

2. SEAP was established in 1997 and currently has approximately 300 members, who join voluntarily on an individual basis. Members are active as European affairs practitioners in consultancies, law firms, trade associations and individual companies with representations in Brussels. SEAP also has members from other non-governmental organisations (NGOs) and think tanks, and is open to representatives of the EU trade unions or any other organisation of interest representatives seeking to sign up to its Code of Conduct.

3. This self-regulatory Code (annex I) sets outs the ethical standards that SEAP members must observe when making representations to the EU institutions. Each SEAP member must participate in a training workshop on the Code and personally sign the Code as part of the membership requirements.

4. SEAP is committed to ensuring high ethical standards in public affairs; promoting transparency and openness in EU decision-making; acting as the voice of the profession to the EU institutions; providing a forum for public affairs professionals to meet; and ultimately contributing to the making of EU law and policy that is fit for purpose.

5. While SEAP is committed to a self-regulatory approach in the field of public affairs, it has worked closely with the European Commission in recent years to develop the European Transparency Initiative and register of interest representatives. SEAP members who register with the Commission are encouraged by us to denote that they are already bound by SEAP’s Code. Further information on SEAP is available on our web-site mentioned below.

Comments on the draft Principles

6. SEAP broadly supports the draft Principles enumerated by the OECD. As such, unless stated otherwise below, we agree with the draft text.

Introductory remarks

7. As a general point, we note the references to “governments” and “countries” in the principles. We appreciate that the principles might be directed primarily to OECD member states and note paragraph 12. We would suggest however that it is equally important for such principles to be observed and implemented by decision-makers from the supranational to local level. Ensuring transparency and integrity should not, and sometimes can not, depend only on government or national action.

8. Lobbying within a supra-national context also raises additional elements for consideration that are not addressed in the principles. For instance, in an EU context, lobbying to influence decision-making can involve lobbying governments, domestic parliamentarians, MEPs and the EU institutions, as well as others. The OECD should consider how to create meaningful transparency in relation to what lobbyists are influencing rather than simply who. Nonetheless in the EU context we hope that the European Commission, Parliament and Council will establish a joint register of interest representatives.

9. It is equally true in relation to the work of the OECD. We would suggest that the OECD could provide a role model to its member states by implementing improvements in relation to transparency, consultation and stakeholder engagement.
10. We welcome wholeheartedly the acknowledgement of “it takes two to lobby”. Too often the integrity of lobbying activities and the perceived problems of exerting influence are portrayed as a problem in the “industry” that is solved by taking measures that place the onus on the lobbyist. The recipients of lobbying, as public decision-makers who should be publicly accountable, should also be under a duty to account in *qualitative* terms for how their thinking has been influenced. This consideration might be implied in the draft principles but should be emphasised explicitly, perhaps in the first or sixth principles.

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

11. We would agree that access to decision-makers on an equitable basis is essential. Ensuring access, however, is not a safeguard against “vocal” lobbying. It is the integrity of the decision-making process and of the decision-makers themselves that should provide this. As such, equitable access does help to ensure that decision-makers have all the facts at their fingertips on which to take a decision. We believe that the principle should acknowledge that “lobbying” is more often than not about the communication of expertise from specialists to decision makers. Decision-makers should be able to examine the arguments put forward by competing interests on an objective and rational basis.

12. Governments should also develop rules or guidelines on effective consultation. Equitable access is only one element of good consultation. For instance, public bodies often fail to identify and engage actively with those whose opinions they seek but who might not otherwise be represented.

13. We fail to see why governments should only consider alternatives to regulation where professional lobbying is limited (para. 18). Principles of better regulation would dictate that governments *always* consider all the options for action.

3. **Countries should clearly define the terms “lobbying” and “lobbyist” when they consider or develop guidelines and rules on lobbying.**

14. We agree strongly that defining “lobbying” and “lobbyist” well is very important. In the context of the work on this at the EU level, a mixture of concepts (such as “direct lobbying” and “interest representation”) has led to some confusion and we have had to try to clarify these concepts for our members.

15. Clarity of definitions is particularly important when lobbyists are supposed to publish related financial information. The lack of a joint register between the EU institutions has exacerbated the problem of knowing what activities to count. Reporting may be less complicated if “public affairs” activities generally rather than “direct lobbying” are to be counted.

16. We are not convinced that the focus of this principle is correct. In particular targeting primarily those who receive compensation for lobbying activities (to the exclusion of others) is unclear and potentially misguided. Transparency in relation to lobbying should seek to ensure that those who attempt to influence decision-making are known. This transparency is not an end in itself but a means by which to improve the integrity of the policy-making process.

17. It is unclear what the terms “in-house lobbyist” and “compensation” are intended to cover. We would suggest it should be as broad as possible and extend to those working in any type of organisation that is aiming to influence decisions, be it a company, charity, campaigning organisation or trade federation, not simply those that engage in lobbying as an economic activity in itself.
18. The definition would also tend to miss others who exert equally important influence. Many public sector bodies, for instance, lobby actively in relation to EU policy and law making. Individual citizens should not be considered lobbyists. However a group of volunteers or activists that is well organised can be very effective in influencing decision-makers.

19. In general terms, we believe that, at least in a European context, money and financial resources cannot be equated with influence, or at least should not be taken as the sole indicator of it. This has been shown in a number of studies, such as the Hansard Society’s publication: Friend or Foe: Lobbying in British Democracy, a discussion paper by Philip Parvin. Dr Parvin found amongst the sample of UK MPs questioned that 62% claimed they were more persuaded by arguments put forward by charities than businesses. There is indeed often a perceived bias in favour of charities, which the private sector does not enjoy. Another Hansard Society publication found that there was a willingness among MPs to meet with charitable organisations but sometimes wariness about business interests (see Rosenblatt G. (2006), A Year in the Life: From member of public to Member of Parliament (Hansard Society: London), p. 40).

20. To ensure full transparency in public policy processes, the level of financial disclosure should be comparable for different types of organisation. While a “lobbyist” might have to disclose information on its clients, similar information on charities and NGOs should be made available, particularly on how they are funded, who they are representing and how they are governed.

4. Countries should provide an adequate degree of transparency to supply public officials and citizens with sufficient information on lobbying that aims at influencing government decisions.

21. We welcome paragraph 22. Given the difficulties in defining clearly what constitutes “lobbying”, it is also essential that public bodies make provision to protect the confidentiality of certain contacts. Contacts with decision-makers may be made to encourage them to take a certain course of action, such as asking a public authority to take enforcement action against a competitor or public entity.

22. Some might consider this type of influencing should be treated like other lobbying on general legislation or policy. The consequences of making public such contacts (even the mere fact that a meeting took place), can be extremely serious, both economically and legally for the actors concerned as well as politically. Decision-makers need to be fully aware of this. While countries must do more to ensure transparency, they should devote attention to protecting confidentiality when it is legitimate to do so.

23. This principle fails to state clearly that the interest being represented (as well as the activity) should be disclosed – if not publicly then at least to the recipient of the lobbying. We note this is implicit in the seventh principle. Who funds a think tank, NGO or trade association is as pertinent as knowing a lobbyist’s client.

5. Countries should enable civil society organisations, the media and the general public to scrutinise lobbying activities.

24. Access to public information is an important aspect of ensuring the legitimacy of decision-making. This principle should also acknowledge, however, that civil society organisations, the media and the general public are not merely spectators to the decision-making process. They can be influencers of policy and decisionmaking as much as others.

25. The emphasis of this principle should be on ensuring that pertinent information is made public. Suggesting that oversight or scrutiny should be exercised by specific actors in society, such as the media, misses the point of ensuring transparency.
26. In addition, consideration should be given as to what information actually serves the purpose sought. Our experience with the European Commission’s lobbyist register is that the register itself does not offer an indication of what influence registrants exert beyond a general indication of the broad policy areas that are of interest to them. Respondents to specific public consultations are listed completely separately.

27. The principles should place greater emphasis on developing the concept of a “legislative footprint”. This is the idea that public documents published during the legislative or policy-making process indicate those who have sought to influence the process. This is an accurate and useful indicator of who is exerting influence.

6. Governments should foster a culture of integrity in public organizations and decision making by providing clear guidelines and rules of conduct for public officials contacted by lobbyists.

28. We agree that measures should be put in place to prevent “misuse” of confidential information and unethical practices more generally when government officials become “lobbyists”. The positive aspects of the practice of “revolving doors” does however deserve recognition as well. It provides important understanding of the reality on the ground, for both government or political representatives as well as company representatives, which can substantially improve the quality of legislation and policies provided it is done in a transparent way and according to agreed processes and principles.

7. Lobbyists should follow standards of professionalism and transparency; they share responsibility for fostering a culture of integrity, transparency and propriety in lobbying.

29. We fully support this principle. SEAP’s own Code and its activities are an example of what is called for in this principle. Paragraph 27 should also note: “Governments should leave sufficient scope to lobbyists to set their own professional standards. Self-regulation will enhance responsibility and professionalism in the lobbying industry.”

8. A coherent spectrum of strategies and mechanisms should carefully balance incentives and sanctions, and involve key actors to achieve compliance.

30. SEAP agrees with this principle. We would note, however, that positive incentives should be used coupled with sanctions for non-compliance. The success of non-mandatory schemes should not depend on coercion. Nor should such mechanisms lead in effect to the exclusion of legitimate concerns from the democratic process. SEAP has been keen to ensure that the ETI initiative should not have the effect of damaging the transparency of the EU institutions or limiting involvement in the democratic process.

Thank you in advance for your kind attention. Should it prove to be of interest, our most recent comments on the European Commission’s European Transparency Initiative and Register of Interest Representatives, as well as other statements of position are available on our web-site: http://www.seap.be/about.html. We remain available for any further information or clarification you may require and we would appreciate to be further involved in your consultation.

Gary Hill
Secretary General
The Society of European Affairs Professionals
www.seap.be
8. Turkish Public Relations Association

When looking at lobbying globally, as understood from OECD principles draft heading, two outstanding components for lobbying are transparency and integrity.

- Many problems encountered by the lobbying agencies and/or individual practitioners have their roots in the fact that lobbying sector has not yet been defined either by laws or regulations in Turkey.
- Naturally as a sector that has not even been defined formally, there are no operating principles. Lack of a definition and working principles being in the initiative of lobbyists individually are the two major problems in Turkey.
- To overcome these problems we suggest that; lobbying is defined in detail as a professional group and that it is recognized officially, that operating principles are determined and that a civil structure is formed to enable self regulation for lobbyists.
- As emphasized in the OECD principles draft, lobbying is a two sided activity. One party being lobbyists who try to effect the decision process and the other being the decision makers. After defining lobbying, detailed definition is needed as to how and under which conditions lobbyists will communicate with the decision makers. This will enable decision makers to draw limits for sharing/providing information and create an environment for systematic information flow.
- It is thought that transparency in lobbying and both parties regularly passing information to public may be effective in overcoming the Turkish public’s potential negative perception of “lobbying”.

While creating effective implementation mechanism for lobbying, the most important criteria should be transparency, openness and integrity. Baring this in mind we believe that OECD’s draft will be a roadmap for countries’ forming their own lobbying principles.

Prepared in collaboration with Mr. Vecdi Sevig, partner of Anses Lobbying Agency, Ankara
CIVIL SOCIETY ORGANISATIONS, PROFESSIONAL ASSOCIATIONS AND THINK TANKS

The leadership of the following civil society organisations provided suggestions to the draft principles:

1. Transparency International and its over hundred national chapters

Transparency International

Transparency International welcomes the initiative of the OECD to develop a framework for regulating lobbying and I would like to thank you for inviting TI for providing feedback on the Draft Principles for Transparency and Integrity in Lobbying.

We have reviewed the proposed principles within the movement and found the paper to be covering important areas on the subject of lobbying regulation.

Please see below the detailed comments on specific paragraphs:

1. Paragraph 18, p. 5 calls upon consideration of all “available options to select a suitable solution that addresses key concerns” and “where professional lobbying is limited, leaders should contemplate alternative options to regulation”. Such formulation contains a risk of downplaying lobbying as a widespread phenomena, which has to be addressed everywhere, particularly in countries where it is not recognized as such. A common framework has to be agreed upon and the national context, practices and tradition should not be excuses for poor or limited regulation.

2. Paragraph 20, pp. 5-6 could elaborate in more detail on differentiation on structural level between lobbying entities and individual lobbyists. The data on lobbying entity is important to understand client structures and power relations, while the data on individual lobbyists is important for determining conflicts of interests. We also suggest that the data in any relevant lobbying register would have to distinguish between in-house and external lobbyists.

3. Paragraph 21, p. 6: Low compensation and or public hearings should not allow for absence of record on lobbying activities. The sentence would benefit from further elaboration to bring clarity.

4. Paragraph 22, p. 6 calls for balancing “protection of confidential information”. In many areas of work where TI operates, this term can be used as a general excuse for not providing data or for requesting only a very limited amount of data. The definition of “confidential information” should be considerably restricted.

5. Paragraph 23, p. 6: We suggest adding the following formulation at the end of the paragraph: We suggest adding that every lobbyist, whether in-house or external, has to be registered and their annual revenue broken down by client.

6. Paragraph 26, p. 7: The success of “revolving doors” regulations depend on the length of the defined period. It would be beneficial to specify the duration of a cooling off period based on a best practice benchmark. We suggest that it would be useful to add that the cooling off period, depending on the responsibility of the individual, could be one to three years.
7. Paragraph 30, p. 8: The first sentence would benefit from more clarity. We believe that registration for lobbyists should be mandatory. Lobbyists should not be provided with special treatment and be given information in a privileged way that is not available to the general public. Also, for the purpose of bringing more clarity to the last sentence, we suggest to replace the word “sanctions”, with a clearer definition “sanctions against illegal lobbying/lobbyist behaviour”.

8. The paper does not include a reference to the issue of gifts, invitations to events and provision of other advantages to public officials and their immediate family (issues covered under Article 8 of UN Convention against Corruption). Therefore, we suggest adding this provision.

9. We suggest adding an additional paragraph on prohibition of secondment of lobbyists to the public institutions (e.g. ministries) in the capacity to take part in legislative drafting or setting of standards and regulations.

Huguette Labelle  
Chair  
Transparency International, Berlin  
http://www.transparency.org

Transparency International, Belgium

General Comment  
As I believe these principles could become a model for developing countries around the world, I would avoid using the term ‘democracy’ – but rather refer to the need for open economies and governments. Principles of transparency and integrity should be able to apply whatever the political structure in place.

Specific Comments

1. TI Belgium welcomes this initiative as an important step towards achieving greater transparency in lobbying by recognising that the risks of undue influence are a responsibility shared equally by public officials and lobbyists whether from the corporate or NGO communities. Only by sharing this responsibility can we develop a culture of transparency and integrity.

Countries should clearly define the terms “lobbying” and “lobbyist”

2. Definition of lobbying: while we share the conviction that lobbying must be defined clearly, we are concerned by point #21 that the definition should also include a clear list of actors or activities which are not covered by agreed guidelines and rules. We do not believe that budgetary thresholds should be used to exclude lobbyists or that lobbyists should be exempt from rules because their activities are already part of the public record.

Enhancing transparency

3. With the objective of shared responsibility in mind, we believe that the principles should be strengthened to introduce obligatory public reporting and registration of lobbyists, but that registration should be introduced without losing sight of the objective of this exercise namely to build stronger, cleaner and fairer economies and governments. This registration should not become a bureaucratic process that simply adds additional burdens on companies and NGOs alike.
4. In addition, we would welcome a more systematic disclosure by public officials of communications and meetings with lobbyists.

**Governments should foster a culture of integrity in public organisations**

5. The principles urge governments to simply “avoid conflicts of interest”, but we would like to see this language strengthened to “ban and penalise unresolved conflicts of interest.” If one of the objectives of this exercise is to build or to restore public faith in their governments, we believe that avoiding even the perception of a conflict of interest is an essential step in this direction.

**A coherent spectrum of strategies and mechanisms should carefully balance incentives, sanctions and involve key actors to achieve compliance**

6. We would also advise greater emphasis on the need to sanction non-compliance with transparency standards. The principles do endorse penalising corruption by lobbyists and/or public officials, but we believe that greater sanctions should be at an earlier stage to prevent corruption by penalising a lobbyist or public official’s failure to respect transparency commitments.

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**Chantal Hébette**  
*Director*  
*Transparency International, Belgium*  
*http://www.transparencybelgium.be/*

**Transparency International, Slovakia**

Thanks for inviting TI Slovakia to comment the draft Principles for Transparency and Integrity in Lobbying.

I believe this is very good decision taken by OECD to go deeper in the given agenda and work on this issue.

In general the material is excellent, let me just to have 3 following comments:

1. within the regulation of the lobbyists - do you recommend 'American system' when the names and activities and monies involved are disclosed?"- I would strongly encourage that. it was not clear for me from the text is this is recommended to be disclosed to public.

2. as far as the main analysis on lobbying is concerned - in my new book -interests, conflict of interests and corruption written together with miroslav beblavy (2009) in Slovak - we define 3 basic types of influences -

1. pursuation/providing information
2. influence based on personal and other relations (without reciprocity)
3. influence based on providing financial or material compensations or other advantages directly to decision-maker or to other subject, with which he is involved (for example to political party)

and the combination of the above mentioned forms of influence pathology is related to the second and third form of influence – conflict of interests and corruption.
3. in the given book we define 3 types of lobbying regulation which are being applied in the countries based on our research

1. model of providing information by the public sector
2. registration model - *american system* - regulation of lobbyists
3. model based on regulation of public-policy making processes - process-participatory model

the third one is applied e.g. in Slovakia when legislation developed by central government agencies and local and regional government agencies must be opened to public to allow the public to submit the comments

Emilia Sicáková-Beblavá
President
Transparency International, Slovakia
www.transparency.sk

2. Transparência Brasil

There you have a few feeble observations that follow the numbering corresponding to the bold entries. Overall, the principles look OK.

1. Principle 1 is very broad, not being specific to lobbying but to democratic representativeness and access to information. Part of principle 2 goes that way too.

2. When addressing the problem of defining lobby (principle 3), perhaps it could help to offer examples showing the differences between lobbying and advocacy, in order to avoid excessively broad interpretations that would mark all advocacy with the "lobbying" sticker.

3. In principle 4, there is an example about supplementary disclosure requirements that I didn't get, namely, that they "should take into consideration the legitimate information needs of key players in the public decision-making process, for example to understand [...] whether [lobbying pressure and resources] reflect broad domestic public opinion". Decision-makers should always understand whether or not a certain demand reflects public opinion, but I fail to see how this relates to disclosure requirements.

4. In principle 6, perhaps it could be useful to extend the text about "revolving door" practices and required quarantine periods for ex-public officials to engage in private activities linked with their previous public-sector activities. As you know, this is a huge (perhaps the hugest) problem in less developed environments.

5. Principle 7 seems too broad. It gets into strictly private matters, such as the relationship between lobbyists, between lobbyists and their clients and so forth. In order to avoid impulses towards excessive regulation, perhaps it would be better to avoid strictly private exchanges.

Claudio Weber Abramo
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http://www.transparencia.org.br/index.html
3. Chr. Michelsen Institute, Bergen, Norway

DRAFT PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING

1. **Public Official** (point 2, p. 2): the draft principles state that “lobbying involves oral or written communication with a public official (my underlining) to influence legislation, policy and administrative decisions.” As the term is not defined, it is not clear exactly what is meant by “public official”. In point 3, p. 9 the term “legislator” is used – thus indicating that the draft principles concern not only the executive, but also the legislative. Some explanation as to what is meant by “public official” is provided on p. 4 (point 13, bullet point 1). Public officials are to be understood as including “civil and public servants, employees and holders of public office whether elected or appointed in the executive and legislative branches”. It would be useful if the “definition” on p. 4 is inserted into a footnote immediately after the first reference to public official in point 2, p. 2 – so that it is clear from the very outset exactly how the term is to be understood. It might also be useful to insert a reference to what levels of government/elected bodies the draft principles refer to (i.e. not only to public officials at national, but also at regional and/or local level).

2. **Public decision-making/government** (point 5, p. 2): As the draft principles effectively define public officials as “civil and public servants, employees and holders of public office whether elected or appointed in the executive and legislative branches” (p. 4), it would be useful to modify the first sentence in point 5 so that it does not refer to government decision making only – but also to decision making in parliament (the legislative process).

3. **Draft principles User Groups** (point 12, p. 3): Given that the term public officials refers to employees/appointees in both the executive and the legislative, it might be useful to insert a reference also to the latter in the first sentence in point 12, for instance by adding “but also to those holding elected office” or something like that.

4. **Strengthen legal mechanisms and their ability to effectively address non-compliance**: One of the most effective mechanisms by which to reduce corruption is the establishment of independent investigative bodies with the right to prosecute (cf. Bryane Michael, Oxford University). Given that the document states that “the principles are intended to be used in conjunction with relevant policy and legal instruments and guidance to promote good governance at the national and international levels” (point 15, p. 4) – it might be useful to insert one or two sentences after the last bullet point encouraging states to create/strengthen independent investigative bodies and to enhance the independence of courts – to allow for instances of illegal lobbying to be effectively addressed and punished. Obviously this point would be more relevant to post-communist OECD member states than to other states – but it might still be useful to make the point.

5. **Registry of public office holders’ board membership/organisational membership**: A public registry listing board memberships on the part of public officials – as defined on p. 4 – might be a useful addition to the various mechanisms listed in the draft principles. If I am not mistaken, a registry containing such information for judges exists in Norway. Civil society representatives and others monitoring lobbying might benefit from being able to access both a registry containing information on lobbying activities in government/parliament and a registry containing information on board memberships/other organisational memberships on the part of the public officials. While the draft principles encourage the creation of a registry on lobbying activities (point 23, p. 6) and the Introduction states that “encouraging voluntary disclosure of ‘public policy positions and participation in public policy development and lobbying’ is an emerging corporate governance
good practice to promote social responsibility” – they do not recommend the creation of a registry on public official board membership/other organisational memberships.

Specific restrictions for public officials leaving office in order to prevent the misuse of confidential information and switching sides (point 26, p. 7): It might be useful to specify what measures that could be introduced – such as the development of a guide containing specific information about rules and restrictions applying to public officials leaving office, as well as a special body that could be consulted by public officials if in doubt about how existing rules and/or restrictions should be interpreted and/or applied.

Åse B. Grødeland, PhD.
Political Scientist
Chr. Michelsen Institute
www.cmi.no

4. European Centre for Public Affairs

ECPA Submission to the OECD November 2009

The ECPA welcomes the OECD Paper “Draft Principles for Transparency and Integrity in Lobbying”. We would however make the following comments in the interest of further improving the text.

(i) We are unhappy with the spirit of paragraph 4. We believe that the debate has evolved substantially since 2005. The latest evidence does not support the assertion that “lobbying borders on exercising undue influence”. The recent survey of opinion in the new European Parliament, conducted by Andrew Hawkins of ComRes in October 2009 reveals a surprising level of cross party support for lobbying as a contribution to good governance.

(ii) We remain concerned that the research base for the proposed OECD initiative is inadequate. We would recommend a survey of attitudes amongst both legislators and lobbyists in OECD countries. Such a survey would build support for an initiative and would indicate how practical problems could best be dealt with. We would be happy to discuss with the OECD the scope and timing of such a survey. We are very attracted by the idea of the OECD establishing core criteria that could be applied at national, European and global levels with a degree of consistency. Neither legislators nor lobbyists are helped by different rules at different levels. We believe that the spring of 2010 would be an ideal moment for such a survey. This would be particularly useful in the European Union context as a new Commissioner reviews the European Transparency Initiative in the light of discussion with the European Parliament and the Member States.

(iii) We feel strongly that rules on lobbying should apply equally to all those who seek to influence legislators. We do not believe that a distinction should be made between those who “receive compensation for carrying out lobbying activities”, and others. We believe that lobbying by NGOs, think tanks, churches, trades unions and trade associations should all reach the same standard of transparency and best practice that is expected of consultants and in-house public affairs practitioners.

Tom Spencer
Executive Director
European Centre for Public Affairs
As promised here are some comments on the draft principles for lobbying. I do hope they add some value to your work, as the issue of lobbying is not at the centre of U4’s work. First of all, we appreciate this initiative as lobbying is an important, yet somewhat unregulated area. What follows are just some general suggestions as to how the high quality of the paper could be further improved:

1. The paper would benefit from a clearer definition or distinction of what constitutes a public official. From reading the context it becomes clear that this includes legislatures as well as civil servants. However, many of the proposed measures will still have to apply differently to both groups. Moreover, some countries – such as Germany – still feature fierce internal debates whether parliamentarians actually are public officials. This points to the problem that the legislatures in some cases like to exclude themselves from scrutiny. While it is positive that the paper tries to take them on board as part of the solution, it might be useful to wave the stick at some point. For instance, one could refer to the UNCAC (which the vast majority of OECD members have ratified – only 11 out of 123 I believe have not), which clearly defines parliamentarians as being public officials (article 2, a).

2. Linked to the above, it would be beneficial to also distinguish clearer when the term “government” is used. In some contexts the parliament would be included in that understanding, while others would rather limit government to the executive. This becomes most evident when looking at the actual principles, where responsibilities get blurred. For example, governments or countries are asked to do the lions share of action, lobbyists themselves are also mentioned. There are, however, few clear responsibilities for public officials and especially legislatures. Nevertheless, in the end it will depend on their commitment and behaviour whether we get the transparency needed – the need to disclose, not the government.

3. At times it is difficult to distinguish principles from actual measures. This becomes most clear at point IV. While implementation, compliance and review are without doubt important, they rather constitute something more concrete and should maybe be treated in a separate subsequent section. Or it is just a matter of maybe broadening the title of the document, as clearly not only principles are discussed. In all cases it could be beneficial to make the transition between the introduction (where the principles are also already mentioned) to the actual principles smoother with a little explanatory sentence for the actual principles section. Also the final introductory paragraph (16) reads incomplete.

4. The paper deals with several different mechanisms to influence policy/politicians in the same package (regulated lobbying, lobbying in unregulated environments, financing political parties and political campaigns, conflicts of interest, declaration of assets). This is a lot of ground to cover and while the context is important, this breath sometimes seems to blur or overburden the principles a bit. This is potentially the case towards the end of paragraph 19.

5. When asking for the disclosure of information, the needs of key players are rightly addressed (para 23). Maybe it would be worthwhile spelling out that there might be different audiences involved (depending on which strategy to influence policy is used) and that disclosure efforts might need to address these different audiences.

U4 has recently produced different publications of which three are touching directly on these issues and might be helpful. I am sure you are aware of these, but just for the sake of information point to them here:

- “Sitting on the Fence: Conflicts of Interest and How to Regulate Them” ([http://www.cmi.no/publications/file/3160-sitting-on-the-fence.pdf](http://www.cmi.no/publications/file/3160-sitting-on-the-fence.pdf)). This paper describes the problem of conflict of interest of public officials and the main ways in which it may be tackled, with particular focus on regulation of elected officials. It argues that conflicts of interest cannot be avoided, because
citizens have several roles in society, besides being politicians, civil servants. They should however be cleverly managed, which in turn can only happen via transparency and disclosure.

- “Political Finance: State Control and Civil Society Monitoring” (http://www.cmi.no/publications/file/3025-political-finance.pdf). This paper discusses the principles of transparency and disclosure (in political finance) and important components that need to be in place to implement these two principles.

- “In pursuit of policy influence: Can lobbying be a legitimate alternative to corruption in developing countries?” (http://www.cmi.no/publications/file/3260-in-pursuit-of-policy-influence.pdf). This paper proposes how regulating and formalizing lobbying can structure access to politicians (therefore bringing policy-influence efforts to take place under the light, not in the dark).

I hope these comments will help in finalising the document and wish you success with it. Please keep us informed when it comes out. I have included among others my colleague Alessandra Fontana in this mail as she is working within U4 on political corruption, which is related closest to lobbying. She has provided most comments.

Hannes Hechler
Programme Coordinator
U4 Anti-Corruption Resource Centre | www.u4.no
Chr. Michelsen Institute | www.cmi.no
INTERNATIONAL GOVERNMENT ORGANISATIONS

High level representatives from the following international organisations were invited to comment on the draft principles:

**The United Nations**

1. **United Nations Office on Drugs and Crime, Corruption and Economic Crimes Section**

   **General Comments**

   The Draft Principles are well-written and comprehensive. The “Introduction” to the principles also includes a detailed discussion of the background behind the guidelines, using a wide range of both OECD and non-OECD sources and documents in support of the principles. However, the cited non-OECD sources do not include the United Nations Convention against Corruption (UNCAC). It is suggested that both the UNCAC and the work of the Conference of States Parties (COSP) to the UNCAC are relevant to transparency and integrity issues and therefore might be considered for inclusion.

   **Specific Comments**

   **Enhancing transparency, integrity and propriety in lobbying: The good governance approach.**

   1. In paragraph 5, there is a discussion of the growing trend to criminalize trading in influence, bribery and other corruption-related offenses. This portion might benefit from a footnote discussing the role of Chapter III of the UNCAC in mandating or encouraging the criminalization of such offenses, with a reference to Chapter III generally and Articles 15 and 18 specifically.

   **Aims and structures of principles**

   2. In paragraph 11, there is a discussion of the growing trend by international organizations to fight corruption in the business sector. This portion might benefit from a brief discussion of the related principles of the UNCAC, including Article 12 discussing the private sector. Also relevant is the “Bali Business Declaration” issued by the UNODC, UN Global Compact, OECD, ICC, TI, and others at the second session of the COSP. Equally relevant is the “UN Global Compact,” in particular its 10th Principle.

   Dimitri Vlassis  
   Chief  
   United Nations Office on Drugs and Crime, Corruption and Economic Crimes Section  
   www.unodc.org/

   Erik Larson  
   Crime Prevention Expert  
   United Nations Office on Drugs and Crime, Corruption and Economic Crimes Section  
   www.unodc.org/
The World Bank

I. World Bank Institute (WBI)

Thank you for the opportunity to provide comments on the “Draft Principles for Transparency and Integrity in Lobbying”.

The “Draft Principles for Transparency and Integrity in Lobbying” are a thoughtful and comprehensive piece in the best tradition of the “Principles” body of literature on good governance issued by the Public Governance and Territorial Development Directorate of the OECD. The World Bank Institute’s comments are offered in the interest of provoking debate around the values underpinning these “Draft Principles for Transparency and Integrity in Lobbying”.

These principles seek to resolve the theoretical puzzle, and its practical implications, which arise from the notion that from a political economy perspective, every political and economic actor, including public officials and lobbyists alike, would prefer legislation, policy and administrative decisions that work in their favor.

With such utility maximization built in the definition of lobbying proposed in the “Draft Principles” (paragraph 2), and the recognition that “it takes two to lobby”, an admittedly provocative question becomes: what are the incentives of utility-maximizing public officials whose interests happen to converge with those of a particular lobby, and diverge from those of another, to develop, enforce and monitor rules, regulations and disclosures that seek to provide a level-playing field to all lobbies. The question is premised on a body of literature that views government as a self-interest utility maximizer (e.g., Shleifer and Vishny 1998) A. Shleifer, R.W. Vishny (1998), "The grabbing hand, government pathologies and their cures", Harvard University Press, Cambridge., as opposed to the theories of the “helping hand” (government as a benevolent actor), and the “invisible hand”, more commonly held in development circles.

While risks of such nature are implicitly recognized in the “Draft Principles” (paragraphs 18 and 30), and indeed partly addressed through Principle 3 (“Fostering a Culture of Integrity”), they beg the question of the need for formal third-party monitoring of lobby activities and practices. Such checks and balances may build on yet go beyond the tools available to citizens at large, such as freedom of information legislation, to scrutinize both public officials and lobbies. As such, the “Draft Principles for Transparency and Integrity in Lobbying” may benefit from including explicit provisions that would recommend a formal (that is, enshrined in law) role for a third set of actors and coalitions, whether global (e.g., the “Global Reporting Initiative”, referenced in footnote 3) or national (e.g., the Center for Responsive Politics, in the USA).

For any further clarifications, kindly contact Mr. Edouard Al-Dahdah. Thanks,

Sanjay Pradhan
Vice-President
World Bank Institute
http://www.worldbank.org/wbi/
2. World Bank, Poverty Reduction and Economic Management Network

On the above referenced, we appreciate the opportunity to comment on the draft Principles for Transparency and Integrity in Lobbying circulated October 30.

The regulation of lobbying is emerging as a major issue in many developing countries. On the one hand, there is a perception in a number of countries that the legislature or one or more executive branch agencies have been "captured" by interest groups, resulting in favoritism, the misallocation of public resources, and even corruption. On the other hand, there are examples where either laws have been enacted or rules promulgated without adequate input from those who will be affected by them.

The draft Principles clearly identify the dangers that can result from both situations and announce a thoughtful and useful set of guidelines policymakers can follow in developing regulations to govern lobbying. We welcome the OECD's initiative in developing these guidelines and believe they will be of great use to developing county governments as their officials consider how to deal with lobbying. We look forward to working with you and others at the OECD as the initiative develops.

Thanks again for the opportunity to comment and congratulations on a first-rate product.

Ms. Deborah Wetzel
Director,
Head of Poverty Reduction and Economic Management Network
World Bank
Regional Development Banks

1. African Development Bank, Finance and Economic Management Department (Governance Division - OSGE 1)

1. The principles set out in the document are relevant and timely against the background of recent calls to set standards for economic and financial governance at the domestic and international levels. And, particular concerns relating the deleterious effects of lobbying are not lost on the broader set of initiatives that are considered to address the recent global financial crisis. Therefore, the draft Principles for Transparency and Integrity in Lobbying would fill an important gap in providing a framework that will guide the behavior of concerned stakeholders.

2. It is stated in paragraph 7 the “lobbying is on the political agenda in the Americas, Europe, Asia and Australia”. Incidentally, we are curious as to why lobbying is not on the political agenda in Africa, if indeed it is not. Did the background reviews consider the African context as well?

3. It is significant that the document recognizes peculiarities of different countries and therefore taken into account the national context. This is important especially that in some countries lobbying is still not the problem that it is perceived to be; and indeed a normal part of daily conduct of policy influence and decision making. While in others lobbying has become a recognized – and even licensed – profession, in some other countries any form of lobbying is the evil that is equated to corruption. The term “lobbying” itself can evoke different sentiments in different environments. While policy and decision-making influencing is overlooked as a normal way of doing business in most developing environments, Africa especially, “lobbying” is viewed as the developed country’s way of legitimizing corruption. To all intents and purposes, the two are practically the same, albeit manifested in different ways and forms. Therefore, in suggesting Africa as a point of reference as well, the document may wish to take, as starting point, the challenge of changing the perception of lobbying as a western concept. It is important to emphasize in such environments that lobbying can be good, and indeed useful in delivering vital public goods. But, the document just assumes that “lobbying can improve decision making by providing valuable insights and data”, short of actually articulating how this is possible. In essence, it will add value to spell out the channels through which lobbying can produce positive dividends, which in turn could serve as basis for harnessing public acceptance and buy-in, especially in the less optimistic developing environments as Africa.

4. The document has rightly stated the need to create a level playing field for “lobbying” as the terrain is often captured by the most capable and privileged few at the expense of large sections of societies. It might be useful to also indicate the need to not only provide access to public information etc, but also help develop the capacity of all stakeholders to access opportunities for effective “lobbying”.

5. The document while rightly emphasizing the need for principles and values targeting public officials is slightly deficient in addressing a similar need in the private sector, not least most professional lobbyists are interlocutors for private sector players. A balanced emphasis on the private sector would enrich the principal orientation of the document. Indeed, it is asserted in paragraph (8) that “it takes two to lobby”; and we know that lobbyist may not be able to self-regulate effectively, unless clear principles of transparency and integrity that applies to the public sector directly applies to the private sector as well. An assumption that
principles that work in the public sector will automatically bear positive external impact on the private sector is rather tenuous and not well-grounded in theory and practice.

6. The international arena has been ignored completely in the document, and one that should have been at the center, as lobbying has become the constant phenomenon at major global events, be it on trade, environment, gender or finance. The presence of lobby groups, often coalescing around national and regional interests, at major multilateral conferences is well-known. These groups tend to lobby key individuals whose mandates transcend national boundaries, with extraterrestrial authorities. Therefore, principles of transparency and integrity in lobbying, as the one crafted by the OECD, that places the nation entity as the subject of interest may be inadequate in dealing with the transnational public official, although certain elements of the latter may still apply. It would be useful to indicate how the designed principles can apply to lobbyists at the international level.

Gabriel Negatu
Director
Finance and Economic Management Department
African Development Bank,
http://www.afdb.org/
2. Inter-American Development Bank, Institutional Capacity of the State Division

Thanks for giving us the opportunity to comment on the Draft Principles. As it now stands, the proposal is rather comprehensive, and we believe its emphasis on disclosure of information is the right one. Nevertheless, especially when public officials are very exposed to lobbyists’ influence, disclosure of information is not enough. We, therefore, would suggest the following three clarifications:

- At the end of paragraph 6, adding an additional bullet stating: “Protecting public decision makers by avoiding placing them in unnecessarily ‘exposed’ positions with lobbyists”;
- We fully agree with Principle I.1 (page 5): when the capacity to influence the different stakeholders have is very unequal, a level playing field requires more than just equal access for all. For that reason, we think it is essential to clearly define what “fair and equitable” means; and
- Paragraph 26 appropriately raises the need to establish restrictions for public officials leaving office. We think that similar restrictions should be developed regarding public officials being elected to office. This could be done by inserting a new paragraph between current paragraphs 25 and 26, stating: “Governments should establish guidelines to prevent undue influence upon individuals who may be elected to office.”

Xavier Comas
Chief Institutional Capacity of the State Division
Inter-American Development Bank
http://www.iadb.org/

3. Inter-American Development Bank, Institutional Integrity Office

Many thanks for the opportunity to provide comments. Congratulations on this initiative and on the draft in particular. The attached document contains my specific comments and observations.

Let me summarize the main points:

1. Lobbying is a species of the right to petition. This right is not limited to private sector activities, as it may be interpreted from the PTIL. Perhaps the Guidelines could clarify this point.

2. Lobbying regulations are generally enforced along with other statutes (typically regulations for political contributions and public ethics laws). Perhaps the PTIL could provide some guidance on these interactions.

3. The Principles should provide clearer guidance on the importance of fair, equitable and efficient policy decision making as a necessary element of the lobbying framework.

4. Access to information about all public activities is a right. And it has a particular impact on lobbying activities. Perhaps the Principles could elaborate on the connection between A2I and lobbying.

Roberto de Michele
Principal Policy Advisor
Chief a.i.
Office of Institutional Integrity
Inter-American Development Bank
http://www.iadb.org/
Regional organisations

1. Council of Europe, Group of States against Corruption (GRECO)

The Group of States against Corruption (GRECO) was requested to submit its views on the draft OECD Principles for Transparency and Integrity in Lobbying. The following brief comments by GRECO’s Secretariat concern some aspects of the Draft Principles where there are obvious links to GRECO’s field of interest as a monitoring mechanism of the Council of Europe’s anti-corruption standards. The opinions contained in this paper are not binding upon GRECO, nor the Council of Europe.

Although GRECO has not yet devoted any of its evaluation rounds specifically to the issue of lobbying, it has dealt with a number of themes where there are clear links to the issue, in particular, regarding preventive measures against corruption in the public sector but also in the criminal law perspective. On the occasion of GRECO’s 10th anniversary, a High-level Conference (5 October 2009) included a round table debate on future challenges and emerging subject areas. In this context “lobbying and corruption” was discussed and it was concluded that this topic as well as private sector corruption would clearly merit more attention in the future. Furthermore, it was noted that there is not much regulation available on this issue in member States and that it was unclear to what extent lobbying should be dealt with through traditional legislation or through self regulation by the lobbying profession. In any event, the phenomenon of lobbying has two sides, the lobbyist and the official who is lobbied, including elected officials (there may, however, be more actors involved). Following this debate at ministerial level, it is not unlikely that GRECO, in one of its future evaluation rounds, will focus in more depth on the prevention of conflicts of interest in the public sector and include the parliamentary level as well as the private sector in such a process. That would obviously link GRECO’s work closer to both sides of the phenomenon of lobbying.

In a recent report (5 June 2009) of the Parliamentary Assembly of the Council of Europe (Lobbying in a democratic society) it is noted that the activities of different interest groups have been constantly increasing at the level of European institutions and the Council of Europe member States, that only four member States (out of 47) have adopted laws on lobbying and that this question is under consideration in ten Council of Europe member States. This initiative aims at the elaboration under the auspices of the Council of Europe, of a European Code of good conduct on lobbying based on a clear definition of lobbying; transparency in this context; rules for politicians and civil servants as well as members of pressure groups and the business sector; registration of lobbying entities etc.

In the light of what has been stated above, there is clearly a growing demand in Europe and elsewhere for the establishment of regulatory frameworks and guidelines in respect of lobbying. The OECD Draft Principles for Transparency and Integrity in Lobbying are therefore very timely and they appear to focus on the key issues which need to be addressed.

The establishment of principles and guidelines concerning lobbying are definitely beneficial also for other areas concerned, including the fight against corruption. For example, the objective of establishing a precise definition of lobbying is not only important in itself, but may also assist countries in developing other fields of interest. A good example of this concerns the criminalisation of “trading in influence”, which is often left out of the criminal law for reasons of uncertainty regarding the border line between due and undue lobbying. Clear definitions in respect of lobbying may also help States to better prevent conflicts of interest, for example, in respect of persons moving from the public to the private sector and vice versa (“revolving doors”), a well known feature in the “lobbying industry”.

As already mentioned, there are two sides to lobbying, the public sector, which is subject to lobbying and the lobbying entities of the private sector; the Draft Principles cover them both. However, it is perhaps not
sufficiently reflected in the Draft that the public sector comprises officials who are employees as well as elected officials, a distinction which may have an impact on guidelines or rules.

Above all, transparency of public administration in general and vis-à-vis lobbying in particular, are indispensible basic conditions, without which sound and honest lobbying - also perceived as such by the wider public - can never develop. Although the importance of transparency is stressed in the Draft Principles as well as in the commentary thereto, this could be even more highlighted, for example by having the transparency requirement as a first fundamental principle and by adding the necessity to establish hard core rules, i.e. legislation, in this particular area.

Wolfgang RAU
Executive Secretary
GRECO
http://www.coe.int/

2. Regional Anti-Corruption Initiative, South East Europe

The overall text looks nice and very useful. However, I would like to suggest some few thinks as following:

1. At the end of paragraph 5, page 2, do you see anything missing (a verb)? Or to try to change the word “that” before “accessibility” by the term “for”, so the rest of the sentence may continue without verb.

2. On the page 5, paragraph 17, 3rd line, isn’t it better to use “to obtain” instead of “to obtaining” or otherwise “for obtaining”?

3. In the subtitle 2 (in bold, after paragraph 17), do you consider relevant to add after terms “problem” and “risk” the “s” of the plural under brackets (problem(s)…)?

4. In the same page, paragraph 19, last sentence, I think it would be very useful to add before the term “participation” also the term “consultation”.

5. Maybe this is too much at this stage, but it would be preferable to have 10 instead of 9 principles. Anyway, please consider this last suggestion as a “voeu pieux”.

Mr. Edmond Dunga
Head of Office
Secretariat of the Regional Anti-Corruption Initiative
EUROPEAN COMMISSION

Vice-President of the European Commission - Administrative, Audit and Anti-fraud Office

Thank you for your letter dated 30 October concerning the draft "Principles for Transparency and Integrity in Lobbying".

I consider this document as a very valuable contribution to the OECD's work to develop a set of reference material built on the lessons and experience drawn from Government regulations, legislations and self regulation of lobbyists. The European Commission shares the view that the public has high expectations for transparency and integrity in lobbying to be met by policy makers. All five draft principles set out in the document match very well our own analysis of the basic requirements for building an effective framework for openness, transparency and integrity, as well as for enhancing transparency.

I take this opportunity to send you enclosed the communication adopted by the European Commission on 28 October. This document provides a review of the Commission's first year of operation of its "Framework for relations with interest representatives" (lobbyists). You will see that this set of measures - such as a register of lobbyists including some financial disclosure, a code of conduct and a mechanism for complaints - has produced very satisfying results. As a result, the Commission has confirmed all the basic principles: Voluntary nature, inclusion of financial information etc. Drawing on experience and a number of contributions received from interested parties, we have brought a number of adjustments which should clarify and simplify the system. In particular, we have clarified the definition of eligible activities. We have also taken into account the reluctance of two categories of operators to register: Lawyers firms (invoking the specific obligation of their profession regarding confidentiality about their clients) and think tanks (claiming their pluralist and semi academic nature, independent from special interests). Any experience drawn from other countries having similar difficulties or having found satisfying legal solutions to this problem would be much welcome for our future reflection.

Siim Kallas
Vice President, Administrative, Audit and Anti-fraud Office
European Commission
http://ec.europa.eu
The draft principles were sent to the following research networks and centres, university departments and schools:

1. **School of Public Policy and Management, Tsinghua University, Beijing, China**

   I have carefully read the draft Principles and have learned a lot from it. Thank you very much for your great efforts! I have three comments and suggestions:

   1. Governments should, through laws, clarify the lines among illegal, unlawful and acceptable lobbying activities. In societies emphasize human connections, the lines are often not clear. Lobbying activities often hide in routine socializing activities.

   2. Information Integration: Effective supervision of lobbying activities is based on timely and accurate information. Countries should establish specific lobbying-related Information Management System to list and manage both lobbyists and lobbying activities. Key information such as registration information of lobbyists should be available online so that citizens can easily access such information.

   3. Citizen Education: Citizens and media have the most potentials for supervising lobbying activities. Countries can integrate lobbying into their Civic Education curriculum. Through the education programs, citizens should not only know their right to petition and lobby the government, but also know the restrictions set by laws and regulations. This is the key to developing a lobbying culture of integrity and transparency.

   4. Educating Businesses: Countries should use business organizations such as trade associations to promote good lobbying culture within business communities. They need to achieve common understanding and even a consensus within business circles. All in all, this is a great document. Congratulations for your successful work!

   **Prof. Wenhao Cheng**  
   **School of Public Policy and Management**  
   **Tsinghua University**

2. **Institute Ortega & Gasset, Madrid, Spain**

   First of all, I would like to congratulate OECD for its efforts in preventing and fighting corruption. Considering the issue of lobbying and in particular the principles for transparency and integrity in lobbying, I would like to share some comments with you.

   1. **The first principle indicates that:** “Governments should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies.”
I think that the equitable access to the formulation of public policies is absolutely necessary. But the level playing field in the implementation process is not easy to implement and sometimes can produce harmful effects.

Policy decision making is responsibility of Government and once the decision is made the execution should be protected of illicit influence. But the implementation process is mostly the business of bureaucracy and the continuous introduction of different stakeholders in that process can be inefficient. What is important in the execution of policies and programs is to attain the objectives established. And to monitor and to evaluate during the process and later the effective implementation of the policy democratically decided.

The pre-decision stage is where the level playing field is most important. It is true that sometimes during the implementation process the political, social or economic environment can change and it is necessary to adjust the policy or program to the new environment. In these situations it is necessary to grant a level playing field for the adjustment. But these situations not always happen.

During the execution of policies and programs lobbies can try to obtain illicit advantages, but that is a different problem. If one lobby try to influence the implementation process the solution should not be to open the operations to the competitive tender of proposals from different lobbies, but the criminal prosecution of the actors involved.

2. **The second principle says:** “Guidelines and rules on lobbying should proportionally address the perceived problem and risk, be consistent with the wider policy and legal frameworks that foster good governance and respect the socio-political and administrative context.”

   It is a very good idea to insist in the importance of introducing this regulation of lobbies within the national integrity framework, but it would be very helpful to give some clues about how to connect everything and how this connection could work better. Where could we situate these principles within the National Integrity System and how could we connect them with the other instruments?

3. **The principle number eight points out:** “A coherent spectrum of strategies and mechanisms should carefully balance incentives and sanctions, and involve key actors to achieve compliance.”

   Probably, it could be helpful to support some kind of international benchmarking on transparency in lobbying.

   It could also be interesting to have some national awards to transparency and integrity in lobbying. But obviously these awards are context dependent.

4. In my opinion, the principles are very good and useful, but the problem sometimes is in the “pre-government moment”, lobbies can capture an electoral program through electoral and party financing. Sometimes lobbies are able to “buy” the silence on an issue, for example they can keep the status quo by reaching an agreement with different parties when the parties are building the electoral program. Or they can introduce an item in the agenda of the future government, before the party wins the elections.

   It would be useful to consider the problem of lobbies financing political parties and electoral campaigns with a quid pro quo method.

   Congratulations for your work,
   
   Manuel Villoria  
   Director  
   Institute Ortega & Gasset
3. University of Ottawa, Public Sector Management School, Canada

As we discussed, here are my comments on the Lobbying paper that you sent to me in draft form a few weeks ago. As a general comment this is a very good document and will be of interest to many countries that are interested in setting up a lobbying regime.

I do, however, have a number of observations to make regarding the text.

On page 4 when you describe the four principles, I think an argument can be made to add another principle that is implicit in the compliance reference in the fourth principle. I suggest that you add ‘sanctions’ to the principles since compliance alone will not regulate lobbying behaviour. Strict and real sanctions are an important part of the framework, in my view.

On page 5, I suggest that you also define ‘public official’ as you have done for lobbyist. I believe there is a lot of ambiguity around the meaning of who is covered by lobbying activities inside of government.

On page 7, in paragraph 26, I suggest that you have more text about ‘switching sides’ especially those that move from the offices of political advisers. This is a very complex issue and is worth a paragraph or two.

On the same page, I also suggest that you recommend the creation of a professional organization for lobbyists so that governments have a single entity to discuss rules, laws, etc. This has worked well in Canada.

On the final page, you might want to suggest the creation of a lobbyist registration agency that is only responsible for the regulation of lobbying behaviour and lobbyists. You might also add in section 9 that the review process should be as public as possible and also involve a wide range of interests in the development of the framework.

David Zussman
Jarislowsky Chair in Public Sector Management
University of Ottawa

4. Dalhousie University, School of Public Administration, Nova Scotia, Canada

I appreciate the opportunity to take part in the consultation.

Having observed, and in a minor way participated in, the process of developing the principles I am impressed by the efforts that have been made by the OECD to develop a succinct and workable set of guidelines for governments anxious to grapple with the contentious and complex process of regulating lobbying. The outcome is a useful document that in broad terms addresses the main issues that currently are at play in this field of regulation. My comments are as follows:

The introduction:

Establishes the context and purpose effectively, particularly the importance of securing transparency and of ensuring that both governments and the private sector participate in achieving transparency, openness and a culture of integrity.
The definition of lobbying (para. 2) is elegant, though I note that some governments have chosen to limit legislative definitions of lobbying so that regulation covers only the paid representation of third parties. I was glad to find a later qualification (para. 20) which emphasizes that regulation should focus on consultant lobbyists.

Para. 4 makes an important statement concerning rising public fears that lobbying is superseding democratic processes; a statement that governments should consider with care and even urgency.

Para. 9 begins with a sentence that might puzzle readers. Perhaps a slight revision might make it clearer. For example: “In many countries there has been broad public support for developing....”

Also in para. 9, I find the emphasis on the need for public officials to decide quickly on their approach to lobby regulation awkward and perhaps misleading. Would the following revision be helpful?

“When lobbying reaches the political agenda, policy makers and legislators may be under intense public pressure to immediately develop guidelines and rules. Under such circumstances they face a challenge of achieving a framework...”

Paras 10: I thought the shift from para. 9 a bit too sharp. I wonder whether a transition statement is needed to introduce the concept which has led the OECD to propose these principles. It might be enough to simply say that:

“In order to assist governments considering such a framework the OECD has developed the following principles. They are a point of reference.....”

I like the explanation in para. 13.

The Principles

Section 2: I found the word ‘proportionally’ confusing. Not sure what it means in this context. In my view the principle would have more force if it simply stated that ‘guidelines and rules on lobbying should be consistent with the wider....’

Para. 28: ‘maintaining’ should be ‘maintain’.

Para. 29: In the draft ‘Framework’ document section 5.4 suggested that registry officials should have the authority to review filings, demand clarification and investigate further. I’m not sure that the phrase ‘mandate formal reporting or audit’ has equal force. I suggest that the authority to investigate is crucial and one that is sometimes denied registrars or is significantly qualified. Is it possible to strengthen Para. 29 so that it endorses the conferring of investigatory powers?

Again, thank you for inviting me to comment on the draft.

A. Paul Pross,
Professor Emeritus,
School of Public Administration,
Dalhousie University,
I wish to congratulate OECD on its initiative to build Principles for Transparency and Integrity in Lobbying and also to thank you for the opportunity to collaborate in the consultation process.

The Principles for Transparency and Integrity in Lobbying identified the most important obstacles to reinforce lobbying as a democratic interest representation channel between the civil society and the State.

However, some points need to be highlighted. In Brazil there is no lobbying regulation. In my opinion, principle number 1 is the most important step to build a democratic decision making process and, therefore, transparent. But, first of all lobbying regulation is required.

I understand OECD should encourage governments to create lobbying regulation and also stimulate lobbyists to organize themselves in professional associations so that punishments can be applied in case they do not comply with such regulation.

How to make sure these principles will be followed and what punishment applied otherwise?

In lack of a lobbying regulation, nowadays, the decision makers themselves are responsible for interpreting the interests at stake and choosing what arguments are more compelling. As the lobbying is not regulated and thus, the lobbyists are not registered, how can the decision makers be sure with whom they are speaking to and if the interests presented are legitimate for that class or that group as a whole?

I believe that in order to reduce these difficulties the decision makers tend to elect some specific interest groups who are more present and readily available. How can it be possible for all interest groups to have access to the decision making process?

That is why, in order to become a qualified interlocutor, the interest group must have an organized presence in Brasilia in order to maintain permanent contact with the decision makers. Only to fulfill this stage of the lobbying process, major resources are needed.

Ideally, any interest group may join others of the same type to submit the same demands and assemble a lobbying strategy in the Legislature, but this is not what happens in practice. When huge resources are needed, only major groups are able to maintain a physical presence in Brasilia. So, how can we affirm that there are equal conditions for all interest groups and that lobbying would strengthen the public interest?

The fact that only some segments of the civil society are able to implement this type of action, leads to an imbalance in the sphere of interests representation.

It is, then, undeniable that the lobbying activity carried out in Brazil presents a form of interest articulation that emphasizes the social divisions and favors the groups that have greater financial resources.

A very good initiative to address this issue could be that all governments create a website that would provide registered members with information about current decision making processes. All civil society organizations registered as an interest representative of their specific sectors or segments will become part of the decision making process contributing with their information and point of view after receiving an automatic alert from the website about the issue that is being discussed.

My suggestion is related to principle number 4 about keeping citizens informed and able to influence government decisions.

For this proposal to be successful it is necessary a commitment by the decision makers in order to update the system with all decision processes in progress. Otherwise, the civil society will be informed about this new communication technology that will provide balanced information in the development and implementation of public policies. The Media will also play an important role in this issue.

It is important to point out that the appropriate operation of this website is the responsibility of the government who is required by law to keep it updated. What punishment would apply in case of none compliance? Without this, especially in Latin American countries little would change.

Andréa C. Oliveira Gozetto
Professor
Universidade Nove de Julho
São Paulo, Brazil
6. Complutense University of Madrid, Spain

BREVES SUGERENCIAS
* Incluyo en negrita algunas sugerencias.

INTRODUCCIÓN
3. Las prácticas propiamente dichas de los grupos de presión están profundamente arraigadas en los contextos democráticos y constitucionales de un país. Están relacionadas con los derechos constitucionales de petición ante el gobierno, la representación de intereses, el derecho de asociacionismo… (el derecho de asociacionismo fundamente a los grupos de interés o de presión en buena parte de los casos)

PRINCIPIOS
12. Los principios están dirigidos principalmente a los responsables de la toma de decisiones en el ámbito de gobierno central o del ámbito legislativo (Cámaras legislativas).

Principio 2: Las directrices y normas sobre las acciones de los grupos de presión deben abordar…
19. (...) Esto incluye la participación ciudadana a través de la participación pública y el derecho de petición ante el gobierno, legislación sobre la libertad de información y normas acerca de los partidos políticos y la financiación de la campaña electoral, códigos de conducta para los funcionarios públicos y los grupos de presión, así como disposiciones en contra del tráfico de influencias. Aquí incluiría las normas o regulación del paso de la vida pública a la vida privada y a la inversa (revolving door), la legislación sobre las incompatibilidades de los Altos Cargos y diputados y senadores, la financiación de los partidos políticos (no sólo la financiación de las campañas electorales).

Principio 3: Los países deberían definir claramente los términos “actividad de los grupos de presión”…
20. La definición de los grupos de presión en el marco normativo debe incluir no sólo quienes lo ejercen sino sería conveniente definir también frente a quién lo ejercen. Algunas legislaciones sólo consideran el ámbito legislativo (congreso y/o senado), pero no tienen presente el Poder Ejecutivo (Ministerios, Direcciones Generales…). Para construir un marco eficaz conviene, en mi opinión, acotar o delimitar frente a quién se considera acción de lobbying.

Principio 5. Los países deben permitir a las organizaciones de la sociedad civil, a los medios de comunicación y al público en general examinar las actividades de los grupos de presión…
24. Sugiero apuntar algunos posibles instrumentos más para favorecer este principio como: que las leyes incluyan una memoria de aquellos grupos de interés que han participado o han sido atendidos en el proceso legislativo, y así se publique en los boletines oficiales.

Principio 6
26. (...) A fin de mantener la confianza en el gobierno quizá sea necesario imponer un período de “reflexión” que restrinja las prácticas de “puerta giratoria” en las que ex funcionarios públicos hacen presión a sus antiguas organizaciones o ejerzan profesiones donde pueda utilizarse indebidamente la “información confidencial” que poseen por sus cargos públicos.

Principio 7
28. (...) En particular, deben mantener contacto con funcionarios públicos de manera íntegra y honesta, divulgar información veraz, precisa y transparente… Sugiero hablar de veracidad porque hace alusión de que es información verdadera, no falsa; y transparente porque no oculta , peligros muy presentes en la información del lobby.

IV. Mecanismos para una implementación y cumplimiento eficaces
Sugiero hablar de dos mecanismos que pueden ser útiles para la implementación y cumplimiento eficaces
1º Los países deben revisar o analizar las sanciones o medidas punitivas cuando los funcionarios y cargos públicos y los grupos de interés no cumplen adecuadamente con las medidas o normas establecidas.
2º Los países podrían crear un órgano independiente que sea responsable de vigilar por el cumplimiento de las normas y estándares establecidos, y que tenga potestad para exigir rectificaciones, y en los casos que sean de naturaleza penal o civil, trasladarlos al ámbito judicial.
Principio 9.
31. (...) El refinar (sustituiría refinar por precisar y actualizar) directrices y normas

David Córdova
OECD SECRETARIAT

The following OECD Directorates provided comments to the draft Principles:

1. Directorate for Financial and Enterprise Affairs

In general, some issues that could benefit from further clarification include (i) the nature of the responsibilities shared by lobbyists to foster transparency and integrity (the principles imply that lobbyists are secondarily responsible); (ii) the kinds of professional standards lobbyists should respect in order to assume a responsibility to avoid undue influencing; and (iii) the extent governments should promote responsible lobbying practices extraterritorially by encouraging lobbyists based within their borders to assume “professional standards” abroad.

The principles focus their attention on helping governmental authorities meet public expectations on transparency, accountability and integrity in the process of carrying out their duties. To the extent that these principles are to provide direction for public authorities to make the more detailed decisions (on, for example, the identification of relevant actors and activities subject to “lobbying” regulations), they are understandably vague as to the nature of the private sector’s responsibilities. Given the unsettled and often polarizing nature of private sector responsibilities, this is to be expected. However there still may be an opportunity to further acknowledge the growing consensus on the responsibilities of the private sector, not only with regard to disclosure of information (as is mentioned in the introduction), but also in relation to corruption and improper involvement in local political activities. Although the principles mention the OECD Guidelines in the included list of relevant OECD policy instruments, I would recommend explicit reference by footnote to para. 11 of the general policies in Chapter II of the Guidelines, which explain that enterprises should, “abstain from any improper involvement in local political activities.”

The OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones also includes a chapter on improper involvement in local politics (Ch. 4), which leads to the cross-cutting issue of “fostering a culture of integrity”, “mechanisms for effective implementation and compliance” and a governments’ promotion of responsible lobbying activities abroad. While the principles aim to help governments build transparent lobbying practices within their own countries, it would seem consistent with other OECD integrity instruments to note the further benefits (both within their country and outside it) of governments’ active encouragement of responsible lobbying practices abroad. In the context of weak governance zones this is particularly relevant as these countries are generally characterized by “excessive discretionary powers for public officials at all levels of government” (Ch 4, Risk Awareness Tool). Pursuant to that strategy, the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones should be added to the list of OECD policy instruments to be used in conjunction with the principles, as it offers a checklist of questions to help MNEs mitigate the risk of improper involvement in local political activities (chapter 4).

Tyler Gillard
Investment Division
Directorate for Financial and Enterprise Affairs
24. Partnership for Democratic Governance Initiative

Thank you for the opportunity to comment on these draft Principles for Transparency and Integrity in Lobbying. We understand that this project has followed a comprehensive path, as the draft principles build upon a thorough review of experiences and lessons learned from government regulations and practices, as well as lobbyists’ self-regulations and were discussed by the Public Governance Committee last month. The messages are straightforward. The need for principles are rightly linked to the current financial crisis as it is widely accepted that the crisis has been exacerbated by a lack of regulatory oversight. The principles are also appropriately linked to recent international initiatives such as the G8’s Lecce framework. They also usefully complement and support work undertaken in other parts of the OECD, in particular DAF’s anti-bribery work and DCD work carried out in the framework of the Anti-Corruption Task Team of the DAC GOVNET. We are grateful to GOV to allow us to comment to ensure a multidisciplinary approach in the final version of the Principles.

In terms of general points:

- The text rightly states that lobbying has increasingly been seen by citizens as having a negative connotation and perceived as a form of corruption or manipulation that circumvents their general interest (para. 1). At the same time, it also correctly notes that lobbying is a legitimate part of any democratic system and can provide helpful expertise for informed conduct of public affairs (para. 1). That said, it might be useful to clarify in the same paragraph that if lobbying is a legitimate part of any democratic system, this is true as long as lobbying takes place in accordance with clear, transparent rules. This, in turn, would further argue in favor of the Principles as developed by the OECD Public Governance Committee.

- The draft Principles do not aim at providing detailed provisions on designing and implementing legislations and regulations. On the contrary, the Principles address a series of interrelated issues that might logically guide the development of national rules or guidelines. That said, the text of Principle 2 could be perhaps slightly streamlined, in order to render the principles’ aims even more straightforward. Basically what the text intends to say is that rules (or guidelines) on lobbying are to be established according to the general principles and conditions in the system of each country adhering to the Principles.

- The draft text recognizes that it takes two to lobby and therefore any principles aimed at creating a coherent framework to foster transparency and integrity should address both public officials and lobbyists. The draft Principles could be slightly more straightforward in terms of measures that could be undertaken by the lobbyist side. Given that the principles are primarily directed at decision-makers in governments, they should not be too shy as to what actions governments should take in order to ensure that standards of professionalism and transparency are applied by lobbyists. In this regard, the draft Principles could draw interesting lessons from the language contained in other OECD principles or recommendations that address both the government and non-government sector (e.g. the OECD Guidelines for Multinational Enterprises, the Revised Recommendation on Combating Bribery in International Business Transactions and now the new anti-bribery recommendation). In short, the Principles, instead of using rather soft language directed at lobbyists could perhaps use stronger language directed at governments (i.e. instead of using language such as “lobbyists should ensure/promote” to use language such as “governments should require lobbyists to conduct their contact with public officials with integrity and honesty, etc…”).

- Principle 9 is a bit elliptic. It would help to state clearly, upfront, that achieving progress in this field requires not only efforts by all key actors, i.e. public officials and lobbyists (as
highlighted in para. 29 under Principle 8) but monitoring and follow-up. It would also likely help to clarify/identify any (international) process that would support the review by countries of the implementation of the guidelines and rules on lobbying developed against the principles.

- Principle 8 is a little bit hard to follow. The text tends to mix several issues. One is the needed requirement for prior consultations with and engagement of lobbyists on any proposed regulations, legislation, and other rules in the field of lobbying. Another one is the need for adequate resources to ensure implementation. The other one is the need to have mechanisms in place in both the government sector and among lobbyists to ensure effective implementation and compliance. Perhaps the requirement to have all key actors involved both in establishing standards and rules and putting them into effect would better be discussed under Principle 7. Concerning the two other issues, there might be a need for a clearer distinction between the two, as well as for more details about the mechanisms that should be established for “formal reporting or audit of implementation and compliance”. Details about such mechanisms could operate a distinction between the type of mechanisms that could be established in the public sector and the reporting/auditing mechanisms that lobbying organizations should be encouraged to create.

- The document primarily makes references to OECD work, but little to other international initiatives, with the exception of the EC Transparency initiative and the Global Reporting Initiative. The draft principles could better acknowledge that there is a range of initiatives, both existing and under development, which have a common thread related to integrity and transparency in lobbying. One is, for example, the recent draft recommendation developed by the Council of Europe’s Committee on Economic Affairs which proposes a number of principles for the elaboration of a European Code of conduct on lobbying with a view to improving transparency in this field at European level. Another example is the UN responsible lobbying initiative which proposes a number of principles for the elaboration of a European Code of conduct on lobbying with a view to improving transparency in this field at European level. There are also emerging civil society initiatives such as the Alliance for Lobbying Transparency and Ethics regulation. In short, initiatives by international organizations, the business sector and the civil society could be better acknowledged, in the body of the Principles (or in a Preamble if the Principles will turn to be a Recommendation by the Council); this would strengthen the message that the intended objective of the draft principles is to create a coherent framework which builds on work done in the context of other international initiatives.

- Finally, there appears to be a problem with the formatting of the text in paragraph 16 (the text likely belongs to para 15 as one of its bullet points).

We hope this feedback from the Advisory Unit will be useful to GOV. We hope this co-operation between GOV and the Advisory Unit will continue within the framework of the draft Principles and also beyond, in particular with regards to the Joint Learning Studies conducted by GOV in the MENA region. We also look forward to continuing to regularly consult GOV on the work and progress of the Partnership for Democratic Governance.

Mr. Jerzy Pomianowski  
Head of Advisory Unit  
Partnership for Democratic Governance

Frédéric Wehrlé  
Technical Advisor  
Partnership for Democratic Governance
3. Public Affairs and Communications Directorate

Thank you for the opportunity to comment on the Draft Principles for Transparency and Integrity in Lobbying. We believe this is an important initiative and will be happy to collaborate with you on outreach activities. I understand you were already in touch with the Public Affairs Division on consulting with parliamentarians on the draft principles and have been discussing how to cover the issue in the upcoming High-level Parliamentary Seminar. Lobbying as a term carries different associations depending on the political culture concerned. I had direct experience of this in terms of lobbying in the EU context where the connotations in English were very different to those from a French perspective. As a consequence I think your introductory section would benefit by setting out these traditions of perception showing the difference, say, the Anglo-Saxon and Continental European strands. The term lobby originates I think from the lobby of the UK House of Commons where interested parties would engage with the MPs. In the Anglo-Saxon culture it is considered to be part and parcel of the public policymaking process and done well and essential component thereof. In the continental European context, the term “le lobbying” has more traditionally been viewed suspiciously, as a process whereby undue influence is brought to bear. Whilst these lines have been a little blurred with time, it is still the case that these differences serve to frame debates depending where one is (in the OECD). The work done at an European level in this respect may also be worth name-checking in your document as this has included an effort to reconcile traditions and ensure lobbying is carried out in as satisfactory and proper way possible:


We think the Introduction would consequently benefit from definition/s of the term “lobbying” and “lobbyists” (P. 5, heading 3 only states that countries should clearly define the terms “lobbying” and “lobbyists”) as viewed from the OECD. With a definition readers would know what exactly the principles refer to and who is meant when referring to lobbyists. To illustrate: it is not clear if civil society organizations are included in the group of potential lobbyists. While they traditionally might not come to mind (and they sometimes act as “watch-dogs”, as noted in p. 6, heading 5), they do a large amount of lobbying activities themselves, both in-house and through external consultants. Lobbying rules should apply to them as they apply to the private sector lobbyists -- if they don’t, this should be stated clearly. As it stands the text is a little confusing on this area.

Information in paragraph 20 of the draft Principles about who lobbying rules should cover, could usefully be included in the Introduction as it helps define what is meant by lobbying activity in these Principles. Some more specific comments in the text:

Introduction:

1. P. 2, para 1: It is not clear what the term “private interest” stands for (the interest of the private sector or of interest groups?). this could be clarified.

2. Same para: We suggest to change the word crisis to crises (plural)

3. P. 2, para 4: The citation of the Chair of the OECD 2005 Ministerial seems a little out of place -- unless the Ministerial was the venue where it was decided to draft the principles (if that’s the case, this could be stated). Otherwise the sentence could be “These concerns are perceived as a major threat to public trust.”
4. P. 3, para 9: We suggest to change the sentence “when lobbying reaches…” to “when the issue of lobbying reaches…”

Draft principles:

1. P. 5, para 17: We suggest to change the order of the sentences (the last sentence would be more suitable as an opening sentence)

2. P. 5, heading 2: It would be helpful to explain in the actual principles text what exactly the “perceived problem and risk” is (the introduction explains this to some extent, but not everybody might read the introduction)

3. P. 5, para 18: We suggest to delete the word “traditions” (countries should consider constitutional principles and democratic practices that work, not because they are a tradition)

4. Same para: The part about not applying one country’s framework to another without considering the national context could be somewhat simplified. We look forward to working together on this issue further.

We could, for example, envisage organising events in Brussels and Washington, the two pre-eminent global public affairs capitals to air the work of the OECD in this domain with appropriate partners. Perhaps we can discuss this further.

Anthony Gooch
Director
Public Affairs and Communication Directorate

4. Trade and Agriculture Directorate

Thank you for providing the Trade and Agriculture Directorate the opportunity to comment on the draft Principles for Transparency and Integrity in Lobbying.

My staff in charge of issues relating to domestic regulation and its impact on the market openness and international trade have reviewed the draft carefully. They found the draft principles to be comprehensive and well-balanced. They believe that the principles cover well all the important issues relating to possible lobbying by foreign traders and service providers and reflect appropriately the six efficient-regulation principles for a market-oriented, trade and investment-friendly regulatory environment elaborated by the Trade Committee, and in particular the transparency and non-discrimination principles.

We hope that the draft principles will be equally well received by consulted stakeholders and wish you the best with the Council approval process.

Ken Ash
Director
Trade and Agriculture Directorate
ANNEX 2

LIST OF STAKEHOLDERS INVITED TO THE CONSULTATION ON DRAFT PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING

I. OECD bodies

The following OECD Committees and Working Parties were invited through their Chairs and Bureau Members to comment on the draft principles:

1. The Territorial Development Policy Committee and its Working Parties
2. The newly created Regulatory Policy Committee
3. The Development Assistance Committee Network on Governance (GOVNET) and its Anti-Corruption Task Team
4. The Working Group on Bribery in International Business Transactions
5. The Competition Committee and its Working Parties

II. OECD institutional partners

The Secretariat of the following OECD institutional partners received the draft Principles for comments for wider circulation amongst its membership:

1. The Business and Industry Advisory Committee
2. The Trade Union Advisory Committee

III. Legislators

High level representatives of the following Parliamentarian Groups were invited to comment on the draft principles:

Global Groups of Parliamentarians and Supra-national Parliament

1. Inter Parliamentary Union
2. Global Organisations of Parliamentarians Against Corruption (GOPAC)
3. European Parliament, Internal Policies of the Union

Regional Groups of Parliamentarians

1. African Parliamentarians Network Against Corruption
2. Arab Parliamentarians Against Corruption
3. Central Asia Parliamentarians Against Corruption
4. European Parliamentarians Against Corruption
5. Inter-Parliamentary Forum of the Americas
6. Latin American Parliamentarians Against Corruption
7. Newly Independent States Against Corruption
9. South East Asian Parliamentarians Against Corruption
10. Women Parliamentarians of the Americas

National Parliament and Legislative Branches
1. United States Senate Office, Superintendent of Public Records
2. Presidium of the Storting, Norway
3. Assemblée National (National Assembly) of France
4. Parliament of Mexico
5. National Assembly of Korea
6. Duma, Russian Federation
7. Parliament of Lebanon

IV. Specialised bodies for transparency and integrity in lobbying at national and sub-national level
1. Office of the Commissioner of Lobbying, Canada
2. Ministry of Supervision, China
3. Corruption Prevention and Combating Bureau, Latvia
4. Official Ethics Commission, Lithuania
5. State Employers Authority, Ministry of Finance, Denmark
6. Secretariat for Legislative Affairs, Ministry of Justice, Brazil
7. Commissaire au Lobbyisme, Québec
8. Ministry of the Attorney General, British Columbia
9. Oficina Antifrau de Catalunya
10. Commission on Ethics, Florida
11. Fair Political Practices Commission, California
12. Ethics Commission, Ohio
13. State Ethics Commission, Pennsylvania
14. Government Accountability Board, Wisconsin
15. Inspector of General Lobbying Activities, New York City
16. Public Sector Commission, Western Australia

V. Private sector
The draft Principles were shared with the leadership of the following private sector umbrella organisations and lobbying associations:

Private Sector
1. International Chamber of Commerce (ICC), Commission on Anti-Corruption
2. World Economic Forum (WEF)
3. Partnering Against Corruption Initiative (PACI), WEF
4. French Business Confederation (MEDEF)
5. ETHIC Intelligence
6. Canada Chamber of Commerce
7. International Federation of Consulting Engineers (FIDIC)
8. Business NZ, New Zealand

Lobbyist Associations
1. American League of Lobbyists, Committee of Professional Ethics and Standards
2. Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU)
3. Canadian Public Relations Society Inc.
4. Chartered Institute of Public Relations
5. Deutsche Public Relations Gesellschaft
6. European Public Affairs Consultancies’ Association
7. European Public Relations Confederation
8. Global Alliance for Public Relations and Communication Management
9. Hong Kong Public Relations Professionals’ Association
10. International Public Relations Association
11. LobbyControl
12. Public Relations Consultants Association
13. Public Relations Institute of Australia
14. Public Relations Society of Indonesia
15. Public Relations Institute of Ireland
16. Public Relations Society of India
17. Public Relations Institute of Southern Africa
18. Society of European Affairs Professionals
19. Swedish Public Relations Association
20. Turkish Public Relations Association

VI. Civil Society Organisations, professional associations and think tanks

The leadership of the following civil society organisations were invited to comment on the draft principles:

1. Transparency International and its over hundred national chapters, including Argentina, Australia, France, India, Korea, Mexico, Morocco, Russian Federation and United Kingdom
2. Transparência Brasil
3. Public Services International (PSI)
4. UNICORN, Trade Union Anti-corruption Network
5. Chr. Michelsen Institute, Bergen, Norway
7. Center for Public Integrity, Washington D.C., US
8. Council of Governmental Ethics Law, US
9. European Centre for Public Affairs
10. International Idea, Stockholm, Sweden
11. TIRI, London, UK
12. U4 Anti-Corruption Research Centre, Bergen, Norway

VII. International Organisations:

High level representatives from the following international organisations were invited to comment on the draft principles:

The United Nations
1. United Nations Office on Drugs and Crime, Corruption and Economic Crimes Section
2. United Nations Development Programme, Democratic Governance Practice
3. UN Global Compact
4. United Nations Ethics Office
5. United Nations Development Programme Ethics Office

The World Bank
1. World Bank Institute (WBI)
2. World Bank, Poverty Reduction and Economic Management Network
3. Stolen Assets Recovery Initiative (StAR)

Regional Development Banks

1. African Development Bank, Finance and Economic Management Department (Governance Division - OSGE 1)
2. Inter-American Development Bank, Institutional Integrity Office and the Institutional Capacity of the State Division
3. European Bank for Reconstruction and Development (EBRD), Compliance Office
4. Asian Development Bank

Regional organisations

1. Organisation of American States
2. Council of Europe, Group of States against Corruption (GRECO)
3. Regional Anti-Corruption Initiative of South Eastern Europe (RAI)

VIII. Academics

The draft principles were sent to the following research networks and centres, university departments and schools:

1. European Group of Public Administration Study Group on Ethics and Integrity in Government
2. European Centre for Comparative Government, Berlin, Germany
3. School of Public Policy and Management, Tsinghua University, Beijing, China
4. Institute Ortega & Gasset, Madrid, Spain
5. University of Ottawa, Public Sector Management School, Canada
6. University of Strathclyde, Department of Geography and Sociology, Glasgow, United Kingdom
7. Dalhousie University, School of Public Administration, Nova Scotia, Canada
8. Brunel University in West London, United Kingdom
9. Zeppelin University, Department of Public Management and Governance, Berlin, Germany
10. University of Bristol, United Kingdom
11. Universidade Nove de Julho, São Paulo, Brazil
12. Complutense University of Madrid, Spain

IX. OECD Secretariat

The draft Principles were shared with directors of the following OECD Directorates:

1. Council Secretariat
2. Directorate for Financial and Enterprise Affairs
3. Development Co-operation Directorate
4. Partnership for Democratic Governance Initiative
5. Public Affairs and Communications Directorate
6. Trade and Agriculture Directorate
7. Legal Affairs Directorate
8. Policy Coherence for Development
9. Development Centre