OECD Public Governance Reviews

The Regulation of Lobbying and Influence in Chile

RECOMMENDATIONS FOR STRENGTHENING TRANSPARENCY AND INTEGRITY IN DECISION MAKING



OECD

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Please cite this publication as:
OECD (2024), *The Regulation of Lobbying and Influence in Chile: Recommendations for Strengthening Transparency and Integrity in Decision Making*, OECD Public Governance Reviews, OECD Publishing, Paris, https://doi.org/10.1787/e84a846f-en.

ISBN 978-92-64-72558-4 (print)
ISBN 978-92-64-52624-2 (PDF)
ISBN 978-92-64-79309-5 (HTML)
ISBN 978-92-64-47010-1 (epub)

OECD Public Governance Reviews
ISSN 2219-0406 (print)
ISSN 2219-0414 (online)

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Foreword

Lobbying and influence activities are legitimate acts of democratic participation and grant all interested stakeholders a right of access to the development and implementation of public policies. But without a fair and equitable framework for lobbying, these activities can lead to abuse of power, unfair distribution of opportunities, and policies that do not always benefit our societies. Rules and guidelines on lobbying are also instrumental in fostering citizen's trust in policymaking and reinforcing democracy, a key priority of the OECD.

Over the past thirty years, Chile has maintained stable and effective democratic institutions. The government has worked diligently to strengthen equity, transparency and integrity in decision making. Currently, Chile has a strong regulatory framework for transparency in lobbying and political finance, compared to other OECD countries.

However, the advent of digital technologies has made the scope of lobbying and influence more complex than the way it has been traditionally defined in regulations. Social media is now widely used as a lobbying tool posing new integrity risks to the policy making process. More actors are involved than ever before – through grassroots movements, industry or trade associations, public relations and law firms, think tanks, research bodies, charities, fundraising organisations – which makes it more difficult for governments to tackle undue influence and set up a strong and effective framework on lobbying activities. As such, the OECD *Lobbying in the 21st Century Report* suggests a more comprehensive approach to defining lobbying to address these emerging challenges. Chile is familiar with these challenges and in 2023, the Government of Chile reached out to the OECD for guidance on how to modernise its lobbying framework to ensure the continuous safeguarding of public decision-making processes from risks of undue influence. This reflects the Chilean government's good practice of continuously monitoring challenges and adapting frameworks accordingly.

This report looks at Chile's current lobbying regulatory framework and practice and assesses its resilience to emerging trends and new challenges. In particular, the report identifies measures and complementary reforms Chile could adopt to strengthen the existing legislative framework, raise awareness about integrity standards on lobbying for government officials and lobbyists more broadly, and improve disclosure of lobbying and influence activities.

This report was approved by the OECD Working Party on Public Integrity and Anti-Corruption (WP-PIAC) on 21 November 2023 [GOV/PGC/INT(2023)15], declassified by the Public Governance Committee on 10 May 2024 [GOV/PGC/INT(2023)15/REV1] and prepared for publication by the Secretariat.

Acknowledgements

This report was prepared by the OECD Directorate for Public Governance (GOV) under the leadership of Elsa Pilichowski, Director. It was prepared by GOV's Anti-Corruption and Integrity in Government Division, under the direction of Julio Bacio Terracino, Head of Division. The report was co-ordinated by Frédéric Boehm and drafted by Pauline Bertrand. The report benefitted from editorial assistance and was prepared for publication by Meral Gedik.

The OECD expresses its gratitude to all the actors from the public sector, civil society and business who were interviewed during the fact-finding mission that took place in Chile on 13-17 March 2023, and those who took part in the virtual workshop on preliminary observations (*Observaciones preliminaries OCDE sobre el Lobby en Chile*) on 26 July 2023. Their input was instrumental in generating key insights, on which the analysis and recommendations in this report are based.

The OECD thanks in particular the leadership of the Presidential Advisory Commission for Public Integrity and Transparency (*Comisión Asesora Presidencial para la Integridad Pública y Transparencia*) under the Ministry of the Presidency (*Ministerio Secretaría General de la Presidencia - SEGPRES*) and Minister of the Presidency Mr. Álvaro Elizalde Soto for making this report possible. Ms. Valeria Lübbert, Executive Secretary of the Commission, and her team provided invaluable insights and feedback on draft versions of the report.

The report and project benefited from the invaluable time and insights of various government stakeholders, including former Minister of the Presidency Ms. Ana Lya Uriarte and Under Secretary Ms. Macarena Lobos Palacios, the Comptroller General of the Republic and his Office (*Contraloría General de la República*), Members of the National Congress (*Congreso Nacional Chile*), the Council for Transparency (*Consejo para la Transparencia*), the Electoral Service of Chile (*Servicio Electoral*), the Chilean Association of Municipalities (*Asociación Chilena de Municipalidades*) and the Association of Municipalities of Chile (*Asociación de Municipalidades de Chile*).

The OECD is grateful for the insights shared by private sector entities, including lobbyists and senior managers from lobbying firms (Azerta, Extend, KOM and Imaginacción), the Confederation of Production and Trade (*Confederación de la Producción y del Comercio*, CPC) and the Chilean Chamber of Construction (*Cámara Chilena de la Construcción*).

The OECD would also like to thank the researchers and organisations from civil society and academia who provided valuable insights and perspectives for this report, in particular researchers from the University Adolfo Ibáñez and the University of Chile.

Table of contents

Foreword 3

Acknowledgements 4

Executive summary 8

1 Towards a modernised framework to ensure transparency and integrity in lobbying in Chile 11
1.1. Introduction 12
1.2. Addressing the governance concerns related to lobbying and influence practices in Chile 12
1.3. The Lobbying Act in Chile: a leading system among OECD countries that needs to be strengthened to adequately address lobbying-related risks 14
References 17

2 Strengthening the legal framework for lobbying in Chile 18
2.1. Clarifying the targets of lobbying activities 21
2.2. Covering all actors and activities aimed at influencing government decision-making processes 25
References 39

3 Enabling effective transparency on lobbying in Chile 41
3.1. Introduction 42
3.2. Providing comprehensive and pertinent information on who is lobbying, on what issues and how 45
3.3. Providing a convenient electronic registration and report-filing system for both public officials and lobbyists 51
3.4. Enhancing the quality of the information disclosed by active and passive subjects 53
3.5. Centralising lobbying information in a unique and intuitive online Lobbying Transparency Portal 66
References 70

4 Strengthening the integrity framework adapted to the risks of lobbying and influence for public officials and lobbyists in Chile 71
4.1. Introduction 72
4.2. Strengthening the lobbying integrity framework for public officials 72
4.3. Assisting businesses and civil society organisations in reinforcing their frameworks for transparency and integrity in policymaking 78
References 84

5 Establishing mechanisms for effective implementation, compliance and review of the lobbying framework in Chile 85
5.1. Introduction 86
5.2. Assigning clear responsibilities for implementation and enforcement 88
5.3. Strengthening the sanctions regime 92
5.4. Enabling an effective review of the lobbying framework 94
References 97

Annex A. Code of Best Practices for Lobbyists (*Código de Buenas Prácticas para Lobbistas*) 98

FIGURES

Figure 1.1. Citizens in Chile perceive that a few powerful groups govern their country 13
Figure 1.2. The OECD Public Integrity Indicator for Accountability of Public Policymaking in Chile 15
Figure 2.1. Categories of "interest representatives" specified in the EU Transparency Register 29
Figure 3.1. Standardised lobbying institutional webpages in Chile 46
Figure 3.2. Best means for regulating lobbying, according to lobbyists 50
Figure 3.3. Step-by-step questionnaire on whether to register as a lobbyist in Ireland (top) and France (bottom) 54
Figure 3.4. One-stop-shop Lobbying dashboard with online guidelines in France 56
Figure 3.5. Dedicated lobbying hotline to assist lobbying registration in France 58
Figure 3.6. Lobbying chatbot available on Quebec's "Carrefour Lobby Quebec" platform 58
Figure 3.7. Selected sections to be filled by lobbyists in the Irish registration portal 63
Figure 3.8. Using data analytics to improve the quality of lobbying disclosures in France 66
Figure 3.9. Lobbying transparency portal in Chile 67
Figure 5.1. Reporting inaccurate information in the Irish Lobbying Registry 92

TABLES

Table 2.1. Authorities and public officials covered by the Lobbying Act as "passive subjects" 22
Table 2.2. Actors subject to transparency requirements in their lobbying activities 27
Table 2.3. Use of the terminology "interest representative" in OECD legal frameworks on lobbying 28
Table 2.4. Lobbying and influence practices in the 21st Century Context 31
Table 2.5. Exceptions under the Chilean Lobbying Act (Article 6) 33
Table 3.1. Tools for ensuring transparency in lobbying 42
Table 3.2. Frequency of lobbying disclosures by lobbyists in the United States and Ireland 49
Table 3.3. Responsibilities to register lobbying information in Ireland, France and Quebec (Canada) 52
Table 3.4. Proposals for sections to be included in the initial registration for active subjects (pre-requisite to conduct lobbying activities and request meetings with public officials) 60
Table 3.5. Proposals to strengthen SEPGRES's existing form to request meetings and hearings with passive subjects for lobbyists / managers of private interests 61
Table 3.6. Proposals for sections to be included in the registration portal for public officials 62
Table 3.7. Guidance provided by the HATVP on filling the open box "objective pursued" in France 65
Table 4.1. Third party campaigning regulations in OECD countries 82
Table 5.1. Institutional responsibilities for the implementation of the Lobbying Act in Chile 86
Table 5.2. Sanctions for public authorities and passive subjects in the Lobbying Act 87
Table 5.3. Oversight function for lobbying activities in selected OECD countries 89

BOXES

Box 2.1. Definitions of “lobbying” and “lobbyist” under the Chilean Lobbying Act 20
Box 2.2. Individual appointment decisions are covered in France and the United States 24
Box 2.3. Influencing decision-making processes involves a broad range of actors who increasingly rely on in-house professional lobbyists 26
Box 2.4. Proposals by the Commissioner of Lobbying of Canada for limited exemptions to mitigate the administrative burden of compliance while maximising transparency 30
Box 2.5. Examples of broad definitions of ‘lobbying’ amongst OECD members 32
Box 2.6. Exclusion of communications limited to factual exchanges in France 34
Box 2.7. Exemptions on communications by natural persons in OECD countries 35
Box 2.8. Transparency Code for Working Groups in Ireland 36
Box 3.1. Automatic alerts to raise awareness of disclosure deadlines 55
Box 3.2. “How to track your lobbying activities” tool developed by the HATVP in France 56
Box 3.3. Trainings for lobbyists in the State of New York 59
Box 3.4. Guidance provided by the Standards in Public Office Commission in Ireland on how to fill a return 64
Box 4.1. Guidelines on accepting gifts and benefits from lobbyists in OECD countries 73
Box 4.2. Cooling-off periods for lobbying activities for elected officials and public officials in high-risk positions in OECD countries 75
Box 4.3. Rules on employment after the exercise of a public service in France 76
Box 4.4. Guidelines on the use of independent advisory committees in Norway 77
Box 5.1. Formal notices to encourage compliance in France 93
Box 5.2. Financial penalties imposed by the Standards in Public Office Commission in Ireland 94
Box 5.3. Review of the Lobbying Act in Ireland 95
Box 5.4. Consultations on the drafting and revision processes of lobbying regulations in Ireland and Canada 95

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Executive summary

Since Chile's first free parliamentary and presidential elections in 1989, the country's democratic institutions have been stable and well-functioning. In particular, the introduction in 2014 of a law regulating lobbying (hereafter "the Lobbying Act"*)*, following eleven years of parliamentary debate and proceedings, marked a significant advance in strengthening the transparency and integrity of decision-making processes in Chile. Among other measures, the Act and its associated regulations impose a duty on public authorities and public officials to disclose their meetings with lobbyists seeking to influence a public decision. As a result, Chile shows a strong regulatory framework for transparency in lobbying compared to other OECD countries.

A decade into the implementation of the Lobbying Act and as part of Chile's broader efforts to advance in the implementation of the newly adopted National Public Integrity Strategy, the Chilean government is carrying forward efforts to update the Lobbying Act to ensure it remains fit for purpose and covers the full spectrum of today's lobbying practices and risks.

Strengthening the legal framework for transparency in lobbying

The current Lobbying Act provides broad definitions of "lobbying", in line with good practice. Nevertheless, several potential loopholes remain that weaken the legislation and create confusion over the scope of the law.

- Chile could clarify and expand the current list of "passive subjects" – public officials that are the target of lobbying activities – specified in Articles 3 and 4 of the Act. In the last ten years of implementation, certain public authorities have added by resolution specific categories of public officials to this list, which has created differentiated transparency regimes and registration requirements across public authorities. To ensure clarity and consistency, categories of public officials that have been consistently established by resolution as passive subjects could be included directly in the scope of the Act. Similarly, the list of public decisions targeted by lobbying activities could be expanded to include appointments of key government positions. Additionally, the Lobbying Act could adapt the disclosure of lobbying activities targeting certain public decisions according to the institutional level they concern.
- Chile could use a broader definition of actors and activities aimed at influencing government decision-making processes by using a single concept of "interest representative" in the Lobbying Act. This concept could include indirect forms of influence. Further, the Lobbying Act could clarify exemptions from lobbying disclosure requirements and include provisions on the participation of lobbyists in certain government advisory and expert groups.

Enabling effective transparency on lobbying through efficient disclosure systems and online transparency portals

The current disclosure system for lobbying activities in Chile is comprehensive and provides a strong level of transparency. It puts the primary responsibility of disclosure on public officials, even if lobbyists are still required to register through several platforms to request meetings with public officials. However, this approach does not cover all lobbying and influencing activities, creates an imbalance in transparency obligations and adds to the burden of compliance by lobbyists since there is no centralised registration and transparency platform.

- Chile could provide comprehensive and pertinent information on who is lobbying, on what issues and how. This could be ensured by complementing the existing Public Agenda Registers with a Register of Lobbyists in which registration could be a pre-requisite to conducting lobbying activities and requesting meetings, and in which lobbyists would face additional disclosure requirements on all lobbying activities they conduct.
- While remaining separate, the two proposed registers – for lobbyists and for public officials – could be hosted on a single central registration and disclosure portal to facilitate registration and enable greater public scrutiny through cross-checking of information.
- To enhance the quality of the disclosed information, the proposed centralised lobbying registration and disclosure portal could serve as a one-stop-shop for lobbyists and public officials on how to register and disclose information.

Strengthening the integrity framework adapted to the risks of lobbying and influence activities for both public officials and lobbyists

In Chile, both public officials and lobbyists are subject to various integrity standards and transparency requirements specified in the Lobbying Act and the Code of Good Practice for Lobbyists. However, public officials often face lobbying-related ethical dilemmas, particularly in the age of social media and information overload. Similarly, lobbyists face increased expectations regarding their demonstration of and commitment to integrity.

- Chile could strengthen the lobbying integrity framework by clarifying public officials' expected behaviour when dealing with lobbying, adequately managing the revolving-door phenomenon and developing additional capacity-building and awareness-raising activities for public officials.
- Chile could also assist businesses and civil society organisations in reinforcing their frameworks for transparency and integrity in policymaking. This could include a centralised and mandatory Code of Conduct for lobbyists with sanctions applicable for non-compliance. Additionally, Chile could add a provision in the Lobbying Act requiring legal entities to disclose sources of funding, both public and private.

Establishing mechanisms for effective implementation, compliance and review of the lobbying framework

The institutional framework for lobbying in Chile lacks a centralised and independent body to administer registers, enhance transparency and conduct investigations, which poses a significant challenge to the implementation of the lobbying framework. Additionally, the current sanctions regime lacks effectiveness and primarily targets public authorities and civil servants, with no effective provision for penalising lobbyists who violate lobbying rules.

- To assign clear responsibilities for implementation and enforcement, Chile could entrust an independent body with broader responsibilities for enforcing the Lobbying Act, verifying information disclosed and investigating potential breaches. Furthermore, Chile could introduce an anonymous reporting mechanism for those who suspect violations of the law.
- The Lobbying Act could include a gradual system of financial and non-financial sanctions for both those who are lobbied and those who lobby, applied at the entity level, and include provisions that enable oversight entity(ies) to apply measures to incentivise compliance.
- Chile could enable an effective review of the lobbying framework by including a periodic review mechanism in the Lobbying Act to address new developments in lobbying. Further, Chile could promote stakeholder participation in the discussion, implementation and subsequent revisions of lobbying-related regulations and standards of conduct.

1 Towards a modernised framework to ensure transparency and integrity in lobbying in Chile

This introductory chapter discusses the governance concerns related to lobbying and influence practices and the current lobbying landscape in Chile. It also retraces the various steps that led to the adoption of a Lobbying Act in 2014, briefly discusses its key strengths and weaknesses, and introduces the main recommendations provided throughout the report to strengthen the existing foundation and set up a strong, effective, resilient and proportionate framework for lobbying that is consistent with the broader public integrity framework and that adequately addresses emerging risks related to the evolving lobbying and influence landscape.

1.1. Introduction

Public policies are the main 'product' people receive, observe and evaluate from their governments. When designing and implementing these policies, governments need to acknowledge the existence of diverse interest groups and consider the costs and benefits for these groups. By sharing their expertise, legitimate needs and evidence about policy problems and how to address them, interest groups and their representatives can provide governments with valuable information on which to base their decisions. It is this variety of interests that allows policymakers to leverage knowledge and resources from beyond the public administration, learn about options and trade-offs, better understand citizens and stakeholders' evolving needs and ultimately decide on the best course of action on any given policy issue (OECD, 2010[1]).

However, lobbying and influence activities, understood as all actions aimed at promoting the interests of various interest groups with reference to public decision-making and electoral processes, can have a profound impact on the outcome of public policies. Depending on how they are conducted, these activities can greatly advance or block progress on major global challenges (OECD, 2017[2]; OECD, 2021[3]). On the one hand, an inclusive policymaking process can lead to more informed and ultimately better policies and increase the legitimacy of public decisions. On the other hand, experience has shown that policymaking is not always inclusive and at times may only consider the interests of a few, usually those that are more financially and politically powerful. Experience also shows that lobbying and other practices to influence governments may be abused through the provision of biased or deceitful evidence or data, and the manipulation of public opinion (OECD, 2021[3]).

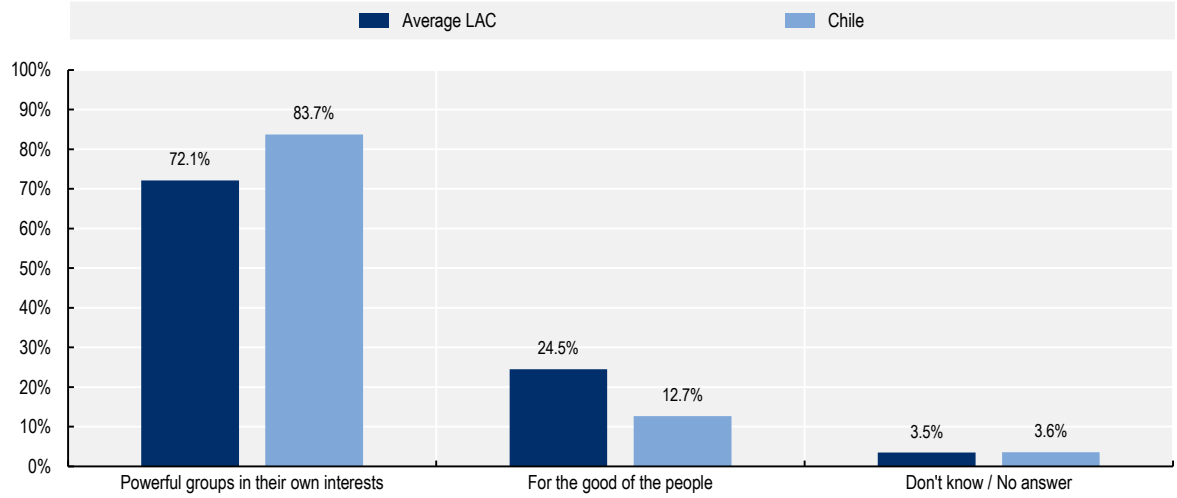
The consequences of this undue influence on the economy and society are widespread. When public decision makers pursue policies that further their private interests or the commercial or political interests of other groups, whether domestic or foreign, who attempt to influence them, there is a risk that decisions concerning essential public policies, such as health or consumer protection policies, have harmful impacts instead of promoting the economic and social well-being of individuals. In fact, studies increasingly show that situations of undue influence and inequity in influence power have led to the misallocation of public resources, reduced productivity, perpetuated social inequalities and sometimes led to deadly policy outcomes (OECD, 2017[2]; OECD, 2021[3]). Ultimately, public policies that are misinformed and respond only to the needs of a specific interest group can negatively affect trust in government institutions, possibly resulting in the dissatisfaction of the public as a whole towards public institutions and democratic processes.

1.2. Addressing the governance concerns related to lobbying and influence practices in Chile

Chile is no stranger to the challenges described above. While the country's democratic institutions have been stable and well-functioning since the first free presidential and parliamentary elections were held in 1989, perception indices show a persistent gap between the political class and the demands of the population (Bertelsmann Stiftung, 2024[4]). According to the 2023 *Latinobarómetro* survey, 83.7% of respondents in Chile think that their country is governed for a few powerful groups in their own interest, while 12.7% believe Chile is governed for the good of all people (Figure 1.1). The score is more than 11 points above the average of all Latin American countries (72.1%) covered by the survey, indicating that citizens in Chile perceive that policies are unduly influenced by narrow interests, and/or that powerful groups exert too much influence on the outcomes of public decision-making processes.

Figure 1.1. Citizens in Chile perceive that a few powerful groups govern their country

Respondents were asked the following question: “Generally speaking, would you say that your country is governed for a few powerful groups in their own interest? Or is it governed for the good of all?”



Note: This survey has been conducted in 17 countries in the LAC region (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, México, Panamá, Paraguay, Peru, Uruguay and Venezuela).
Source: Latinobarómetro (2023), https://www.latinobarometro.org/latOnline.jsp.

In addition, when asked in 2020 who they think has most power in Chile, 46.2.1% of respondents put big companies first, while 12.2% put political parties and 11.6% the Government first (Corporación Latinobarómetro, 2021[5]). In another survey from 2022, only 38% of Chilean citizens responded that they trusted the media (compared to 47% in 2017) and a vast majority (83%) believed that the media were not independent from undue business or commercial influence (Reuters Institute for the study of journalism, 2022[6]).

This data is consistent with the views shared by various stakeholders in Chile interviewed for this report, who confirmed that the word “lobby” has a negative connotation and is often associated with opaque activities or even corruption, influence peddling and the capture of public policies, regulations and administrative decisions. This perception of an opaque relationship between the public and private sectors in Chile was further highlighted by the massive protests taking place throughout the country in 2019 and a highly polarised presidential election in 2021 (Bertelsmann Stiftung, 2024[4]).

While the agreement between political parties to launch a new constitutional process – Agreement for Social Peace and the New Constitution (*Acuerdo por la Paz Social y la Nueva Constitución*) – led to a plebiscite in the October 2020 referendum (80% of Chileans voted in favour of replacing the old Constitution), and the establishment of a Constituent Convention to draft a new constitution, which began its work in July 2021, voters overwhelmingly rejected the new draft (62% voted against) in September 2022. In December 2022, Chilean lawmakers announced an agreement on the process to begin drafting a new Constitution, which was prepared by a body of 50 constitutional advisors elected by direct vote, based on a preliminary draft prepared by a commission of 24 experts. The proposed text was again rejected by a majority of voters (56%) on 17 December 2023, marking the end of a four-year process to replace the existing Constitution.

At the same time, this series of events has also shown the breadth and diversity of Chile’s lobbying and influence landscape, and in particular the wide variety of interest groups active on a broad range of societal issues, including community organisations, student and indigenous organisations as well as professional

associations. In particular, the sector has grown both quantitively and qualitatively in recent years. More than 339 000 not-for-profit organisations are registered in the Registry of Non-Profit Legal Entities kept by the Ministry of Justice and Human Rights as of July 2023 (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[7]), and it is estimated that a total of 214 000 of these organisations were active in Chile in 2020 (Bertelsmann Stiftung, 2024[4]). While the country has had a limited tradition of public participation in the past (OECD, 2017[8]), between 2015 and 2020 alone the number of not-for-profit organisations increased from 234 000 to 319 000 (+27%). Between 2005 and 2018, social organisations grew at a higher rate than companies and the national population (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[7]). In addition, the capacity of social movements and civil society organisations to engage on specific problems and influence decision-making processes has also increased, and smaller organisations are increasingly able to counterbalance more powerful and well-established interest groups. Traditions of civil society participation and community organisations are also relatively strong in rural areas (Bertelsmann Stiftung, 2024[4]).

This increased level of informal political activism and interest representation has also been made possible by the substantial progress made by Chile in recent years to strengthen equity, transparency and integrity in public decision making. For example, the Statute on access to public information (*Ley No. 20.285 sobre Transparencia de la Función Pública y Acceso a la Información de los Órganos de la Administración Pública*), which was approved by Congress in 2008 and implemented in 2009, has significantly improved access to information and is effectively enforced by the Transparency Council (*Consejo para la Transparencia, CPLT*). In addition, regulations on citizen participation in public policy, campaign finance, conflict-of-interest, asset and interest declarations have been introduced and progressively strengthened over the past years.

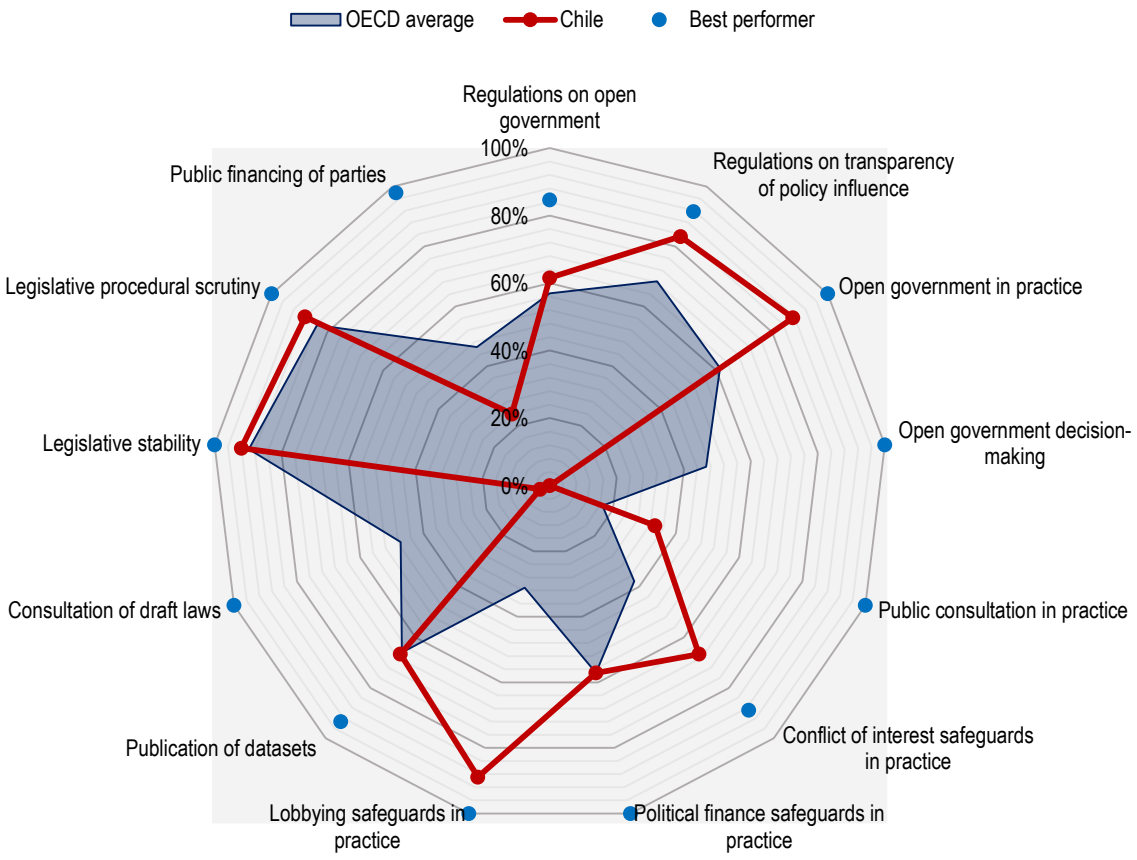
Most importantly, Law No. 20.730 regulating lobbying and the representation of private interests before authorities and civil servants (*Ley No. 20.730 que regula el lobby y las gestiones que representen intereses particulares ante la autoridades y funcionarios* – hereafter "the Lobbying Act"), was introduced in 2014 following eleven years of parliamentary debate and proceedings. The Act constituted a significant advance in strengthening the transparency and integrity of decision-making processes in Chile, including at the local level. Article 1 of the Act states that the objective of the law is to "*regulate publicity in lobbying and other activities that represent private interests, with the aim of strengthening transparency and probity in relations with bodies of the State*". It imposes a duty on public authorities and public officials to record and publicise meetings and hearings requested through an online registration portal by lobbyists and managers of private interests seeking to influence a public decision, as well as travel undertaken in the exercise of their functions, and gifts they receive as part of protocol or that are authorised as a manifestation of courtesy and good manners in the exercise of public duties. Thus, the Act not only enshrines the legitimacy of lobbying in the legal framework but also implements fundamental rights such as the right to information (about who is attempting to influence government), freedom of expression and the right to petition government. Between November 2014 and October 2023, a total of 673 000 hearings, 690 439 travels and 54 821 donations were published on the *InfoLobby* transparency portal (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[9]).

1.3. The Lobbying Act in Chile: a leading system among OECD countries that needs to be strengthened to adequately address lobbying-related risks

As a result, the Chilean framework on lobbying aligns well with the principles enshrined in the OECD Recommendation on Transparency and Integrity in Lobbying and Influence (OECD, 2010[1]) (hereafter, "the OECD Recommendation on Lobbying and Influence"), adopted in 2010 and amended in 2024. The OECD Public Integrity Indicator for Principle 13 of the OECD Recommendation on Public Integrity also shows that Chile performs better than the OECD average in the sub-indicators on "Regulations on transparency of policy

influence" and "Lobbying safeguards in practice" (Figure 1.2). In particular, the indicators show a strong regulatory framework for transparency in lobbying and political finance, compared to other OECD countries. Chile has especially strong lobbying safeguards in practice and is close behind the OECD top performer, fulfilling 8 out of 9 criteria relating to lobbying transparency and enforcement. For example, Chile is one of few countries to publish aggregated lobbying data.

Figure 1.2. The OECD Public Integrity Indicator for Accountability of Public Policymaking in Chile



Notes: The OECD Public Integrity Indicators measure, amongst others, the quality of frameworks for accountability of public policymaking (Principle 13 of the OECD Recommendation on Public Integrity). The criteria for each indicator were established by the OECD Working Party on Public Integrity and Anti-Corruption (WP-PIAC).
Source: OECD Public Integrity Indicators, https://oecd-public-integrity-indicators.org/

However, challenges remain in terms of clarifying lobbying definitions and the scope of the law, adapting the framework to the evolving lobbying landscape, in particular with the advent of digital technologies and social media, as well as setting up effective mechanisms for compliance and enforcement. There are also a number of other improvements that could be made to the lobbying registration system and transparency portals. Lastly, the indicators show that Chile currently lacks cooling-off periods for lobbyists who seek to transition into the public sector (Chilean Transparency Council, 2019[10]).

Several proposals for legal and regulatory reforms of the lobbying framework have been brought forward by various stakeholders, including lobbyists, think tanks, civil society organisations, researchers and academics, parliamentarians, as well as government bodies such as the Transparency Council, and the Presidential Advisory Commission for Public Integrity and Transparency (*Comisión Asesora Presidencial para la Integridad Pública y Transparencia de Chile* – hereafter "the Commission for Public Integrity and

Transparency") under the Ministry General Secretariat of the Presidency (*Ministerio Secretaría General de la Presidencia – SEGPRES*) (Chilean Transparency Council, 2019[10]; Palomino Díaz, 2022[11]). Recognising the challenges with the implementation of the current lobbying framework, the Commission for Integrity and Transparency has proposed several changes to the legal framework and identified the modernisation of the Lobbying Act as one of the priority areas of the National Public Integrity Strategy (*Estrategia Nacional de Integridad Pública – ENIP*) (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[9]).

Most recently, the scandal involving the foundation "*Democracia Viva*", which led to the launch of an investigation into influence peddling, fraud against the Treasury and embezzlement of public funds, has further shown the need to strengthen transparency on the lobbying and influence activities of those who influence public decisions, including civil society organisations, and to strengthen rules of transparency and integrity for those of them who engage in political activities. The special Ministerial Advisory Commission for the regulation of the relationship between private non-profit institutions and the State (*Comisión Asesora Ministerial para la regulación de la relación entre las instituciones privadas sin fines de lucro y el Estado*), which was set up by the Government of Chile in 2023 in response to the scandal, recommended in its conclusions a reform of the lobbying framework as well as increased transparency on the sources of funding of not-for-profit organisations (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[7]).

Therefore, to maximise the benefits of inputs into policymaking, while safeguarding public decision-making processes from risks of undue influence, Chile could reform its lobbying framework along the following priorities:

- Strengthening the legal framework for transparency in lobbying (Chapter 2).
- Enabling effective transparency on lobbying through efficient disclosure and online transparency portals (Chapter 3).
- Strengthening the integrity framework adapted to the risks of lobbying and influence activities for both public officials and lobbyists (Chapter 4).
- Establishing mechanisms for effective implementation, compliance and review of the lobbying framework (Chapter 5).

Recommendations in this report have a specific focus on the Lobbying Act. While the broader framework for transparency and integrity in decision-making is outside the scope of this report, selected reforms of other bodies of laws and regulations – such as rules related to political finance – that could be amended to strengthen the overall lobbying and influence framework in Chile, are also included in the analysis. Lastly, recommendations also take into account the evolving lobbying and influence landscape, with particularly new and more diverse mechanisms and channels of influence, such as through social media (OECD, 2021[3]).

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2 Strengthening the legal framework for lobbying in Chile

This chapter analyses the legislative and regulatory framework set up in Chile to strengthen transparency and address the governance concerns related to lobbying and influence practices in the country. First, the chapter discusses how the scope of the Lobbying Act could be strengthened to cover all public decisions and officials that are commonly the target of lobbying activities, and how this scope could be adapted at various local levels. The chapter also provides avenues of consideration to modernise the legal framework in terms of its terminology in order to foster the emergence of a consensus on the legitimacy of lobbying in Chile. Lastly, the chapter provides concrete recommendations to strengthen the term “lobbying” so that it is adapted to the lobbying landscape in Chile and covers newer forms of indirect lobbying emerging from the advent of social media.

The OECD experience shows that an effective lobbying regulation should provide an adequate degree of transparency on activities aimed at or capable of influencing government decision-making processes. Transparency is the disclosure and subsequent accessibility of relevant government data and information (OECD, 2017[1]). When applied to lobbying, it is a tool that allows for public scrutiny of the public decision-making process (OECD, 2021[2]). But while disclosing the right amount and types of information is essential to achieving adequate levels of transparency, it is not always easy to determine what constitutes the 'right' information, particularly when it comes to lobbying activities aimed at different levels of government. To ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities, it is usually recommended that the information disclosed covers who is lobbying or influencing government, who is the target of such activities and the specific policy issue that was the subject of these activities (OECD, 2021[2]).

As such, a critical element to achieve this objective is to first clearly define the scope of the law, and in particular definitions of the terms “lobbying” and “lobbyist”. Experience from OECD countries has shown that providing effective definitions remains a challenge, in particular because those who seek to influence the policy-making process are not necessarily *'de facto'* lobbyists – such as think tanks, for example – and moreover, have evolved in recent years, not only in terms of the actors and practices involved but also in terms of the context in which they operate (OECD, 2021[2]).

To address this challenge, the definitions of “lobbying” and “lobbyist” should be tailored to the specific context and sufficiently robust, comprehensive and explicit to avoid misinterpretation and to prevent loopholes. This includes clarifying: (i) “who” carries out the lobbying and “on behalf of whom”, (ii) “who” are the public officials lobbied, (iii) “what” matters are lobbied about (i.e., the objective pursued and the specific public decision that was targeted) and (iv) “how” is the lobbying taking place.

In line with good practice, the Chilean Lobbying Act includes definitions of “lobbying” and “lobbyist” in its Article 2. A particularly of the Chilean framework is that the Act divides lobbying activities into two categories – “lobbying” (“*lobby*”) and “management of private interests” (“*gestion de interés particular*”) – based on whether the activity is remunerated or not. The definitions proposed in the Law are summarised in Box 2.1.

However, while definitions regarding “lobbying” (i.e., “lobbying” and “management of private interests”) are broad in scope, several potential loopholes remain that weaken the legislation and create confusion over the scope of the law. In particular, there is a need to:

- Clarify the targets of lobbying activities.
- Cover all actors and activities aimed at influencing government decision-making processes.

Box 2.1. Definitions of "lobbying" and "lobbyist" under the Chilean Lobbying Act

Lobbyists ("*lobbista*") / Managers of private interests ("*gestor de intereses particulares*") – Article 2 §5

A lobbyist is a natural or legal person, Chilean or foreign, remunerated, who carries out lobbying. If there is no remuneration, he/she will be called a manager of private interests, whether the interests are individual or collective.

Active Subjects ("*sujetos activos*")

Those who carry out lobbying or private interest management activities before covered public officials ("*sujetos pasivos*") established in the law.

Passive subjects ("*sujetos pasivos*") – Articles 3 and 4

Authorities and officials before whom lobbying or private interest management activities are carried out, who must comply with the registration and transparency duties established by law.

Lobbying ("*lobby*") – Article 2 §1

Any remunerated management or activity exercised by natural or legal persons, Chilean or foreign, whose purpose is to promote, defend or represent any particular interest, with the objective to influence the decisions that, in the exercise of their functions, must be adopted by covered public officials ("*sujetos pasivos*") in accordance with the law with respect to the acts and decisions regulated therein.

This includes specific efforts to influence the public decision-making process and changes in policies, plans or programmes under discussion or development, or any measures implemented or matters to be resolved by the covered public official, authority or public body concerned, or to prevent such decisions, changes and measures.

Management of private interests ("g*estión de Interés particular*") – Article 2 §2

Any non-remunerated management or activity exercised by natural or legal persons, Chilean or foreign, whose purpose is to promote, defend or represent any particular interest, with the objective to influence the decisions that, in the exercise of their functions, must be adopted by covered public officials ("*sujetos pasivos*") in accordance with the law with respect to the acts and decisions regulated therein.

Particular interest ("i*nterés particular*") – Article 2 §4

Any purpose or benefit, whether or not of an economic nature, of a natural or legal person, whether Chilean or foreign, or of a specific association or entity.

Hearing ("*audiencia*") or meeting ("*reunión*")

Meeting during which the public official targeted by lobbying or interest management activities receives a lobbyist or a manager of private interests, in person or virtually by means of an audiovisual video conference, to discuss any of the matters regulated by law, at the time and in the manner provided by the covered public official.

Source: Chilean Lobbying Act

2.1. Clarifying the targets of lobbying activities

2.1.1. The list of passive subjects could be expanded to include categories of public officials who, by reason of their function or position, have currently been included in the framework by resolution, so as to avoid creating different levels of transparency across government institutions

In terms of public officials targeted, the definition in the Lobbying Act provides a coherent approach to transparency at all levels of government, as it covers the three branches of government and the regional level. As such, Chile is one of the five OECD countries (with Austria, Greece, Lithuania and Slovenia) that provide transparency on lobbying activities targeting the judiciary, and one of six OECD countries whose national lobbying regulation also covers the regional and local levels (with Austria, France, Ireland, Lithuania and Slovenia). This avoids differences in scope and ensures equal levels of transparency across levels of government. In this respect, the Lobbying Act is one of the most comprehensive and coherent legislative frameworks among OECD countries, and it is therefore desirable to maintain its coverage of municipalities. The list of public authorities and public officials covered by the Act as "passive subjects" (Articles 3 and 4) is provided in detail in Table 2.1.

To promote transparency and accountability, the Lobbying Act requires the list of public officials targeted by lobbying activities to be made publicly available and kept up to date by each public institution covered by the Act, which aligns with best practices among OECD countries. The Lobbying Act also specifies in its Article 4 that the institutions covered by the legal framework can establish by means of resolutions or agreements other public officials as passive subjects if these public officials, by virtue of their function or position, have relevant decision-making powers or decisive influence on the persons who have such powers. The list of persons who are determined by these resolutions to be passive subjects are published annually on the websites of each institution.

In addition, if a person considers that a particular civil servant or public official, by reason of his or her function or position, has relevant decision-making powers or decisive influence over those who have such powers, he or she may request their incorporation, in writing, to the relevant authority. The latter must rule on the request within a period of ten working days, in sole instance, and any decision rejecting the request must be substantiated.

While this system allows some level of flexibility and to include in the list of passive subjects public officials who have not been considered as such in the legal framework, it does generate the risk of creating different transparency regimes across public institutions. For example, if a Ministry decides by resolution to include a specific category of public officials in the framework, but another Ministry doesn't, lobbyists could be faced with different registration requirements to request meetings across governmental institutions, which might create confusion. To that end, it is recommended that the Commission for Public Integrity and Transparency conducts a review exercise to identify if certain categories of public officials have been consistently established by resolution as passive subjects by the various government institutions covered in Articles 3 and 4. These specific categories of public officials could be included in the revised legal framework.

However, it is also recommended to maintain the current system enabling government institutions to designate passive subjects by resolution, as this allows the transparency framework to be adapted to sensitive sectors and at-risk roles within the public administration, such as procurement officials in specific ministries. Updates could be made monthly instead of annually, and guidelines could be provided by the Commission for Public Integrity and Transparency to ensure consistency.

Table 2.1. Authorities and public officials covered by the Lobbying Act as "passive subjects"

Government entities	Categories of public officials
Central State Administration (Article 3)	• Ministers and Undersecretaries • Heads of Services • Regional Directors of Public Services • Regional and Provincial presidential delegates • Governors • Regional Ministerial Secretaries • Ambassadors • Chiefs of staff of the above, whatever their form of contract • Persons who, by reason of their function or position have relevant decision-making powers or decisive influence over those who have such powers, and who receive regular remuneration for this, are also covered, regardless of their form of contract. The senior manager of the relevant department must annually identify the persons in these capacities by means of a decision published permanently online
Office of the Comptroller General of the Republic (Article 4 §2)	• Comptroller General • Deputy Comptroller General
Central Bank (Article 4 §3)	• President and Vice-President • Directors
Armed Forces and Public Order and Security Forces (Article 4 §4)	• Commanders in Chief of the Armed Forces • General Director of the Carabineros • Director General of the Investigative Police • Chief and Deputy Chief of the Joint Chiefs of Staff • Those in charge of procurement / acquisitions of the above. Each year, and by means of a resolution of the senior commander of the respective institution, the officers occupying such positions must be identified
National Congress (Article 4 §5)	• Deputies and Senators • Secretary General and Assistant Secretary General of the Chamber of Deputies • Secretary General and Assistant Secretary Treasurer of the Senate • Legislative advisors indicated annually by each parliamentarian, in the manner and with the procedure determined by the corresponding Parliamentary Ethics and Transparency Commission
Public Prosecutor's Office (Article 4 §6)	• National Prosecutor • Regional prosecutors
Administrative Corporation of the Judiciary (Article 4 §8)	• Director
Regional and Communal Administration (Article 4 §1)	• Regional councillors • Mayors • Councilmen/women • Executive secretaries of the regional councils • Municipal directors of municipal works • Municipal secretaries
Members of special Councils and expert panels (Article 4 §7)	• Members of the State Defence Council, the Board of Directors of the Electoral Service, the Transparency Council, the High Public Management Council, the National Television Council, the National Human Rights Institute • Members of the Expert Panels created by Law No. 19.940 and Law No. 20.378, with regard to the exercise of their functions • Members of the Technical Panel created by Law No. 20.410, with regard to the exercise of their functions • Members of the Evaluation Commissions formed within the framework of Law No. 19.886, only with regard to the exercise of such functions and while they are members of such Commissions • Members of the Council of the Multiannual Fund for Strategic Defence Capabilities, only with regard to the exercise of their functions
All institutions and bodies mentioned in Article 4	• Other officials who, by reason of their function or position, have relevant decision-making powers or decisive influence on the persons who have such powers. Such persons must be identified annually by resolution of the competent authority, which must be permanently published online.
Judiciary, the Constitutional Court and the Electoral Justice	• Officials who, who, by reason of their function or position, have relevant decision-making powers or decisive influence on the persons who have such powers, can also be designated by a corresponding agreement or resolution, which must be permanently published on their websites

Source: Lobbying Act.

2.1.2. The list of passive subjects could be expanded to include all political appointees with relevant decision-making powers or who have a decisive influence over those who have such powers

The Commission for Public Integrity and Transparency has pointed out that the current list of passive subjects misses out on certain categories of public officials, including municipal directors (the legal framework currently only covers the director of municipal works) and municipal administrators (the legal framework currently only covers municipal secretaries). Several stakeholders have also suggested to include directors of the Transparency Council, as only the counsellors are currently included in the framework. The Comptroller General has also ruled, through an opinion published online, that the legal framework should include directors and executive secretaries of municipal corporations (Comptroller General of the Republic of Chile, 2021[3]). Given that these categories of public officials can have relevant decision-making powers or decisive influence on public decisions, they could be included in the legal framework.

In any case, it is recommended that any further reform considers the specific risks of influence related to certain categories of public officials. For example, all categories of political appointees and advisors could be included in the legal framework. Indeed, political leaders, including ministers and members of Parliament, rely on advice from senior civil servants, and increasingly, advisors. This is a growing group of people who are often appointed outside the civil service and are essential to help these officials make informed strategic decisions, keep up with different stakeholders and accelerate government responses. The influence of political appointees and advisors has however become a source of public concern in the last decades in many countries. The nature of the functions they perform – strategic advice in the design of policies or reforms, crisis management, diplomacy, design of new laws and policies, – means that they are exposed to risks of undue influence because they interact closely with stakeholders, and are often contacted by lobbyists more easily (OECD, 2011[4]).

As such, political advisors in Chile who have relevant decision-making powers or who have a decisive influence over those who have such powers could also be included as a general rule in the framework, and not only those who belong to the central administration, as currently established in the framework.

2.1.3. The list of public decisions that are the target of lobbying activities could be expanded to include appointments of key government positions

In terms of public decisions targeted by lobbying activities, the Lobbying Act aligns with good practice. Regulated activities are those aimed at influencing the following public decisions (or preventing them from being taken):

- The drafting, enactment, modification, repeal or rejection of **administrative acts, bills and laws**, as well as the **decisions** adopted by passive subjects (Article 5 §1)
- The elaboration, processing, approval, modification, repeal or rejection of **agreements, declarations or decisions of the National Congress** or its members, including its commissions/committees (Article 5 §2)
- The conclusion, modification or termination in any way of **contracts entered into by the passive subjects** and which are necessary for their operation (Article 5 §3)
- The design, implementation and evaluation of **policies, plans and programmes carried** out by passive subjects (Article 5 §4).

Covering the **appointment of certain persons to a key position within government** is also good international practice and could be included in the framework. Indeed, decisions on the appointment of certain public officials can be a key area of interest for lobbyists, allowing them to advance their interests if a person in line with their specific interests is placed in the position concerned. This has also emerged

as an area of concern in Chile, where several nominations to key positions subject to confirmation by Parliament have been questioned in the past due to allegations of undue influence on the nomination process.

To mitigate risks of undue influence from powerful interest groups in the nomination process, in France and the United States, the appointment of certain public officials is considered a type of decision covered by lobbying activities and is therefore covered by transparency requirements (Box 2.2). As such, a revised lobbying framework in Chile could include in the public decisions targeted governmental nominations to a position subject to confirmation by the Parliament.

Box 2.2. Individual appointment decisions are covered in France and the United States

France

The decisions covered by lobbying activities were specified in Law No. 2016/1691 for the promotion of transparency, combating corruption and the modernisation of the economy (Article 25). Under the heading of "other public decisions", the contours of which are not specified, the French High Authority for Transparency in Public Life (HATVP), the public institution in charge of the implementation of the lobbying framework, considers that these cover "individual appointment decisions".

United States

The decisions covered by lobbying activities are specified in the Lobbying Disclosure Act (section 3 on "Definitions"). They include appointments or confirmations of a person to a position subject to confirmation by the Senate.

Source: (OECD, 2021[2])

2.1.4. The Lobbying Act could allow for a greater adaptation of the disclosure of lobbying activities for certain public decisions according to the institutional levels concerned

Among OECD countries, Chile remains one of the few national frameworks that applies at the regional and municipal levels. The Chilean framework thus ensures that public decision makers, lobbyists and citizens, regardless of where they reside in Chile, have access to the same legal framework. This reinforces its coherence, makes it easier to understand and avoids a multiplication of divergent frameworks at different local levels. However, an undifferentiated application of the Act to all levels of government and to all public decisions without considering the reality of municipalities can also undermine the objective of transparency of the Act and its effective implementation.

Indeed, many citizens' associations, community groups, sports clubs, local residents' or young entrepreneurs' groups, as well as small and medium-sized enterprises, are active at the municipal level. These groups are generally less structured than the interest groups represented at the regional or national level and have fewer resources. Above all, they seek a close relationship with local elected officials and are in regular contact with elected officials and civil servants in the municipalities. Reporting requirements for these actors for too many public decisions – in particular administrative decisions – could be disproportionate if they are not adapted to different levels of government.

To that end, the scope of application for these decisions could be modulated according to various institutional levels, whether federal, state or municipal. For example, activities related to individualised decisions (grants, permits, licences, certificates or other authorisations) could be excluded in small municipalities in favour of decisions of general application (normative acts, standards, guidelines,

programmes and action plans). Consideration could also be given to establishing thresholds for contracts, financial contributions, permits or other authorisations granted by a municipal body, such as representations made as part of an administrative process established under a defined programme for obtaining a grant, financial assistance, loan or bond in an amount below a pre-determined threshold. A similar approach was recommended by the OECD in Quebec (Canada) (OECD, 2022[5]).

2.2. Covering all actors and activities aimed at influencing government decision-making processes

2.2.1. The distinction between "lobbyist" and "manager of private interests" is source of confusion and could be replaced by the use of a single term such as "interest representative", encompassing a broader set of actors

In terms of actors considered as "active subjects", the Lobbying Act enables coverage of a broad range of actors, and also covers both remunerated and non-remunerated activities, which aligns with best practice. Indeed, although the law currently distinguishes between lobbyists and managers of private interests depending on whether or not they receive remuneration, the distinction has no practical consequences on the implementation of the law.

However, most of the stakeholders interviewed for this report indicated that the distinction between "lobbyist" and "manager of private interests" could be seen as a source of confusion. Concretely, the term "lobbyist" is supposed to cover individuals who are remunerated to conduct lobbying activities, in other words professional lobbyists or public relations officials within entities who are considered to work in the lobbying industry or within companies with public relations departments. This means that other individuals who conduct lobbying activities regularly (e.g., who request regular lobbying meetings with public officials) but are not considered as being remunerated to specifically do so, can fall outside the scope of the word "lobbyist". According to the Commission for Public Integrity and Transparency, the definition of "lobbyist" currently provided in Article 2 leaves out subjects that usually exert influence on public decision making, such as think tanks and trade unions.

In addition, some actors who are lobbyists do not register as such, but as "managers of private interests". Similarly, some not-for-profit organisations are registered as "lobbyists" and others as "managers of private interests". For example, it was pointed out that many lawyers, who are paid to carry out lobbying activities and who are *de facto* "lobbyists", register as managers of private interests. During their meetings with passive subjects, some lobbyists do not present themselves as lobbyists or interest managers ("I am an expert", "I am an advocate", "I am an academic"), while some managers of private interests (civil society organisations) do not want to be registered and consider that they represent the public interest and should be excluded all together from the law.

It also remains unclear from the definitions which specific organisations would be considered as managers of private interests, for example think tanks or religious groups, who are also active in influencing government decisions to translate the principles or policies they advocate for into law. In fact, some non-profit organisations are increasingly resourced with financial means and rely on a dedicated team to carry out lobbying activities (Box 2.3).

Box 2.3. Influencing decision-making processes involves a broad range of actors who increasingly rely on in-house professional lobbyists

Influencing decision-making processes involves several types of actors, including:

- **Companies specialising in lobbying, communications or public relations**, **law firms or independent lobbyists** mandated to represent third party interests, such as companies or other organisations. These companies or individuals, usually located in key decision-making centres, have a deep understanding of the public policymaking process in a given jurisdiction. In countries with lobbying regulations, these actors are often referred to as "consultant lobbyists".
- **Private companies** and their representatives through dedicated in-house lobbying or public relations departments, or associations representing their interests (including sectoral or general associations such as chambers of commerce).
- **Trade unions and professional or industry associations** representing employees or professions.
- **Non-governmental organisations, charities, community organisations, foundations and religious organisations**. These organisations are the largest and most diverse group of actors influencing the public policy process. They bring causes to the attention of public policymakers, with a subjective view of the nature of the interests being defended. These organisations (be they public, corporate or state-funded) receive funding, usually from companies, public authorities or individuals, and represent specific interests and policy positions. They are increasingly numerous and organised, including with professionalised lobbying departments (Colli and Adriaensen, 2018[6]).
- **Research centres, think tanks and policy institutes**, which offer knowledge on specific problems and can propose solutions. Some of these institutes receive funding from companies or other interest groups.

Source: (OECD, 2021[2])

For this reason, among other OECD countries with transparency mechanisms in place for lobbying activities, nine include religious organisations in the list of actors who are subject to transparency requirements in their lobbying activities, and fourteen include think tanks and research centres (Table 2.2).

Table 2.2. Actors subject to transparency requirements in their lobbying activities

OECD countries with transparency mechanisms in place for lobbying practices

	Consultant lobbyists (on behalf of third-party clients)	In house lobbyists (companies or organisations)						
		Companies	NGOs/CSOs	Charities and foundations	Think tanks	Research centres	Religious organisations	Trade associations
Australia	●	○	○	○	○	○	○	○
Austria	●	●	●	●	●	●	○	●
Belgium	●	●	●	●	●	●	●	●
Canada	●	●	●	●	●	●	●	●
France	●	●	●	●	●	●	○	●
Germany	●	●	●	○	●	●	○	●
Iceland	●	●	●	●	●	●	●	●
Israel	●	○	○	○	○	○	○	○
Italy	●	●	●	●	●	●	○	●
Lithuania	●	●	○	○	○	○	○	●
Mexico	●	●	●	●	●	●	●	●
Netherlands	●	●	●	●	●	●	●	●
Peru	●	●	●	●	●	●	●	●
Poland	●	○	○	○	○	○	○	○
Slovenia	●	●	●	●	●	●	●	●
Spain	●	●	●	●	●	●	●	●
United Kingdom	●	○	○	○	○	○	○	○
United States	●	●	●	●	●	●	○	●
European Union	●	●	●	●	●	●	●	●
● Yes	19	15	14	13	14	14	9	15
○ No	0	4	5	6	5	5	10	4

Note: In Netherlands, the lobbying transparency framework is voluntary. Peru is an Adherent to the OECD Recommendation on Transparency and Integrity in Lobbying and Influence.
Source: (OECD, 2021[2])

Another aspect to take into consideration is that the current distinction could unintendedly promote the idea that there is "good" lobbying (representation of private interests), as opposed to "bad" lobbying, usually considered as for-profit. In Quebec (Canada) for example, the exclusion of unpaid lobbyists and civil society organisations from the legal framework was found to reinforce negative perceptions of lobbyists who are covered by transparency requirements (OECD, 2022[5]). This is why it is generally recommended not to exempt from or differentiate in the legal framework certain actors based on their status, whether their activities involve the pursuit of a financial or corporate benefit or not, nor on its method of financing or its field of intervention. These criteria are not the most relevant when pursuing the objective of the Lobbying Act to enhance transparency in lobbying. Indeed, the OECD Recommendation on Lobbying and Influence explicitly stresses that the definition of lobbying activities should be considered broadly and inclusively to provide a level playing field for interest groups, whether business or not-for-profit entities, which aim to influence public decisions (OECD, 2010[7]).

Instead, the legal framework should aim to delimitate a perimeter of active subjects based on the nature of their lobbying and influence activities, and the impact of these activities on public decision making.

Registration and disclosure requirements can then be adapted based on the capacities of certain groups. This aspect, including easing the burden of compliance for specific interest groups with lesser capacities, is further discussed in the following section.

While the proposal to merge the two categories into a single one has received support during the consultations conducted for this report, several stakeholders pointed out that the distinction could still be useful in certain cases such as the regulation of the revolving door (e.g., a former minister for energy could not lobby for a company, but could be president of the association of energy companies without having any meetings with his or her former ministry for six months). Others mentioned that the concept of "lobbyist" should remain in the law.

Still, the remuneration criterion is clearly not the most relevant to distinguish various types of lobbying activities – especially as this criterion has no concrete practical impacts – and could be abandoned. Furthermore, to avoid any confusion, facilitate the application of the law and contribute to a cultural change related to how influence is perceived and experienced, it is recommended to merge both terms into one single concept. The term used could be "interest representative" (in English, and in Spanish, "*representantes de intereses*"), which is the term used, for example, in France and at the European Union level (Official Journal of the European Union, 2021[8]). The term "interest representative" would encompass by default all organisations and corporations whose employees engage in lobbying activities unless they qualify for a specific exemption.

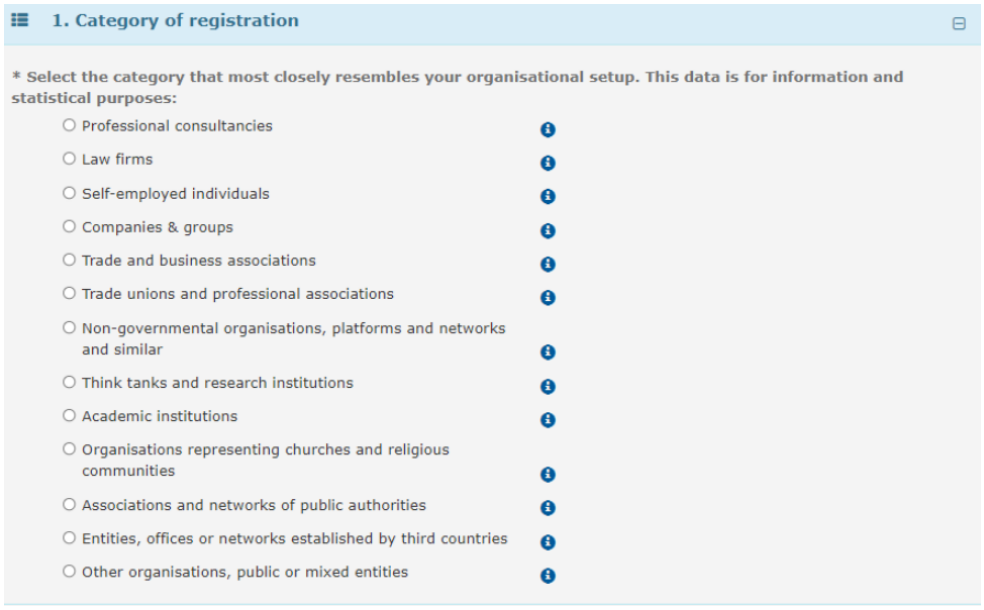
Regardless of the approach chosen, the Chilean legislator could conduct a reflection on the terminology used to qualify lobbying activities in the legal framework. The need for this reflection is fully in line with the OECD's approach, which emphasises that jurisdictions should weigh all available regulatory and policy options to select an appropriate solution that addresses key concerns such as accessibility and integrity, and takes into account the national context, for example the level of public trust and measures necessary to achieve compliance (OECD, 2010[7]). Several OECD countries have chosen to integrate all different categorisations of lobbyists into a single term "interest representative". Germany, for example, without abandoning the terminology of "lobbying" in the wording of the law and the name of the register ("*Lobbyregister*"), nevertheless uses the term "interest representation" in its definitions of "lobbying" and "lobbyist" (Table 2.3). It should also be noted that having a unique term does not prevent the creation of different categories later on in the registration process, as shown in the example in Figure 2.1.

Table 2.3. Use of the terminology "interest representative" in OECD legal frameworks on lobbying

	Law / regulation	Definition
Germany	Act on the Establishment of a Lobbying Register for the Representation of Special Interests in the German Bundestag and the Federal Government (Lobbying Register Act)	**Representatives of special interests** are all natural or legal persons, partnerships or other organisations, including those in the form of networks, platforms or other forms of collective activities which engage in the representation of special interests themselves or commission such representation on their behalf.
France	Law No. 2013-907 of 11 October 2013 on transparency in public life (Section 3 bis: Transparency of relations between interest representatives and public authorities)	**Interest representatives - organisations:** directors, employees or members of legal persons under private law who communicate with public officials with the aim of influencing public decisions. **Interest representatives – self-employed individuals:** natural persons who are not employed by a legal person who initiate communications with public officials with the aim of influencing public decisions.
Spain	Code of Conduct of the Spanish Parliament (Article 6)	**Interest groups** are natural or legal persons, or entities without legal personality, that communicate directly or indirectly with holders of public or elected office or their personnel in favour of private, public, or collective interests, seeking to modify or influence issues related to the drafting or modification of legislative initiatives.
European Union	Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register	**Interest representative**: any natural or legal person, or group, association or network, formal or informal, engaged in activities with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of the signatory institutions or other institutions, bodies, offices and agencies of the Union.

Source: (OECD, 2021[2])

Figure 2.1. Categories of "interest representatives" specified in the EU Transparency Register



Source: EU Transparency Register, Model registration form, https://ec.europa.eu/transparencyregister/public/openFile.do?fileName=Model_registration_form_en.pdf

2.2.2. Specific exemptions from additional lobbying disclosure requirements could be based on interest groups' capacities and resources

The Chilean lobbying framework puts the onus on the public officials who are being targeted by lobbying activities by requiring them to disclose information on their meetings with lobbyists. Later in this report, disclosure requirements will be recommended for active subjects. In other words, the "Public Agenda Register", which includes all public registers of hearings and meetings (Article 2 §3), would be complemented by a Register of Lobbyists in which active subjects would be required to make disclosures on their lobbying activities, including the objective of these activities.

While it is recommended that the current system of hearings and meetings remain unchanged, including the mandatory registration of all active subjects to request a meeting, additional disclosure requirements that could in the future be required of active subjects can be adapted based on certain interest groups' capacities and resources, instead of their status or not-for-profit nature.

Experience from other OECD jurisdictions, such as in Ireland and Scotland, has found that lobbying regulations did not have an inhibiting effect on the lobbying activities of not-for-profit organisations covered by the regulation. Although the administrative burden has increased for these organisations, registration has also had benefits, such as increasing public awareness of the activities of these organisations to influence public policy on matters of public interest (Hepburn, 2017[9]). Still, adapting certain disclosure requirements to certain interest groups' capacities and resources can help ensure the additional administrative burden of compliance does not become an impediment to fair and equitable access to government, in particular for small citizen structures with scarce resources, or those that are composed solely or mainly of volunteers.

The Commission for Public Integrity and Transparency is also of the view that interest representatives should not all be subject to the same registration and disclosure obligations. In particular, the Commission believes that actors who represent economic interests or conduct lobbying activities more frequently should be subject to higher registration or disclosure requirements than other interest groups with less resources, for example local community organisations, neighborhood associations, unions, small churches, indigenous communities, non-profit sports clubs, youth and cultural organisations, and student representation associations.

To that end, lobbying activities made without an intermediary by a community organisation primarily offering support services directly to the public could be excluded from any further disclosure requirements. A similar proposal was made in Quebec (Canada) (OECD, 2022[5]). Certain thresholds could be introduced and assessed at the level of the entity carrying out activities, such as the time spent preparing, organising, carrying out and following up a lobbying activity. This criterion could be assessed over a period of six months or one year. In British Columbia (Canada), for example, thresholds have been introduced where one or more individuals in an organisation, alone or collectively, have spent at least 50 hours lobbying or preparing to lobby in the previous 12 months. A similar mechanism could be envisaged for lobbying activities carried out by a group of individuals, where the nature of such representation falls within the scope of the Lobbying Act. This would both avoid diluting relevance – where such representations are one-off or *ad hoc* – while not totally excluding such activities from transparency requirements (OECD, 2022[5]). The Office of the Commissioner of Lobbying of Canada has made similar recommendations based on the number of employees of an organisation and the cumulative time spent by this organisation on lobbying activities (Box 2.4).

Box 2.4. Proposals by the Commissioner of Lobbying of Canada for limited exemptions to mitigate the administrative burden of compliance while maximising transparency

In Canada, the Lobbying Act requires those who are defined as lobbyists under the Act to disclose their lobbying activities on a monthly basis. In 2021, the Commissioner of Lobbying put forward a number of proposals to clarify certain provisions of the act, including a proposed exemption based on simplified criteria that could be used to identify the types of corporations and organisations that could be appropriately exempted from the reporting requirements under the Lobbying Act.

These criteria include the number of employees, the number of hours over a short period of time spent on lobbying activities and whether a primary purpose of the corporation or organisation is to represent membership interests or to promote or oppose issues.

The Commissioner of Lobbying therefore recommended to include in the Lobbying Act a requirement that every corporation and organisation employing in-house lobbyists must register by default unless all of the following objective criteria are met:

- it employs **fewer than six (6) employees** and is not a subsidiary of, or otherwise controlled by, any other corporation or organisation which collectively employs six (6) or more employees; and
- its employees collectively and cumulatively **spend less than eight (8) hours in the preceding three-month period on lobbying-related activities**, inclusive of time spent preparing to communicate with federal public office holders; and
- one of its primary purposes **is not to represent the interests of its membership or to promote or oppose issues**.

The criteria governing the application of this limited exemption would be cumulative, which means that if a corporation or organisation does not meet one or more of these three criteria, then it would not qualify for the exemption and, instead, continue to be required to register its in-house lobbying activities.

The Commissioner considers that these criteria would help ease the administrative burden of complying with the Lobbying Act for smaller corporations and organisations that engage in limited amounts of lobbying or that lobby on an infrequent basis.

Source: (Office of the Commissioner of Lobbying of Canada, 2021[10])

2.2.3. The definition of lobbying and the list of activities considered as such could be expanded to cover indirect forms of influence

In terms of activities and communications considered as lobbying activities, while the definition of "lobbying" and "management of private interests" in the Lobbying Act are quite broad, they do not sufficiently clarify which activities and communications are included in the definition. Moreover, the disclosure regime only covers face-to-face or online meetings, as discussed in the following chapter. This leaves out of the transparency framework other and newer forms of communication, such as the use of social media as a lobbying tool.

Indeed, lobbying is itself a constantly evolving concept and the advent of social media has further increased its complexity. Lobbying laws and regulations therefore frame an environment that is bound to change. In particular, the avenues by which stakeholders engage with governments encompass a wide range of practices and actors (OECD, 2021[2]) (Table 2.4). Nowadays, an increasing number of companies use information campaigns on social media to shape policy debates and persuade members of the public to put pressure on policymakers and indirectly influence the government's decision-making process.

Table 2.4. Lobbying and influence practices in the 21st Century Context

Lobbying directly by companies and interest groups (oral and/or written communications with a public official), usually through their government affairs or public relations departments and in-house lobbyists
Lobbying indirectly through trade industry and trade associations, or coalitions
Lobbying activities through contracting with professional lobbying or public relations firms, accounting firms, management consulting firms, law firms and self-employed lobbyists mandated to represent a corporation's or an interest group's interests. These firms or individuals, usually established in key decision-making hubs, have an in-depth knowledge of policymaking processes in a given country and are able to better navigate institutional complexities
The **direct provision of contributions, in-kind contributions and services to political parties, candidates or electoral campaigns**
The **provision of contributions to political parties, candidates and electoral campaigns** through trade associations and third-party organisations
The **provision of gifts, benefits and other advantages** to build a stable relationship over time with public decision makers
The **movement of public officials, business executives and experts between the public and private sectors** (the so-called '**revolving door**' phenomenon) as a means to influence policymaking processes (for example to obtain confidential information from former public officials, obtain preferential access and lobby past organisations, or favour a specific interest group while in office in exchange for an employment opportunity)
Influence through participation in established institutional arrangements such as **government advisory and expert groups**
The **use of information campaigns on social media and traditional media** to shape policy debates and persuade members of the public to put pressure on policymakers and indirectly influence the government's decision-making process
The financing of **political advertising** in both traditional and social media
Funding or creating non-governmental organisations charities, foundations and grassroots organisations
Funding or collaborating with academic institutions, think tanks, policy institutes, experts and practitioners that can provide knowledge on specific policy issues and propose solutions that may favour the view of their sponsors/funders
Engaging in voluntary self-regulation initiatives, global networks and alliances to display a public image of responsibility

Source: (OECD, 2022[11])

To address this challenge, lobbying activities should not be narrowed to a communication between a lobbyist and a public official, while the inclusion of indirect lobbying activities has become unavoidable. It is also seen by some stakeholders, such as institutional investors, as relevant information that should be disclosed. Indeed, investors increasingly view the lack of transparency on corporate lobbying and political engagement, and its inconsistencies with companies' positioning on environmental and societal issues, as an investment risk. The number of shareholder proposals concerning the disclosure of lobbying has increased dramatically over the past decade, particularly in the area of climate change lobbying. These proposals systematically include transparency requirements on appeals to the general public and indirect lobbying, as these practices are insufficiently covered in lobbying regulations, and institutional investors cannot obtain this information through lobbying transparency registers (OECD, 2022[11]).

In Chile, while the definition provided in Article 2 is broad, transparency is only provided on hearings and meetings between lobbyists and public officials. It does not cover, for example communications through emails or other related means. In addition, several stakeholders, including the Commission for Public Integrity and Transparency, the Transparency Council and the Advisory Commission against Disinformation, noted that an increasing number of lobbying and influence practices occurring in the country are being exercised in the public space, for example through the use of advertisements in media outlets, as well as billboards in large metropolitan areas to promote or oppose certain ideas (Ruiz and Tagle, 2011[12]; Chilean Transparency Council, 2022[13]; Chile Advisory Commission against Disinformation, 2023[14]).

To strengthen its definition, Chile could therefore consider the examples of Canada, Ireland and the European Union, which have the most comprehensive definitions and are best adapted to the evolution of lobbying practices (Box 2.5).

Box 2.5. Examples of broad definitions of 'lobbying' amongst OECD members

Canada

Communications considered as lobbying include **direct communications** with a federal public office holder (i.e., either in writing or orally) and **grass-roots communications.** The Lobbying Act defines grassroots communications as "*any appeals to members of the public through the mass media or by direct communication that seek to persuade those members of the public to communicate directly with a public office holder in an attempt to place pressure on the public office holder to endorse a particular opinion*". For consultant lobbyists (those who lobby on behalf of clients), arranging a meeting between a public office holder and any other person is also considered as lobbying.

In its August 2017 Interpretation Bulletin, the Office of the Commissioner of Lobbying of Canada clarified the means used for the purpose of appealing to the general public may include letter and electronic messaging campaigns, advertisements, websites, social media posts and platforms. The Commissioner also indicated that participation in the strategic and operational activities of an appeal to the general public (research and analysis, advice, preparing and disseminating content,) also requires registration.

Ireland

Relevant communications mean communications (whether oral or written and however made) made personally (directly or indirectly) to a designated public official in relation to a relevant matter. The website of the Irish lobbying register indicates that "relevant communications" can include informal communications such as casual encounters, social gatherings, social media messages directed to public officials, or "grassroots" communication, defined as an activity where an organisation instructs its members or supporters to contact public officials on a particular matter.

European Union

In the European Union, the Inter-institutional Agreement on a mandatory transparency register defines "covered activities" as: (a) organising or participating in meetings, conferences or events, as well as engaging in any similar contacts with Union institutions; (b) contributing to or participating in consultations, hearings or other similar initiatives; (c) organising communication campaigns, platforms, networks and grassroots initiatives; (d) preparing or commissioning policy and position papers, amendments, opinion polls and surveys, open letters and other communication or information material, and commissioning and carrying out research.

Source: (OECD, 2021[2]; Office of the Commissioner of Lobbying of Canada, 2017[15])

2.2.4. The list of exceptions provided in Article 6 could be revised and clarified to avoid loopholes on the one hand, and the inclusion in the legal framework of practices that do not constitute lobbying on the other hand

Definitions on lobbying should clearly specify the type of communications with public officials that are not considered "lobbying" (OECD, 2010[7]). Some activities are relevant to exclude, for example information provided during a meeting of a public nature and for which information is already made available (for example, public hearings of committees in Parliament). In Chile, the Lobbying Act includes a list of 11 exceptions specified in Article 6 (Table 2.5).

Table 2.5. Exceptions under the Chilean Lobbying Act (Article 6)

The following are not regulated activities:

- **Proposals or petitions made at a public meeting, activity or assembly** and that are strictly related to the field work inherent in the representative duties performed by a passive subject in the exercise of his/her functions (Article 6 §1)
- Any **declaration, action or communication made by passive subjects in the performance of their duties** (Article 6 §2)
- Any request, verbal or written, made to **find out the status of a specific administrative procedure** (Article 6 §3)
- **Information provided to a public authority**, which has expressly **requested it** for the purpose of carrying out an activity or taking a decision, within the scope of its competence (Article 6 §4)
- **Submissions made formally in an administrative procedure**, by a person, their spouse or relative up to the third degree of consanguinity and second degree of affinity in the straight line and up to the second degree of consanguinity or affinity in the collateral line, as long as they do not request the adoption, modification or repeal of legal or regulatory norms, nor the change of results of administrative or selection processes (Article 6 §5)
- **Consultancies** contracted by public and parliamentary bodies carried out by professionals and researchers from non-profit associations, corporations, foundations, universities, study centres and any other similar entity, as well as invitations extended by these institutions to any official of a State body (Article 6 §6)
- **Statements made or information given before a committee of the National Congress**, as well as the presence and verbal or written participation in any of them of professionals from the entities mentioned in the preceding number, which, however, must be recorded by said committees (Article 6 §7)
- **Invitations** by state officials and parliamentarians **to participate in meetings of a technical nature** to professionals from the entities mentioned in number 6 above (Article 6 §8)
- **Defence in court**, sponsorship of judicial or administrative cases or participation as *amicus curiae*, where permitted, but only with respect to those actions pertaining to judicial or administrative proceedings (Article 6 §9)
- Statements or communications made by the person directly concerned or by his or her representatives in the **framework of an administrative procedure or investigation** (Article 6 §10)
- Written submissions added to a file or oral interventions recorded at a public hearing in an **administrative procedure in which the interested parties or third parties may participate** (Article 6 §11)

Source: Lobbying Act

However, there are certain exceptions in the Lobbying Act that merit particular attention, as they may create important loopholes. In particular, the exception for information provided to a public authority, which has expressly requested it (Article 6 §4) may make it difficult, in the event of a potential infringement of the Lobbying Act, to trace who initiated a communication, especially when the relationship between a passive subject and an active subject is regular and well established. This also creates inequalities between active subjects: those who have built up close and regular relationships with decision makers are more easily identified by public officials and are more often approached for their technical expertise. As a result, they may be subject to lesser disclosure obligations than interest groups with limited contacts who almost always initiate these exchanges. Thus, this specific exception could be removed or narrowed down to communications by active subjects made in response to a request from a public official concerning factual information only, and provided that the response does not otherwise seek to influence a decision or cannot be considered as seeking to influence a decision. In the United Kingdom for example, if a designated public official initiates communication with an organisation and in the subsequent course of the exchange the criteria for lobbying are met, then the organisation is required to register the activity (OECD, 2021[2]).

Second, Article 6 §3 on requests for information by lobbyists could be further clarified to include, for example, when they consist of enquiring about the interpretation of a law, or when they are intended to inform a client on a general legal situation or on his specific legal situation. Such a provision exists for example in France (Box 2.6).

Box 2.6. Exclusion of communications limited to factual exchanges in France

In France, not all communications that are limited to factual exchanges are covered by the framework. These are situations where the communication is limited to one of the following purposes:

- Where an organisation requests factual information, accessible to any person, from a public official.
- When an organisation asks a public official for an interpretation of any existing public decision.
- When an organisation provides a public official with information about its operations or activities, without a direct link to a public decision, for example in the context of sending an annual activity report or a factory visit.

Source: HATVP (2018), Répertoire des représentants d'intérêts: Lignes directrices, https://www.hatvp.fr/wordpress/wp-content/uploads/2018/10/Lignes-directrices-octobre2018.pdf.

Third, the Lobbying Act excludes "consultancies contracted by public and parliamentary bodies carried out by professionals and researchers from non-profit associations, corporations, foundations, universities, study centres and any other similar entity, as well as invitations extended by these institutions to any official of a State body" (Article 6 §6), as well as "invitations by state officials and parliamentarians to participate in meetings of a technical nature to professionals from the entities mentioned in number 6" (Article 6 §8). It is, however, not recommended to exclude from registration consultative processes with any such individuals or entities. In particular, the provision excluding invitations extended by "professionals and researchers from non-profit associations, corporations, foundations, universities, study centres and any other similar entity" could be removed. Instead, such invitations could be registered by public officials in the register of gifts and/or travel, which could be transformed into a register of "gifts, invitations, hospitalities and other benefits" (see Chapter 3). Other exclusions of Article 6 §6 and Article 6 §8 are covered in the following section and in Chapter 4.

To further strengthen the list of exceptions and exemptions, the Lobbying Act could consider excluding from the definition of lobbying communications between public authorities, as these do not constitute lobbying. This does not prevent public authorities from later being required to publish their public agenda, including their meetings with other public authorities, online. However, these meetings should not be confused with lobbying, as they are part of normal government operations.

Lastly, communications by a natural person concerning his or her own private affairs, including opinions expressed in a strictly personal capacity and not in association with others, could also be excluded from the scope. For example, an individual who writes to a Member of Parliament in a personal capacity – and not at the direction of another individual or interest group – to request the amendment of a law would not be a lobbyist in the meaning of the Act. This should however not exempt the activities of individuals associating with others to represent interests together. Examples are provided in Box 2.7.

Box 2.7. Exemptions on communications by natural persons in OECD countries

European Union

In the European Union, the purpose of the Register is to show organised and/or collective interests, not personal interests of individuals acting in a strictly personal capacity and not in association with others. As such, activities carried out by natural persons acting in a strictly personal capacity and not in association with others, are not considered as lobbying activities. However, activities of individuals associating with others to represent interests together (e.g., through grassroots and other civil society movements engaging in covered activities) do qualify as interest representation activities and are covered by the Register.

Germany

In Germany, the Act Introducing a Lobbying Register for the Representation of Special Interests vis-à vis the German Bundestag and the Federal Government (Lobbying Register Act, *Lobbyregistergesetz*), excludes the activities of natural persons who, in their submissions, formulate exclusively personal interests, regardless of whether these coincide with business or other interests.

Ireland

In Ireland, the Regulation of Lobbying Act exempts “private affairs”, which refer to communications by or on behalf of an individual relating to his or her private affairs, unless they relate to the development or zoning of land. For example, communications in relation to a person’s eligibility for, or entitlement to, a social welfare payment, a local authority house, or a medical card are not relevant communications.

United States

In the United States, communications made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual with respect to the formulation, modification, or adoption of private legislation for the relief of that individual are not considered as lobbying activities under the Lobbying Disclosure Act.

Source: (OECD, 2021[2])

2.2.5. The Lobbying Act could include provisions on the participation of lobbyists in certain advisory groups and expert groups

Governments across the OECD make wide use of advisory and expert groups to inform the design and implementation of public policy. An advisory or expert group refers to any committee, board, commission, council, conference, panel, task force or similar group, or any subcommittee or other subgroup thereof, that provides advice, expertise or recommendations to governments. Such groups are composed of public and private sector members and/or representatives from civil society and may be set up by the executive, legislative or judicial branches of government (OECD, 2021[2]; OECD, 2010[7]). These groups can be permanent or set up on an *ad hoc* basis to respond to specific needs in a specific period of time. During the COVID-19 crisis, for example, many governments have established *ad hoc* institutional arrangements to provide scientific advice and technical expertise to guide their immediate responses and recovery plans.

Chairpersons and members of advisory or expert groups can help strengthen evidence-based decision making. In Chile, advisory groups are widely used as a mechanism to include civil society and private sector representatives in decision-making processes and have demonstrated concrete and tangible impact in shaping policymaking and service delivery. The commission of experts who had been tasked with

preparing a new Constitution (*Comité de Expertos para una nueva Constitución*) is a concrete example of these types of bodies.

However, without sufficient transparency and safeguards against conflict-of-interest, these groups may risk undermining the legitimacy of their advice by allowing individual representatives participating in these groups to favour private interests, whether done unconsciously or not. For example, members of advisory groups can produce biased evidence to decision makers on behalf of companies or industries. Certain interest groups selected to participate in advisory groups can also allow corporate executives or lobbyists to advise governments as members of an advisory group, and lobby "from within" while being exempt from lobbying disclosure obligations.

In view of the risks, the legal framework could be revised to include a provision regulating the participation of external entities mentioned in Article 6 §6 (professionals and researchers from non-profit associations, corporations, foundations, universities, study centres and any other similar entity) into advisory and expert groups. The Transparency Code for working groups in Ireland may serve as an example for Chile in Box 2.8.

Box 2.8. Transparency Code for Working Groups in Ireland

In Ireland, any working group set up by a minister or public service body that includes at least one designated public official (equivalent of a "passive subject") and at least one person from outside the public service, and which reviews, assesses or analyses any issue of public policy with a view to reporting on it to the Minister of the Government or the public service body, must comply with a **Transparency Code**. The following information must be published on the website of the public body on its establishment:

- Names of chairperson and members, with details of their employing organisation (if they are representing a group of stakeholders, this should be stated).
- Whether members from outside the public sector were formerly public officials.
- Terms of reference of the group.
- Expected timeframe for the group to conclude its work.
- Reporting arrangements.

In addition, the agenda and minutes of each meeting must be published and updated at least every four months. The chairperson must include with the final or annual report of the group a statement confirming its compliance with the Transparency Code. If the requirements of the Code are not adhered to, interactions within the group are considered to be a lobbying activity under the Regulation of Lobbying Act 2015.

Source: Department of Public Expenditure and Reform, Transparency Code prepared in accordance with Section 5 (7) of the Regulation of Lobbying Act 2015, https://www.lobbying.ie/media/5986/2015-08-06-transparency-code-eng.pdf

Proposals for action

In order to strengthen the legal framework for lobbying in Chile, and to be as consistent as possible with OECD standards and international best practices in this area, the OECD recommends that the Government of Chile considers the following proposals.

Clarify the targets of lobbying activities

- Expand the list of passive subjects to include categories of public officials who, by reason of their function or position, have currently been included in the framework by resolution, so as to avoid creating different levels of transparency across government institutions.
- Expand the list of passive subjects to include all political appointees.
- Maintain the current system enabling government institutions to designate passive subjects by resolution, so as to allow the transparency framework to be adapted to sensitive sectors and at-risk roles within the public administration.
- Expand the list of public decisions that are the target of lobbying activities to include the appointment of certain persons to a key position.
- Adapt the disclosure of lobbying activities targeting certain public decisions according to the institutional levels concerned (national, regional, municipal). For example, activities relating to individualised decisions (grants, permits, licences, certificates or other authorisations) could be excluded in small municipalities so as to focus on decisions of general application (normative acts, standards, guidelines, programmes and action plans).

Cover all actors and activities aimed at influencing government decision-making processes

- Remove the remuneration criterion to distinguish between “lobbyists” and “managers of private interests” in the legal framework and merge these terms into a single concept such as “interest representative”. This will not prevent the creation of various categories later on in the registration process.
- Encompass by default in the definition of “lobbyist” / “interest representative” all organisations and corporations whose employees engage in lobbying activities unless they qualify for a specific exemption, as well self-employed lobbyists acting on behalf of clients.
- Consider specific exemptions from additional lobbying disclosure requirements based on interest groups’ capacities and resources. Such thresholds could be based on the number of employees of an organisation and the cumulative time spent by this organisation on lobbying activities, instead of the for-profit or not-for-profit nature of the organisation.
- Expand the definition of lobbying and the list of activities considered as such to cover indirect forms of influence, such as organising communication campaigns, platforms, networks and grassroots initiatives.
- Revise the list of exclusions, exceptions and exemptions provided in Article 6, including:
    - Remove or narrow down the exception in Article 6 §4 (information provided to a public authority which has expressly requested it), to communications by lobbyists made in response to a request from a public official concerning factual information only, and provided that the response does not otherwise seek to influence a decision or cannot be considered as seeking to influence such a decision.

- Strengthen the exception of Article 6 §3 to include communications that consist of enquiring about the interpretation of a law, or when they are intended to inform a client on a general legal situation or on his specific legal situation.
- Remove in Article 6 §6 the exclusion of invitations extended by “professionals and researchers from non-profit associations, corporations, foundations, universities, study centres and any other similar entity”, as these may be lobbying activities.
- Add as an exclusion communications between public authorities, as these do not constitute lobbying. This does not prevent public authorities from later being required to publish their public agenda, including their meetings with other public authorities, online.
- Add as an exception communications by a natural person concerning his or her own private affairs, including opinions expressed in a strictly personal capacity and not in association with others.
- Provide that the exception for participating in advisory and expert groups from the Lobbying Act (which may be covered by the current exceptions in Articles 6 §6 and §8) should be conditioned on abiding by a Transparency Code for advisory and expert groups set up by government institutions.

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3 Enabling effective transparency on lobbying in Chile

This chapter highlights the challenges that Chile must meet in order to improve the transparency of the information disclosed on lobbying activities. First, the chapter suggests ways to ensure that comprehensive and pertinent information on who is lobbying, on what issues and how, is disclosed. The sharing of responsibilities for transparency between lobbyists and public officials is also discussed. The chapter also discusses how to provide a convenient electronic registration and report-filing system for both public officials and lobbyists and suggests ways to improve the content and granularity of the information declared through common technical specifications, guidance and assistance provided throughout the disclosure process as well as easy-to-fill sections connected to relevant databases. Lastly, the chapter provides recommendations on centralising lobbying information to enable stakeholders to easily grasp the scope and depth of these activities.

3.1. Introduction

A critical element for enhancing transparency in public decision-making is to provide mechanisms through which public officials, business and civil society can obtain sufficient information regarding who has had access to public decision-making processes and on what issues. Such mechanisms should ensure that sufficient, pertinent information on key aspects of lobbying activities is disclosed in a timely manner, with the ultimate aim of enabling public scrutiny (OECD, 2010[1])

Transparency can be ensured by various means which can be complementary (Table 3.1). The transparency measures introduced by OECD countries generally assign the burden of disclosure to lobbyists through a lobbying registry. Chile has chosen an alternative approach and assigns this responsibility to public officials targeted by lobbying activities, requiring them to disclose information about their meetings with lobbyists (i.e., lobbyists and managers of private interests as defined in the Lobbying Act), through a registry, even if lobbyists are still required to register online in order to request these meetings.

Table 3.1. Tools for ensuring transparency in lobbying

Lobbying registers	Voluntary or mandatory public registers in which lobbyists and/or public officials must disclose information about their interactions. The information disclosed may include the purpose of lobbying, its beneficiaries and the specific activities conducted.
Public agendas	The obligation for certain categories of public officials to publish their agenda online, including their meetings with external organisations and interest groups.
Public decision-making footprint	Documentation that details the stakeholders who sought to influence the decision or were consulted in its development, and shows what inputs into the particular public decision-making process were submitted and what steps were taken to ensure inclusiveness of stakeholders in the development of the regulation.

Source: (OECD, 2021[2]; OECD, 2010[1])

To ensure the effectiveness of lobbying transparency frameworks, a second critical element is to facilitate the disclosure of lobbying information through convenient electronic registration and report-filing systems. This includes designing tools and mechanisms for the collection and management of information on lobbying practices, building the technical capacities underlying the registers and maximising the use of information technology to reduce the administrative burden of registration.

In Chile, the disclosure regime is specified in Title II of the Act ("On public registers"). The Lobbying Act specifies that lobbying information must be disclosed in "**public agenda registers**", which are defined in Article 2 §3 as registers of a public nature, in which passive subjects must enter the information set out in in the Act:

- Public registers must be **created and kept by the body or service** to which passive subjects in Article 3 (central state administration), Article 4 §1 (regional and communal administration), Article 4-4 (armed forces and public order and security forces) and Article 4 §7 (members of special Councils and expert panels) belong (Article 7 §1). The regulation for the publication of these registers was established by the SEGPRES (*Decreto 71 – Regula el lobby y las gestiones que representen intereses particulares ante las autoridades y funcionarios de la administración del estado*) (Library of the National Congress of Chile, 2014[3]). The information contained in all the registers must be published and updated, at least once a month according to the provisions specified in Article 7 of Law No. 20.285 on access to public information.
- The **Office of the Comptroller General** of the Republic, the **Central Bank**, the **Parliamentary Ethics and Transparency Commissions of the National Congress**, the **Public Prosecutor's Office** and the **Administrative Corporation of the Judiciary** must establish their own regulation for the publication of their **public agenda register**. These regulations also clarify the information

that they will transmit to the Transparency Council for the establishment of a **list of lobbyists and managers of private interests** (Articles 9 and10). The information from these registers is published on the electronic websites established in the rules of active transparency that govern them (Article 9). In particular:

- The **Office of the Comptroller General of the Republic** keeps a public register for activities targeting the Comptroller General and Deputy Comptroller General (Article 7 §2). The regulation for this register was approved by resolution of the Comptroller General and published in the Official Gazette.
- The **Central Bank** keeps a public register for activities targeting its President, Vice-President and Directors (Article 7 §3). The rules governing this register were established by means of a resolution of its Council, published in the Official Gazette.
- Two registers, each created and kept by the respective **Parliamentary Ethics and Transparency Commissions**, in which the information must be entered by passive subjects in the Chamber of Deputies and the Senate (Article 7 §4). The rules governing the registers of the National Congress were approved by the Chamber of Deputies and the Senate, at the proposal of their respective Ethics and Parliamentary Transparency Commissions.
- A register to be kept by the **Public Prosecutor's Office** for activities targeting the National Prosecutor and regional prosecutors (Article 7 §5). The regulation for this register was approved by resolution of the National Prosecutor of the Public Prosecutor's Office and published in the Official Gazette.
- A register to be kept by the **Administrative Corporation of the Judiciary**, in which the information must be entered by its Director (Article 7 §6). The rules governing this register were adopted by the High Council of the Judiciary.

Concretely, to meet public officials, lobbyists and managers of private interests must register through the six platforms listed above, each of which has its own technical specifications. In particular, the regulation of each of these six registers specifies the information to be included in the register, the date of updating, the manner of publication, the background information required to request hearings and meetings and other aspects necessary for the operation and publication of the registers (Article 10). Decree 71, which governs the register of the central state administration, the regional and communal administration, the armed forces and public order and security forces, and members of special Councils and expert panels, indicates that passive subjects must respond within a maximum period of three business days to requests submitted by active subjects (Decree 71, Article 10). They can accept and schedule the meeting, reject their demand, or pass the request to another passive subject. Passive subjects must then disclose information on the register and update the information on the first business day of each month (Decree 71, Article 9). The Office of the Comptroller General of the Republic, the Central Bank, the Parliamentary Ethics and Transparency Commissions of the National Congress, the Public Prosecutor’s Office and the Administrative Corporation of the Judiciary have established their own rules for the publication of information in their registers.

In addition to their **Public Agenda Registers**, the SEGPRES, the Office of the Comptroller General of the Republic, the Central Bank, the Parliamentary Ethics and Transparency Commissions of the National Congress, the Public Prosecutor’s Office and the Administrative Corporation of the Judiciary must also establish their **Public Register of Lobbyists and Managers of Private Interests** (Article 13). The information in these registers is generated automatically from the requests filed by lobbyists and managers of private interests, and thus do not require any additional disclosures from them. The above-mentioned regulations establish the procedures, deadlines, background information and information required for entries in the public register of lobbyists and managers of private interests.

The **Transparency Council** then centralises the information from the public agenda registers and makes them available to the public on a single online platform www.infolobby.cl (**Central Register of hearings,**

travels and gifts). In particular, on a quarterly basis, the Transparency Council must make available to the public a register containing a **systematised list of persons, natural or legal, Chilean or foreign, who in that period have held meetings and hearings with the passive subjects** listed in Article 3 (central state administration), Article 4 §1 (regional and communal administration), Article 4 §4 (Armed Forces and Public Order and Security Forces) and Article 4 §7 (Members of special Councils and expert panels), the purpose of which is lobbying or the management of private interests with respect to the decisions referred to in Article 5 ("**List of Lobbyists**"). This list must identify the person, organisation or entity with which the passive subject held the hearing or meeting, stating:

- On behalf of whom the private interests were managed.
- The individualisation of the attendees or persons present.
- Whether remuneration was received for such management.
- The place, date and time of each meeting or hearing held.
- The specific subject matter dealt with.

The passive subjects of the regulated authorities listed in numbers §2, §3, §5, §6 and §8 of Article 4 must send to the Transparency Council the information agreed in the agreements they enter into, for the purposes of publishing it on the **Central Register of hearings, travels and gifts** and the **List of lobbyists**.

While these elements are comprehensive and provide a strong level of transparency on the official meetings held between active subjects and public officials, the disclosure regime currently only covers meetings and hearings between public officials and active subjects, leaving an important part of lobbying in the shadows. As a result, not all activities covered by the definition of "lobbying" and "management of private interests" provided in the Lobbying Act are covered by transparency requirements. In addition, while public officials have the prime responsibility to demonstrate and ensure the transparency of the decision-making process, the proposed approach in this law may result unbalanced as it lays on them all the responsibility of recording lobbying activities. Lobbyists and their clients also share an obligation to ensure that they avoid exercising illicit influence and comply with professional standards in their relations with public officials, with other lobbyists and their clients, and with the public (OECD, 2010[1]).

Lastly, the absence of a unique one-stop-shop registration and transparency platform for lobbying has emerged as one of the law's biggest challenges. For example, several private sector representatives met for the purpose of this report highlighted the absence of a single online form with harmonised registration forms for requesting hearings and meetings, which increases online procedures and thus the burden of compliance for lobbyists. In addition, information on the functioning of the law is accessible on several websites (for example, SEGPRES' www.LeyLobby.gob.cl does not cover autonomous bodies), which does not facilitate the overall understanding of the system by citizens, public officials and lobbyists.

As such, to improve transparency of lobbying activities and facilitate disclosure of lobbying information, this chapter provides recommendations on the following core themes:

- Providing sufficient and pertinent information on who is lobbying, on what issues, and how.
- The disclosure regime for lobbyists and public officials through convenient electronic registration and report-filing systems.
- The content of disclosures and innovative tools to enhance their quality.
- The transparency portal to make publicly available online, in an open data format, that is reusable for public scrutiny and allows for cross-checking with other relevant databases, information on lobbying activities disclosed in the registers.

3.2. Providing comprehensive and pertinent information on who is lobbying, on what issues and how

3.2.1. Disclosure obligations for public authorities and officials could be expanded beyond meetings that occurred to cover all meetings that were requested, so as to fully reflect the lobbying and influence taking place in practice

According to Article 8 of the Lobbying Act, the public agenda registers must include the following information:

- **Hearings** and **meetings** held for the purpose of lobbying or the management for private interests in respect of the decisions referred to in Article 5. The information must indicate:
  - the **person, organisation or entity** with whom the hearing or meeting was held
  - **on whose behalf** the particular interests are pursued
  - the **identity of the attendees or persons present** at the hearing or meeting
  - **whether any remuneration is received** for such representations
  - the **place and date** of such representations
  - the **specific subject matter discussed**.
- **Trips** made by any of the passive subjects established in the law, in the exercise of their functions. The information must indicate:
  - the **destination** of the trip
  - its **purpose**
  - the **total cost**
  - the **legal or natural person** who financed it.
- **Official and protocol donations**, and those authorised by custom as manifestations of courtesy and good manners, received by the passive subjects established in the law, on the occasion of the exercise of their functions. The registers must identify:
  - the **gift or donation** received
  - the **date and occasion** of its receipt
  - the individualisation of the **natural or legal person from whom it was received**.

Each public institution referred to in Article 3, Article 4 §1, 4 §4 and 4 §7 with passive subjects have a dedicated lobbying institutional webpage. The technical specifications are the same for each institutional webpage as they are all hosted on the platform "Plataforma Ley del Lobby" www.leylobby.gob.cl developed by SEGPRES (Figure 3.1). In this platform, each institutional body must nominate an "**institutional administrator**" in charge of creating accounts for designated public officials, publishing and updating the list of the body's designated public officials, assigning disclosure permissions, correcting and validating disclosures made by designated public officials, and co-ordinating trainings on the lobbying regulation for public officials. These public officials also have the possibility to designate "**technical assistants**" to respond to requests on their behalf and register information in the portal.

Figure 3.1. Standardised lobbying institutional webpages in Chile



Notes: the screen shot displays the standardised lobbying webpage and registration portals used in Chile. It includes the following sections: (i) designated public officials ("passive subjects" / "*sujetos pasivos*"), which links to a list of designated public officials and an online form for newly elected or nominated designated public officials to request their inclusion in the list; (ii) lobbyists ("*lobbistas y gestores de intereses particulares*"), which includes a form for lobbyists to register, which is a pre-requisite in order to solicit a meeting with a designated public official, and a list of lobbyists; (iii) audiences and meetings ("*audiencias y reuniones*"), which links to the register of audiences and meetings, and forms for lobbyists to solicit an audience/meeting; (iv) registers of travels and gifts ("*viajes*", "*donativos*"); (v) information on the law.
Source: Lobbying institutional webpage of the Health Ministry in Chile

This two-level approach can facilitate the disclosure of meetings, as institutional bodies are better placed to manage and update their list of designated public officials, track and centralise their communications and meetings with lobbyists, and ensure that these communications are registered properly and on time. The administrator can also ensure that specific meetings or communications are not published twice in the register. For example, if a specific meeting attended by more than one passive subject is disclosed several times, the administrator can ensure that the information is centralised and published in a coherent way, avoiding duplications.

As such, the current system of publication of hearings and meetings is a good practice and should be maintained but could be generalised to all the passive subjects referred to in Article 3 and 4. Enabling such a change will require assigning responsibilities for administering the Registers to an independent body. This will be further discussed in Chapter 5.

In addition, Article 9 of the Lobbying Act could be amended so that the information disclosed is extended to unplanned communications with lobbyists, such as written communications (email exchanges, WhatsApp messages), meetings and hearings requested by lobbyists that were rejected, as well as meetings requested by passive subjects with active subjects and in which lobbying activities occurred. These additional registration requirements will enable the register to fully reflect the lobbying and influence actually taking place, as the action of requesting a meeting is in itself an act of lobbying, even if the meeting was refused or did not happen in the end. Currently, the registers only include hearings and meetings that were accepted and that occurred. In addition, this additional layer of transparency would enable greater public scrutiny on the principle of equity enshrined in Article 11 of the Lobbying Act. According to this principle, passive subjects must treat all meeting requests with equity, and cannot refuse a meeting with an interest group on a specific subject if they accepted a meeting on the same topic with another interest group. Enabling transparency on meetings that were refused will enable citizens and other interested

stakeholders to make comparisons between accepted requests and rejected requests, allowing for the detection of possible violations of Article 11.

Lastly, the Commission for Public Integrity and Transparency is of the opinion that meetings between public authorities should also be published. To that end, the Commission has made proposals to establish a duty to publish meetings between high-level State authorities, such as ministers, deputies and senators, and ministers of the High Courts of Justice.

While this proposal is in line with best practices in OECD countries, however, it should be noted that meetings between public authorities do not constitute lobbying, and this should be clearly indicated and differentiated from meetings and hearings that do constitute lobbying. This aspect is further explained in the following section.

3.2.2. Information in the public agenda registers could be further clarified to clearly differentiate activities that are strictly related to lobbying and influence from other information related to passive subjects' official agendas, travels and gifts

In transparency platforms, it is crucial to clearly differentiate activities that are related to lobbying and influence activities from other information that are not related to lobbying. For example, information disclosed regarding travels and gifts could be clarified. Indeed, the registers currently include trips made by any of the passive subjects in the exercise of their functions, as well as official and protocol donations, and those authorised by custom as manifestations of courtesy and good manners, in the exercise of their functions. While this information is useful for general transparency purposes, official travel and protocol gifts do not constitute lobbying and as such may not be as relevant to understand lobbying and influence practices taking place. Municipal representatives interviewed for this report confirmed that the register of travels and donations may contain information that is not as useful and that does not relate to any lobbying activity, such as technical trips and protocol donations.

Instead, the registers could be refocused on gifts, invitations, hospitalities and other benefits offered and paid for by active subjects, including by "professionals and researchers from non-profit associations, corporations, foundations, universities, study centres and any other similar entity" specified in Article 6 §6. These could include for example invitations to participate in a conference organised by a research centre or corporation, paid travel and other benefits provided by these entities.

Protocol gifts and trips that are carried out in the exercise of public functions could instead be registered in different platforms in the context of the broader integrity system for certain categories of public officials, and through a specific regulation, or in other sections of the registers. Such platforms could host, for example:

- The public agendas of certain senior public officials covering their meetings where lobbying and influence activities are not involved. This would include, for example, meetings with other public authorities, meetings with external individuals (journalists), as well as official engagements and trips.
- A register of protocol and customary gifts above a certain threshold, in line with either a gift policy enshrined in the legal framework or the specific gift policies of governments institutions.
- A register of official travels, which would include official trips made by certain categories of public officials as part of their duties.
- The declarations of assets and interests of certain categories of public officials, where applicable and in line with the relevant regulation.

In any case, regardless of the approach chosen, it should be clearly differentiated whether a gift comes from an active subject, or whether it is a protocol gift offered by another public authority. Similarly, the

information published would make it clear whether a trip was offered and covered for by an active subject, or whether it was a travel undertaken as part of a public official's official duties.

3.2.3. The public agenda registers could be complemented by a Register of Lobbyists where registration could be a pre-requisite to conducting lobbying activities and requesting meetings, and in which active subjects would face additional disclosure requirements

As emphasised throughout this report, the focus of the current legal framework is on the public official. This aspect is also one of the most recurrent criticisms of Law No. 20.730, as active subjects currently have limited disclosure obligations, with the exception of registering online to request hearings and meetings. Consequently, there is a lack of information about and from lobbyists beyond the information they disclose when requesting a meeting or hearing. In addition, the fact that the law only provides for the transparency of meetings and hearings means that there is a very large section of lobbying activities for which there is no information available.

As such, the current lobbying framework could also be complemented by a **Register of Lobbyists**, in which active subjects covered by the Law would be required to register all the activities covered by the Lobbying Act's definition of "lobbying" and "management of private interests". Registration could be made a pre-requisite for engaging in lobbying activities, including for requesting official hearings and meetings with passive subjects. This implies that entities and individuals wishing to engage in lobbying activities would register at the stage of intending to engage in such activities, and not after they have done so, or within a limited time frame after having conducted a lobbying activity. For example, registration could be made mandatory no later than ten days after the day on which the lobbyist begins to conduct lobbying activities. While this allows more flexibility for lobbyists, careful consideration should be given to the length of the registration deadline, to ensure it does not become an obstacle to the objective of transparency and timely access to lobbying information, or a source of confusion for some passive subjects who may wish to verify a lobbyist's registration before entering into communication with him or her.

In addition, lobbyists could be required to submit information regularly on the lobbying activities they conducted in practice. By providing an additional avenue for transparency through a separate mechanism to report all influence efforts, this register would be a complementary tool to the existing framework and also address the inherent weakness of the Act. Several OECD countries have adopted this approach with disclosure obligations for both public officials and lobbyists, including Slovenia and Lithuania (OECD, 2021[2]).

In countries that combine both approaches, cross-checking of lobbying agendas and registers provides an opportunity to cross-check information and analyse who tried to influence public officials and how. In the United Kingdom, for example, the Office of the Registrar of Consultant Lobbyists regularly cross-checks registered lobbyists with Ministerial open agendas (that are limited to the meetings of Ministers with external organisations), to monitor and enforce compliance with the requirements set out in the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (OECD, 2021[2]).

The rationale behind this additional layer of disclosures is that there are certain lobbying activities that can only be registered by the lobbyists themselves, and not public officials. Indeed, as emphasised in Section 2.2.3, a key feature of the 21st century lobbying context is that lobbyists increasingly engage in indirect forms of influence, including influence activities with clear strategies to hide the origin of the influence, in the absence of any regulatory framework to make these activities transparent. As such, only lobbyists would be able to disclose, for example, social media campaigns conducted in favour or against a specific bill being discussed in Parliament or partnering with a think tank or a research centre to produce studies

and evidence supporting or opposing a specific position, as passive subjects would not be aware that such influence practices are taking place.

Good practice from other countries has found that requiring regular disclosures by lobbyists on their lobbying activities can strengthen transparency. To that end, the proposed Register of Lobbyists could require lobbyists to disclose their activities on a quarterly or semestrial basis, as in Ireland or the United States (Table 3.2).

Table 3.2. Frequency of lobbying disclosures by lobbyists in the United States and Ireland

		Ireland	United States
Registration	**Initial registration**	Lobbyists' registration is mandatory to conduct lobbying activities. Lobbyists can register after commencing lobbying, provided that they register and submit a return of lobbying activity within 21 days of the end of the first "relevant period" in which they begin lobbying (i.e., the four months ending on the last day of April, August and December each year).	Lobbyists' registration is mandatory to conduct lobbying activities. Registration is required within 45 days: (i) of the date the lobbyist is employed or retained to make a lobbying contact on behalf of a client; (ii) of the date an in-house lobbyist makes a second lobbying contact.
	Subsequent registration	The 'returns' of lobbying activities are made at the end of each 'relevant period', every four months. They are published as soon as they are submitted.	Lobbyists must file quarterly reports on lobbying activities and semi-annual reports on political contributions.
Content of disclosures	**Initial registration**	"**Applications**": 1. The person's name. 2. The address at which the person carries on business. 3. The person's business or main activities. 4. Any e-mail address, telephone number or website address relating to the person's business or main activities. 5. Any registration number issued by the Companies Registration Office. 6. (if a company) the person's registered office. The application shall contain a statement by the person by whom it is made that the information contained in it is correct.	1. Contact details, information on clients (one registration per client) and/or the employer. 2. Information on the intended subjects of their lobbying activities. 3. Estimation of payment received or expenditures incurred for lobbying activities.
	Subsequent registration	"**Returns"** made at the end of each relevant period (3 months), covering activities made during the relevant period: 1. Information relating to the client (name, address, main activities, contact details, registration number). 2. The designated public officials (DPO) to whom the communications were made and the body to which they employed. 3. The relevant matter of those communications and the results they were intended to secure. 4. The type and extent of the lobbying activities, including any "grassroots communications", where an organisation instructs its members or supporters to contact DPOs on a particular matter. 5. The name of the individual who had primary responsibility for carrying on the lobbying activities. 6. The name of each person who is or has been a designated public official employed by, or providing services to, the registered person and who was engaged in carrying on lobbying activities.	**Quarterly reports** on lobbying activities (LD-2), including: 1. General lobbying issue area code(s). 2. Specific issues on which the lobbyist(s) engaged in lobbying activities. 3. Houses of Congress and specific Federal Agencies contacted. 4. Disclosing the lobbyists who had any activity in the general issue area. **Semi-annual reports** on certain contributions detailing political contributions and attesting to their compliance with Congress' Code of Conduct as regards to gifts.

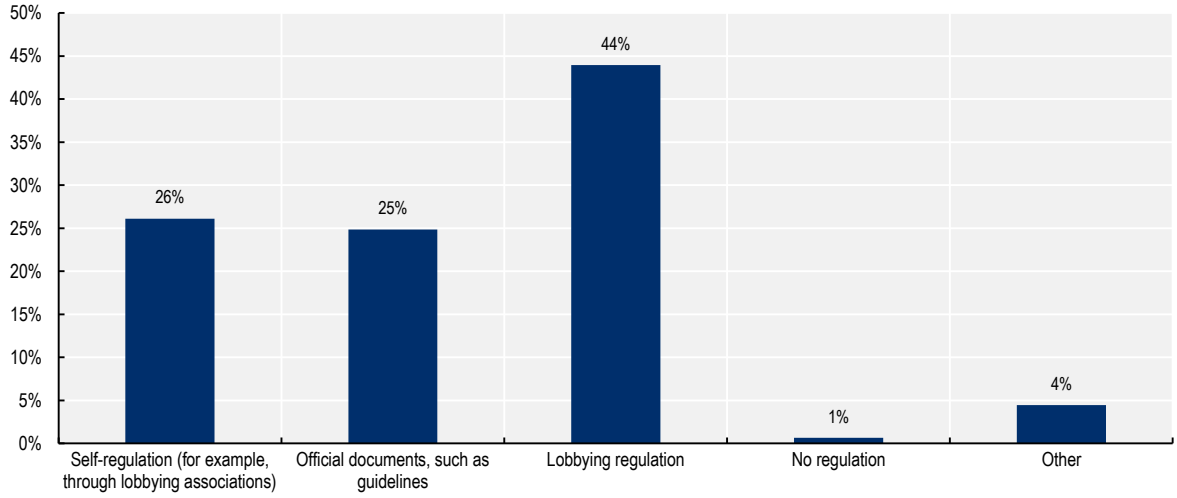
Source: (OECD, 2021[2])

While it is generally assumed that professional lobbyists oppose the creation of lobbying registers and the public disclosure of their lobbying activities, none of the private sector representatives interviewed in Chile for this report opposed the proposal to create a complementary "Register of Lobbyists". Some even

expressed strong support for this proposal. In general, the OECD's interviews with various stakeholders revealed a consensus on the need to supplement the information currently reported in the registry, particularly on the targets of lobbying and their objective. This is line with OECD findings from a survey conducted in 2020, in which lobbyists expressed a willingness to participate in a mandatory lobbying registry, and many felt that this was necessary to protect the integrity of the profession (Figure 3.2). The same lobbyists surveyed by the OECD in 2020 were 57% of the opinion that the policy, piece of legislation targeted by the lobbying action should be made transparent by lobbyists. These attitudes reflect a commitment to integrity in public decision making and the importance of maintaining public trust.

Figure 3.2. Best means for regulating lobbying, according to lobbyists

Respondents were asked the following question: “In your opinion, which is the best means for regulating lobbying activities?”



Source: OECD 2020 Survey on Lobbying, in (OECD, 2021[2])

3.2.4. The Lobbying Act could include clear criteria for withholding the disclosure of information related to national security or protected commercial information

In Chile, exceptions to transparency obligations including meetings, hearings and trips are included in the Lobbying Act when their publicity would compromise the general interest of the Nation or national security (Article 8). To that end, an annual account of these must be submitted, in a confidential manner, to the Office of the Comptroller General of the Republic, for passive subjects referred to in Article 3 and in Article 4 §1, §2, §4 and §7. For other passive subjects, the report must be submitted to the person with the power to impose penalties, in accordance with the rules of Title III, discussed in Chapter 5.

While the reasoning behind exempting this type of information is sound, and a similar provision can be found in many lobbying regulations, the Lobbying Act or its related regulations could provide clearer criteria to guide the Office of the Comptroller General of the Republic’s determination for when to withhold certain information and on what grounds.

In addition, the provision could be strengthened to add the possibility for lobbyists to request the withholding of the disclosure of certain information related to sensitive commercial information. Such requests could be made to an independent oversight entity, with clear criteria to guide determination.

3.3. Providing a convenient electronic registration and report-filing system for both public officials and lobbyists

3.3.1. While remaining separate, the two proposed registers – for lobbyists and for public officials – could be hosted on a single central registration and disclosure portal so as to facilitate registration and enable greater public scrutiny through cross-checking of information

To facilitate disclosures, the OECD recommends avoiding a "distributed" form of lobbying registers – e.g., every institution having its own register hosted on different platforms with different technical specifications – which can undermine interoperability and reliability.

To that end, the registration and disclosure platform of all registers – for public officials and active subjects – could be hosted on the same platform. This will enable greater interoperability between both registers. For example, lobbyists and managers of private interests disclosing information would be able to select passive subjects from a list based on the list of passive subjects kept up to date in the current public agenda registers by public authorities. Similarly, public officials disclosing their relevant communications in the public agenda registers could be able to select the names of active subjects from a search bar connected to the list of lobbyists and managers of private interests registered in the Register of Lobbyists.

3.3.2. The technical specifications of the registration system developed by SEGPRES for the public agenda registers could be used and generalised to all government entities

Given that most of the passive subjects defined in the Law belong to the central state administration and the regional and communal administration, the majority of the lobbying registrations published by the Transparency Council on the centralised transparency platform "InfoLobby" www.infolobby.cl come from the lobbying registration platform designed and managed by SEPGRES. As described in Section 3.2.1, this system of a unique lobbying registration portal – "Plataforma Ley del Lobby" www.leylobby.gob.cl – leading the user to different institutional webpages with the same technical specifications is a good practice that could be maintained. Over 700 government organisations – including ministries, undersecretaries, public services, regional governments, presidential delegations, municipalities, municipal corporations, among others – currently use the system to manage and consolidate the lobbying information that is then transferred to InfoLobby for publication and visualisation.

Thus, the registration system currently developed by SEGPRES could in the future be used to build a unique registration platform that would be used by all passive subjects referred to in Articles 3 and 4 of the Lobbying Act.

3.3.3. The Register of Lobbyists could place the obligation to register on entities through a unique identifier and a collaborative space per organisation, while clarifying the responsibilities of designated individuals in the registration of information

To facilitate disclosures, and later to make it easier to find accurate information about entities in the Register of Lobbyists, the Lobbying Act could focus the framework on corporate and institutional accountability, and place the registration requirement on entities rather than on individuals, as entities are the ultimate beneficiaries of lobbying activities. Currently, when searching the list of registered lobbyists generated automatically, the pieces of information that appear most clearly are natural persons conducting lobbying, even though these natural persons are usually employed by the entity which they represent, or work within a professional lobbying firm. Very few entities appear in the list of active subjects. In addition, no further information other than the name of the person or entity, whether they are lobbyists or managers of interest, a natural and legal person, appear in the list of lobbyists (for legal persons, the national identifier

of the legal entity is also visible). This makes it difficult to understand which interests are the ones being represented.

It is therefore recommended that the proposed Register of Lobbyists places the obligation to register on entities – through a unique identifier – instead of individuals. Concretely, the Register of Lobbyists would display clearly:

- The name of the legal entities who conduct lobbying on their own behalf (i.e., companies, civil society organisations, etc. with in-house lobbyists).
- The name of the legal entities who conduct lobbying on behalf of clients (i.e., lobbying firms, law firms), and the list of their clients.
- The name of self-employed lobbyists (natural persons) who conduct lobbying on behalf of clients, and the list of their clients.

To register, entities that are lobbying would be able to designate one or more registrars to register the entity, as well as to consolidate, harmonise and report on the lobbying activities of the entity. When requesting meetings with passive subjects, the entity would still be required to disclose the names of the individual lobbyists who would attend the meeting. Similarly, when disclosing lobbying activities, entities would be required to disclose the names of all individuals employed in the entity who have engaged in lobbying activities.

In Quebec for example, each entity has its own "Collective space", which contains all the lobbying activities conducted by the entity by one or several lobbyists. Lobbyists who have been tasked by the entity to register information in that "Collective Space" can create their own individual professional account and connect this account to the Collective space of the entity. Similarly, in France, the online registration portal is designed as a workspace for legal entities, each of which has a "collaborative space", which enables them to communicate lobbying information to the High Authority for transparency in public life (HATVP) in the best possible conditions. Individual lobbyists lobbying on behalf of a legal entity can create their own individual accounts and ask to join the collaborative space of that entity. The collaborative space is managed by an "operational contact" designated by the entity; he or she manages the rights of every individual registered in the collaborative space (Table 3.3).

Table 3.3. Responsibilities to register lobbying information in Ireland, France and Quebec (Canada)

	Disclosure responsibilities
France	It is up to the **legal representative** of the organisation to create and manage the organisation's collective space on the registration portal or to designate a person, internal or external to the organisation, as the "**operational contact"** to carry out these procedures.
Ireland	Legal entities designate **"administrators"** with responsibilities to register and publish lobbying information.
Quebec, Canada	The most **senior executive** of an entity and the "**Administrator"** designated by the entity have the responsibility to manage the members of their Collective Space and their roles, as well as the information relating to the entity registered in the Collective Space. Lobbyists who conduct lobbying activities on behalf of the entity must be registered and members of the Collective Space. All members of a Collective space hold the de facto role of "**Editor-Reader"** (ER). This allows them to contribute to the drafting of lobbying returns. However, only the most senior executive of the entity – or a designated representative – has the responsibility of validating the disclosure or modification of lobbying returns.

Source: www.lobbying.ie (Ireland); Registering in Carrefour Lobby Québec, https://lobbyisme.quebec/en/lobbyists-registry/registering-in-the-registry/ (Quebec, Canada); HATVP (2023) Répertoire des représentants d'intérêts, Bilan des déclarations d'activités 2022, https://www.hatvp.fr/wordpress/wp-content/uploads/2023/07/HATVP_BILAN_RRI-2022_VF.pdf (France)

A similar system could be implemented in Chile, in which every entity – whether lobbying on its own behalf or on behalf of clients – would be required to register as an entity with a "**collaborative space**" in the registration portal. One or several representatives of this entity would be designated as the registrar(s) and manager(s) of this collaborative space and assign responsibilities to individuals for the registration of lobbying activities. The registrar and any person designated by the registrar to register information would have their own individual accounts and contribute to the collaborative space.

Such a system has several advantages. First, assigning clear disclosure responsibilities to certain individuals can help these entities to track and centralise internally their lobbying activities. Second, it also ensures that the lobbying information is published in a harmonised and therefore more coherent and intelligible way, as designated individuals are already trained to use the disclosure platform. Lastly, placing the responsibility for registration on entities and not individuals can help avoid the stigmatisation of individual lobbyists while also allow an entity to be held accountable for potential breaches of the Lobbying Act.

3.4. Enhancing the quality of the information disclosed by active and passive subjects

3.4.1. The centralised lobbying registration and disclosure portal could serve as a one-stop-shop for lobbyists and public officials on how to register and disclose information

To ensure compliance with registration requirements, and to deter and detect breaches, the lobbying oversight function should raise awareness of expected rules and standards and enhance skills and understanding of how to apply them (OECD, 2010[1]).

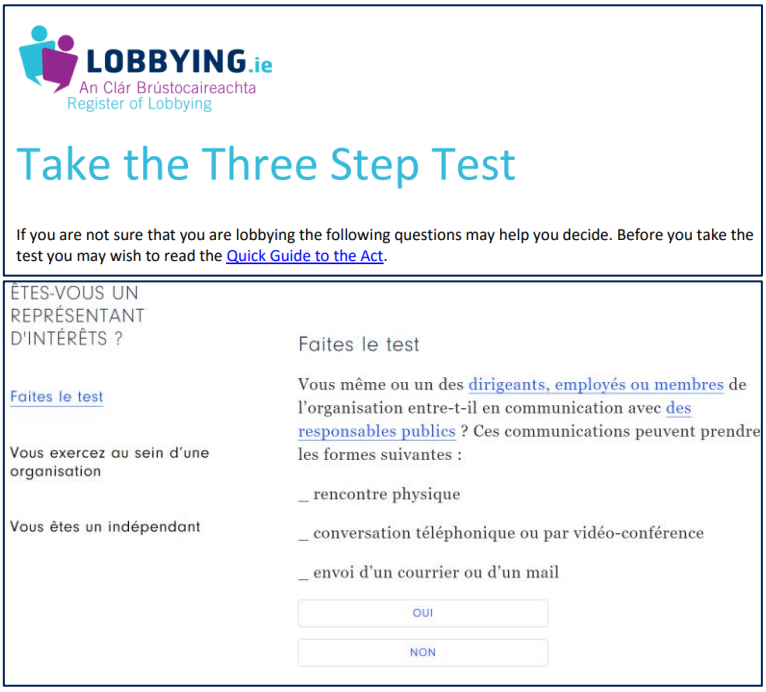
The Commission for Public Integrity and Transparency has made available on the portal www.leylobby.gob.cl information and guidance documents, but the latter are limited to a citizen handbook and a legal handbook on the Lobbying Act. In addition, the Commission provides technical assistance and trainings to passive subjects referred to in Article 3, Article 4 §1, 4 §4 and 4 §7. It relies on an internal "**Register of technical assistance**" in order to monitor needs of technical assistance by public officials. Information is then published in a report on "Monitoring, reporting and support reports", made available online.

In the future, in the event that broader disclosure obligations for both public officials and active subjects are put in place, the guidance and assistance provided to lobbyists / managers of private interests and public officials could be strengthened. Local elected representatives interviewed for this report particularly insisted on the need for more guidance, guidelines and manuals on the Lobbying Act due to a lack of knowledge and awareness of the law at the local level. This aspect was further confirmed by the Transparency Council, which pointed that some mayors believed that every hearing and meeting with an external actor constituted lobbying, and therefore tended to register meetings that did not constitute lobbying. Based on international best practices, guidance and assistance may include, among others:

- **A step-by-step questionnaire on whether to register as a lobbyist or whether a request for a meeting constitutes lobbying**. While definitions in the Lobbying Act should be robust, comprehensive and sufficiently explicit to avoid misinterpretation and to prevent loopholes (OECD, 2010[1]), some individuals or interest groups may have doubts on whether their activities qualify as lobbying under the Act. A short online questionnaire can help remove any doubt. For example, the Irish lobbying portal www.lobbying.ie includes a simple Three-Step Test – "Are you one of the following?", "Are you communicating about a relevant matter?", "Are you communicating either directly or indirectly with a Designated Public Official?" – to allow potential registrants to determine whether they are or will be carrying out lobbying activities and are required to register. Once they decide to register, all new registrations are reviewed by the Commission for Standards in Public

Life to ensure that the person is indeed required to register and that they have done so correctly (Irish Standards in Public Office Commission, 2016[4]). The French portal also includes a similar online test (HATVP, n.d.[5]), with questions also available in English (HATVP, n.d.[6]) (Figure 3.3).

Figure 3.3. Step-by-step questionnaire on whether to register as a lobbyist in Ireland (top) and France (bottom)



Source: (Irish Standards in Public Office Commission, 2016[4]; HATVP, n.d.[5])

- **Technical guidelines on managing accounts.** When registering, it is possible that lobbyists and public officials may at first struggle on how to set up an account, how to authenticate themselves and manage their passwords. It may therefore be useful to provide technical guidelines to support them in the first steps of their registration. For example, the Irish lobbying portal provides guidelines on "How to Manage your Account" (https://www.lobbying.ie/help-resources/information-for-lobbyists/new-user-how-to-section/how-to-manage-your-account/), which is part of a "New User - How to section".
- **Regular email correspondence and automatic reminders sent to lobbyists and public officials to improve compliance with reporting requirements.** Sending reminders to lobbyists and public officials about mandatory reporting obligations can help mitigate the risk of non-compliance (Box 3.1). Newly registered lobbyists and public officials can also be sent a letter or email highlighting their reporting obligations and deadlines, as well as best practices for account administration and details of enforcement provisions in the event of non-compliance, as is the case currently in Ireland (Irish Standards in Public Office Commission, 2022[7]).

Box 3.1. Automatic alerts to raise awareness of disclosure deadlines

Australia

Registered organisations and lobbyists receive reminders about mandatory reporting obligations in biannual e-mails. Registered lobbyists are reminded that they must advise of any changes to their registration details within 10 business days of the change, and confirm their details within 10 business days beginning 1 February and 1 July each year.

France

Lobbyists receive an e-mail 15 days before the deadline for submitting annual activity reports.

Germany

If no updates are received for more than a year, lobbyists receive an electronic notification requesting them to update the entry. If the information is not updated in three weeks, their file is marked "not updated".

Ireland

Registered lobbyists receive automatic alerts at the end of each of the three relevant periods, as well as deadline reminder e-mails. Return deadlines are also displayed on the main webpage of the Register of Lobbying.

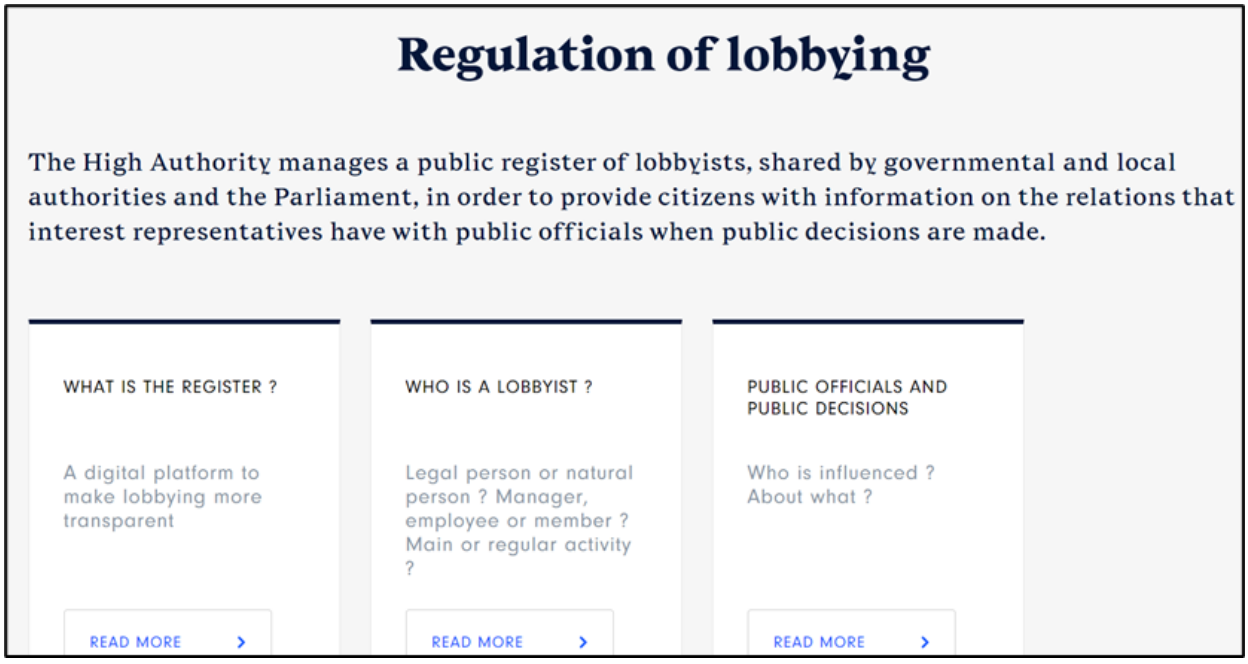
United States

The Office of the Clerk of the House of Representatives provides an electronic notification service for all registered lobbyists. The service gives e-mail notice of future filing deadlines or relevant information on disclosure filing procedures. Reminders on filing deadlines are also displayed on the Lobbying Disclosure website of the House of Representatives.

Source: (OECD, 2021[2])

- **Online guidelines, videos and handbooks clarifying certain aspects of the law, including definitions and what to register.** For example, the HATVP published a detailed handbook entitled "Register of interest representatives: Guidelines", which clarifies the provisions of the law, available both in English and in French (HATVP, 2019[8]). The guidelines are updated on a regular basis. The HATVP lobbying web portal also includes a downloadable "Presentation kit", which includes explanatory videos, an awareness-raising brochure and posters, as well as the guidelines, practical sheets and a video tutorial on the use of the registration portal. All guidance is available on a one-stop-shop dashboard (https://www.hatvp.fr/espacedeclarant/representation-dinterets/) (Figure 3.4). Similarly, the Irish lobbying portal www.lobbying.ie includes a series of webpages with guidelines for lobbyists, including targeted guidelines for specific interest groups (e.g., "Top ten things Charities need to know about Lobbying"), as well as a document "Regulation of Lobbying Act 2015: Guidance for people carrying on lobbying activities", updated on a regular basis (Irish Standards in Public Office Commission, 2019[9]).

Figure 3.4. One-stop-shop Lobbying dashboard with online guidelines in France



Source: HATVP, https://www.hatvp.fr/espacedeclarant/representation-dinterets/

- **Guidelines for lobbyists on how to track and monitor internally their lobbying activities**. Such guidelines, in the form of monitoring guidance, can help promote compliance and registration. The example of France is provided in (Box 3.2).

Box 3.2. "How to track your lobbying activities" tool developed by the HATVP in France

In France, lobbyists are required to disclose to the HATVP details of the activities carried out over the year within three months of the close of their accounting period. This annual declaration takes the form of a consolidated report by subject and declared in the form of returns on the disclosure platform.

1. **Designate a "referent" / "administrator" responsible for consolidating, harmonising and declaring the lobbying activity returns in the portal.**
2. **Identify all persons likely to be qualified as "persons responsible for interest representation activities" (i.e., lobbying).**

Identify *a priori* the persons likely to fall within the scope, on the basis of job titles and the tasks generally carried out, ask all identified persons to trace their communications with public officials and register them in the registration portal.

3. **Implement an internal reporting tool to consolidate all the information that should be included in the annual disclosure of lobbying activities, in particular:**

Date	Indicate the date or period in which the interest representation activity was carried out
Action carried out by	Indicate the name of the person in charge of interest representation activities who initiated the action
Object	Indicate the objective of the interest representation activity, preferably by indicating the title of the public decision concerned and using a verb (e.g., "PACTE law: increase the tax on ...")
Area(s) of intervention	Choose one or more areas of intervention from the 117 proposals (several choices possible, up to a maximum of 5 choices)
Name of public official(s) targeted	Indicate the name of the public official(s) targeted
Category of public official(s) targeted	Choose the type of public official(s) you want from the list (several choices possible)
Category of public official(s) targeted: Member of the Government or ministerial cabinet	If you have selected "A member of the Government or Cabinet", choose the relevant ministry from the list
Category of public official(s) applied for: Head of independent administrative authority or independent administrative authority	If you have selected "A head of an independent administrative authority or an independent administrative authority (director or secretary general, or their deputy, or member of the college or of a sanctions committee)", choose the authority concerned from the list
Type of interest representation actions	Choose the type of interest representation activity carried out from the list (several choices possible)
Time spent	Indicate the time spent in increments of 0.25 of a day worked; 0.5 corresponding to a half day and 1 corresponding to a full day
Costs incurred	Indicate all costs related to the representation work (commissioning a study, invitation to lunch, etc.).
Annexes	Attach all necessary supporting documents: cross-reference to diary, working documents, email, expense report, etc.
Comments (optional)	Observations

Source: HATVP, https://www.hatvp.fr/wordpress/wp-content/uploads/2018/09/fiche-pratique-reporting-sept-2018-vf.pdf ; https://www.hatvp.fr/wordpress/wp-content/uploads/2018/09/fiche-pratique-objet-sept-18.pdf.

- **Guidelines on how to register initial information and submit regular returns / activity reports.** In addition to guidelines on clarifying definitions and creating accounts, lobbyists and public officials also need detailed guidelines on how to register in the portal and submit the information requested. For example, the Irish lobbying portal includes a "New User – How to section" with step-by-step guidance on "How to register as a lobbyist" and "How to submit a return", including a "Sample Return Form".
- **Live help tools such as pop-ups, instructions on how to fill a section, calling a specific hotline or calling / e-mailing a dedicated contact.** For example, the HATVP has a dedicated hotline that lobbyists and public officials can reach when registering information, available Monday to Friday from 9:00 to 12:30 and from 14:00 to 17:00. A dedicated help function called "Registration assistance" is available directly on the registration portal (Figure 3.5). Similarly, the Quebec platform includes an "intelligent" chatbot where citizens and lobbyists can ask questions or raise doubts (Figure 3.6).

Figure 3.5. Dedicated lobbying hotline to assist lobbying registration in France



Source: https://repertoire.hatvp.fr/#!/home

Figure 3.6. Lobbying chatbot available on Quebec's "Carrefour Lobby Quebec" platform



Source: https://centredeservices.lobbyisme.quebec/portal/fr/kb/carrefourlobby-aide

- **Mandatory induction trainings on the Lobbying Act and the registration process**. For example, the New York State Lobbying Act provides for a continuing education regime for all registered lobbyists (Box 3.3).

Box 3.3. Trainings for lobbyists in the State of New York

The New York State Commission on Ethics and Lobbying in Government (COELIG), which administers the Lobbying Act, provides a mandatory online training course for individuals registered as lobbyists. Subject matters include information provided in the Lobbying Act, relevant regulations and advisory opinions, as well as reporting obligations and ethical standards. The training also includes best practices for meeting the various statutory requirements.

Each person registered as a lobbyist must complete this training course within 60 days of initial registration and at least once in any three-year period during which they are registered as a lobbyist.

Source: New York State Commission on Ethics and Lobbying in Government, "Information on the Mandated Ethics Training Requirement for Lobbyists and Clients", https://ethics.ny.gov/information-mandated-ethics-training-requirement-lobbyists-and-clients

3.4.2. The registration portals could include clear and easy-to-fill sections, connected to relevant databases so as to facilitate registration and ease the burden of compliance for lobbyists and public officials

When designing registration portals, particular attention should be given to innovative solutions that could help ease the burden of compliance, for example connecting certain sections to relevant databases and enabling lobbyists and public officials to choose from a drop-down menu. For example, if a lobbyist intends to lobby on a specific bill, he or she would be able to choose the name of the specific bill from a drop-down menu connected to the database of legislative bills of the Parliament. This system is for example in place in Quebec (Canada), and also avoids the caveat of having a same bill being referenced or formulated in different ways by lobbyists.

The following two tables contain examples of the specific sections that could be included in the initial registration form for lobbyists and managers of private interests (Table 3.4) and the form to request a meeting/hearing (Table 3.5), including the type of disclosures and interoperability with relevant databases. The proposals are based on SEGPRES's existing form to request an audience (*Formulario Solicitud Audiencia Ley No. 20.730*), as well as international best practices from Canada, Ireland and France. In particular, the registration forms for lobbyists could require lobbyists to state any type of existing or past relationship with decision makers or their advisors, so as to clarify any potential conflict of interest.

Table 3.4. Proposals for sections to be included in the initial registration for active subjects (pre-requisite to conduct lobbying activities and request meetings with public officials)

Section	Type of disclosure	Interoperability with relevant databases
Type of entity	Drop-down menu (e.g., "law firm", "self-employed lobbyist", "company", "trade and business association", "non-governmental organisation", "think tank or research institution", "organisation representing churches and communities", "other")	/
Name of the legal entity or name of the self-employed lobbyist	Search bar based on company register or other directories of legal entities	• Company register • Beneficial ownership registries • Directories of non-governmental organisations
Parent or subsidiary company benefiting from the lobbying activities	Search bar based on company register or other directories of legal entities	• Company register • Beneficial ownership registries • Directories of non-governmental organisations
Top executives and board members	Name and Title	/
Administrator(s) / operational contact(s) (designated to administer the collective space of the company/organisation)	Name and title	/
Editors (with authorisations and responsibilities to draft lobbying disclosures)	Name and title	/
Whether the individuals listed above were former passive subjects	Yes / No (if yes, name of the institutional body and period of service)	• List of public institutions covered by the Lobbying Act
Clients, if applicable	Search bar based on company register or other directories of legal entities	• Company register • Beneficial ownership registries • Directories of non-governmental organisations
Sector of activity	List of sectors in drop down menu (with the possibility to select "other" and specify details)	/
Membership and/or contributions to professional organisations, lobbying associations, coalitions, chambers of commerce, etc.	Search bar based on company register or other directories of legal entities	• Company register • Beneficial ownership registries • Directories of non-governmental organisations
Financial contributions to other interest groups	Search bar based on company register or other directories of legal entities Amount of the financial contributions	• Company register • Beneficial ownership registries • Directories of non-governmental organisations
Public and private funding received, if any	Search bar based on public authorities covered by the Act Amount of the contributions received	• List of public institutions covered by the Act • Company register • Beneficial ownership registries • Directories of non-governmental organisations

Source: author's contribution, based on (OECD, 2021[2]) and (OECD, 2023[10])

Table 3.5. Proposals to strengthen SEPGRES's existing form to request meetings and hearings with passive subjects for lobbyists / managers of private interests

	Section to be filled	Type of disclosure	Interoperability with relevant databases
WHO carries out the lobbying and ON BEHALF of WHOM?	Information on the entity	Pre-filled, based on information provided in the initial registration	Information from initial registration
	Name of the lobbyists who will attend the meeting	Select from list of pre-registered individuals or add names of lobbyists (i.e., those not registered in the initial registration)	Information from initial registration
	Whether these lobbyists were previously designated public officials	Yes/No (pre-filled for those registered in the initial registration or to fill for new lobbyists)	Information from initial registration
	Name of client on behalf of whom the activities are conducted (if applicable)	Select from disclosed clients in initial registration	Information from initial registration
WHO are the passive subjects you want to meet for lobbying purposes?	Institutions targeted	Search bar and drop-down menu	List of public institutions covered by the Act
	Type of public official targeted (general nature of duties)	Search bar and drop-down menu (based on previous choice)	/
	Name of public official targeted	Search bar and drop-down menu (based on previous choice)	Lists of passive subjects
WHAT matter(s) do you want to lobby about during the meeting?	Select the relevant public policy area	Search bar or "other"	/
	Category of public decision(s) targeted (relevant matter)	Drop-down menu (e.g., "public policy, action or programme", "law or other instrument having the force of law", "grant, loan or other forms of financial support, contract or other agreement involving public funds, land or other resources", "permits and the zoning of land", "appointments of key government positions", "other policy or orientation")	/
	Name or description of the decision(s) targeted	Search bar or "Other" (with open box)	Databases of laws, draft bills, regulations
	Objective pursued / intended results, including what specific issue/legislation/programme was it about and in what direction (e.g., adoption, modification, removal)?	Open box (500 characters)	/
	Documents submitted to public officials with the request (if any), e.g., commissioned research or policy briefs	Attachments	/

Source: author's contribution, based on SEGPRES's existing registration form (*Formulario Solicitud Audiencia Ley No. 20.730)*, (OECD, 2021[2]) and (OECD, 2023[10])

The sections in the form to disclose subsequent information on lobbying activities – on a quarterly or semestral basis – would be similar to the ones specified in Table 3.5 on who lobbied, who was the target, and what matters were lobbied about. These disclosures could take the form of "activity reports" filed for each objective pursued, and would specify all lobbying activities undertaken (for example all activities undertaken to "modify article X of Bill Y in direction Z") and the type of lobbying activities undertaken (e.g., written communications, commissioning of research, meetings with public officials, social media campaigns, etc.) for that specific objective. To that end, an additional section on "**HOW was the lobbying carried out?**" would include a drop-down menu with the type of communication tool used (including for example written communication, telephone, meeting, grassroots lobbying / mass communications, other) and an open box to describe the communications used (e.g., "5 written communications by email with Parliamentary X", "social media campaign advocating for a change in law Y"). For example, where social media is chosen as the activity type, lobbyists could indicate if it was via twitter/Facebook/etc. as well as an estimate of the volume of posts. Lobbyists would also specify policy and position papers, amendments,

opinion polls and surveys, open letters and other communication or information material that were sent to passive subjects in writing, or presented to them during a meeting.

Similar sections could be proposed for public officials when disclosing their lobbying meetings and communications with lobbyists, as indicated in Table 3.6.

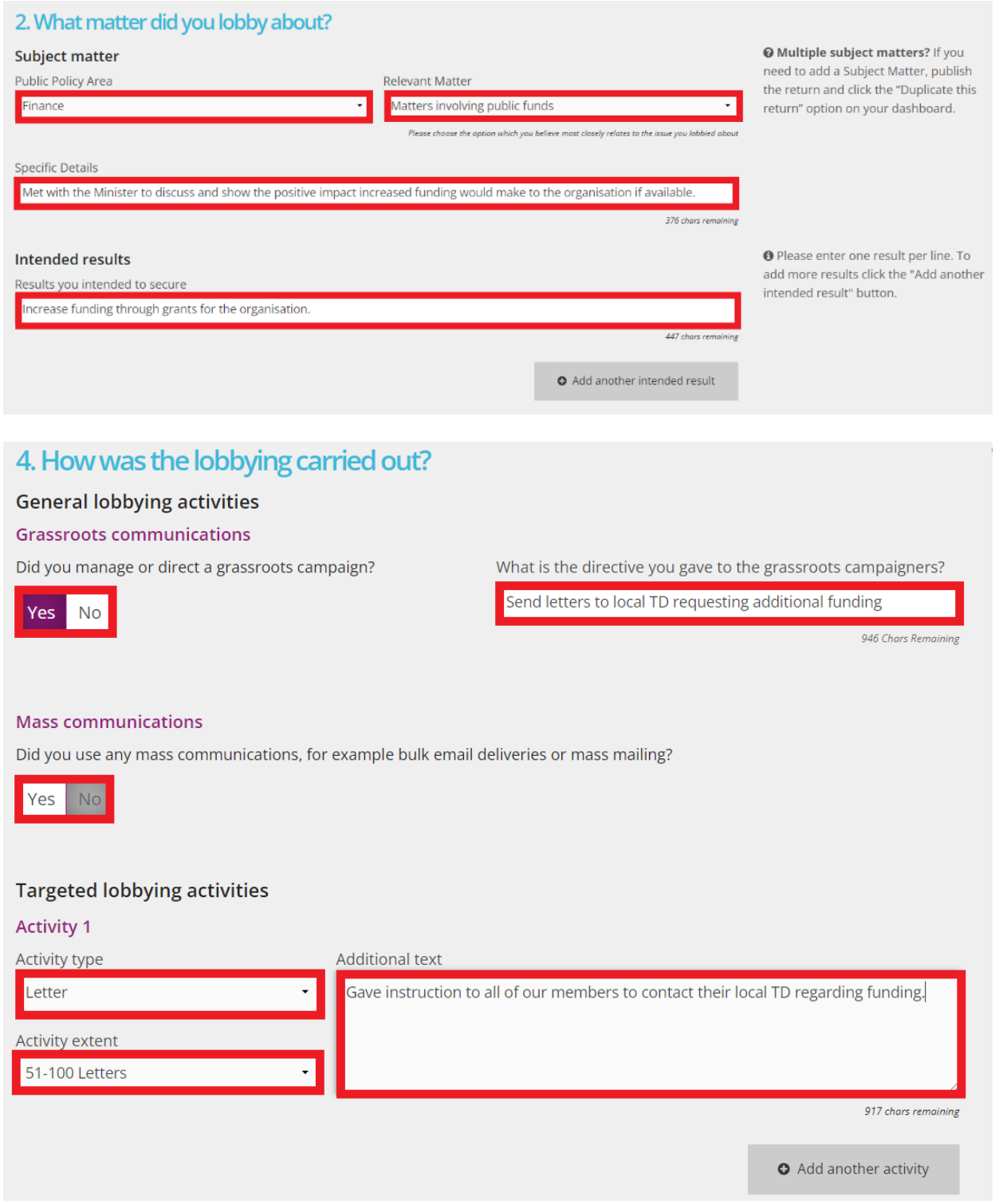
Table 3.6. Proposals for sections to be included in the registration portal for public officials

Category	Section	Type of disclosure	Interoperability with relevant databases
WHO is disclosing	Name of the passive subject	Pre-filled based on personal account	/
	Institutional body	Pre-filled based on personal account	/
WHO carried out the lobbying activity and ON BEHALF of WHOM?	Name of the business / organisation conducting lobbying activities	Search bar based on the Register of Lobbyists *If the search does not yield any results, the name can be registered manually*	Register of Lobbyists
	Name of natural person lobbying	Search bar based on Register of Lobbyists *If the search does not yield any results, the name can be registered manually*	Register of Lobbyists
	Clients, if applicable	Search bar based on Register of Lobbyists *If the search does not yield any results, the name can be registered manually*	Register of Lobbyists
	Other passive subjects present in the meeting, if applicable	Search bar based on list of passive subjects	List of passive subjects
WHAT matter(s) were you lobbied about?	Relevant public policy area	Pre-filled based on institutional webpage	/
	Category of public decision(s) targeted (relevant matter)	Drop-down menu (e.g., "public policy, action or programme", "law or other instrument having the force of law", "grant, loan or other forms of financial support, contract or other agreement involving public funds, land or other resources", "permits and the zoning of land", "appointments of key government positions", "other policy or orientation")	/
	Name or description of the decision(s) targeted	Drop down menu or "Other" (with open box)	Databases of laws, draft bills, regulations
	Subject matter (brief summary of topics discussed and the objective pursued)	Open box (500 characters)	/
	Any decisions taken or commitments made	Open box (500 characters)	/
HOW was the lobbying carried out?	Type of communication	Drop down menu (e.g., meeting, email correspondence)	/
	Date	Date picker *(a date range could be selected if for example the communication is an email correspondence spanning over several days)*	/
	Location (for meetings)	Open box	/

Source: author's contribution, based on (OECD, 2021[2]), (OECD, 2023[10]) and the Lobbying Act

As illustrated in the tables above, the sections should be clear and enable lobbyists to file information on the specific purpose of lobbying activities ("WHAT"), how lobbying activities were carried ("HOW"), who carried the lobbying activities and who were the targets of the lobbying activities ("WHO"). The Registration portals should also include a possibility to save a draft and return later. Good practice examples of clear categorisation and visual identity in Ireland are provided in Figure 3.7.

Figure 3.7. Selected sections to be filled by lobbyists in the Irish registration portal



Source: Standards in Public Office Commission, Guidance on how to submit a return, https://www.lobbying.ie/help-resources/information-for-lobbyists/new-user-how-to-section/how-to-submit-a-return#:~:text=Submitting%20a%20Return,return%20of%20lobbying%20activities%E2%80%9D%20screen.

3.4.3. The registration portals could provide guidance on filling sections with open text and use data analytics tools to enhance the quality of information disclosed in these fields

The quality of information disclosed in boxes with open text may vary and lobbyists may not always understand what is expected of them when disclosing information in these fields. For example, open boxes where lobbyists must explain the objective pursued and the intended results should in theory include words such as "modify", "propose" "prevent the adoption of", "influence the preparation of", "push for the enactment of", "obtain the grant of" / "obtain financial aid", "prohibit the practice of", "promote the use of", but this might not always be the case in practice. Experience from other countries has found that the section describing the objective pursued by lobbying activities was often used to report on general events, activities or dates of specific meetings (e.g., "meeting with a senator to discuss 5G technology", "defending my company's interests", "discussion on the COVID-19 crisis"). Chile faces similar challenges. The Commission for Public Integrity and Transparency noted, for example, that the information disclosed in open boxes that refer to the topics that are to be covered in meetings and hearings ("*materias que desea abordar en la Audiencia*") are usually low in quality, which makes it difficult to understand the real reason and purpose of the meeting or hearing.

To enhance the quality of information declared in activity reports, practical guidance explaining how sections on lobbying activities should be completed could be provided for both lobbyists and public officials who have to report information. Good practice from Ireland (Box 3.4) and France (Table 3.7) can serve as examples.

Box 3.4. Guidance provided by the Standards in Public Office Commission in Ireland on how to fill a return

Intended Results:

In this text box, insert sufficient detail on the results you were seeking to secure through your lobbying activity. The intended result should be meaningful, should relate directly to the relevant matter you have cited above, and should identify what it is you are actually seeking. Is it more funding? A regulatory change? It is not sufficient to say that you are seeking "to raise matters of interest to our organisation". To be a "relevant matter" that must be reported, you must be communicating about:

- the development, initiation or modification of any public policy, programme or legislation
- the award of any public funding (grants, bursaries, contracts, etc.), or
- zoning or development.

Examples:

To ensure greater fines/penalties for persons convicted of illegal dumping.

To increase the maximum allowable speed at which passenger vehicles may operate on Irish motorway.

To improve efficiency of border security processes when travelling between European countries.

To demonstrate the benefits of our community program in order to seek continued/additional funding.

To rezone a tract of land adjacent to my business from residential to commercial.

Source: Standards in Public Office Commission, https://www.lobbying.ie/media/6044/sample-return-form-march-2016.pdf

Table 3.7. Guidance provided by the HATVP on filling the open box "objective pursued" in France

1. The purpose should be understood as the "objective sought" and not as the "topic addressed" or "subject matter".

The description of the purpose should as far as possible answer the following question: *what was the purpose of the interest representation / lobbying actions carried out?*

Do's	Don'ts
• **Describe the object by starting with an action verb** *"Lowering the contribution rate by..."* *"Extend the application of such provision to.."* *"Postpone the entry into force of..."* • **Good examples** *"Reform of vocational training: increasing the ceiling of the personal training account for training account for people without qualifications".* *"Social Security Financing Bill 2018: ask for the tabling of an amendment in favour of extending the length of paternity leave and better remuneration".* *"Modify the procedures for obtaining AOCs, PDO and PGI in the wine sector to take into account the specificities of the terroir".* *"Obtaining the classification of a lake as a protected site".*	• **Declare a topic or area of activity:** *"Promotion and defence of the interests of the sectors ..."* *"Protection of the environment"* *"Consumer protection"* *"Reflection on new digital uses"* • **Use industry-specific technical vocabulary or acronyms specific to a sector of activity and unintelligible to the general public** • **List the tasks performed or the means of communication** *"Monitoring, legislative follow-up, organisation of meetings"* *"Sending a letter"*

2. Each object, understood as an "objective", should be the subject of an activity sheet

The object is the entry point for declaring an interest representation activity. Each object should therefore give rise to a separate activity sheet. For example, if an interest representative enters into communication with a public official in order to influence a broad text or to discuss a wide range of subjects, this meeting should be split up according to the different objectives pursued.

Do's	Don'ts
"Financing Bill: lowering the reimbursement threshold..." *"Finance Bill: get recognition for ..."* *"Finance Bill: raise awareness of the need for ..."*	*"PLF: three amendments tabled"*

3. Indicate in the subject line the public decision targeted

By providing information on the public decision targeted by interest representation activities, it enables to contextualise the interest representation action and make it more intelligible, particularly when it is a text/bill known to the general public. The exact title of the decision, text or bill is not expected, but it may be relevant to indicate its common name or its general theme (for example, "the bill for the freedom to choose one's professional future" can be reworded as "reform of vocational training" or "professional future law"; "training reform" or "professional future law").

Do's	Don'ts
"Protection of business secrecy: review the obligations ..." *"New rail pact: simplify the criteria for obtaining ..."* *"Immigration law: make a case for ..."*	**Declare only the public decision targeted without specifying the objective pursued:** *"Transposition of the MiFID II Directive"* *"Law for a Digital Republic"* *"Constitutional reform".*

4. When it seems difficult to formulate a purpose that clearly describes the objective, use the "observations" box to describe this action

Sometimes it can be complicated to clearly describe the objective of an interest representation activity. In this case, the optional field "observations" can be used to provide more information.

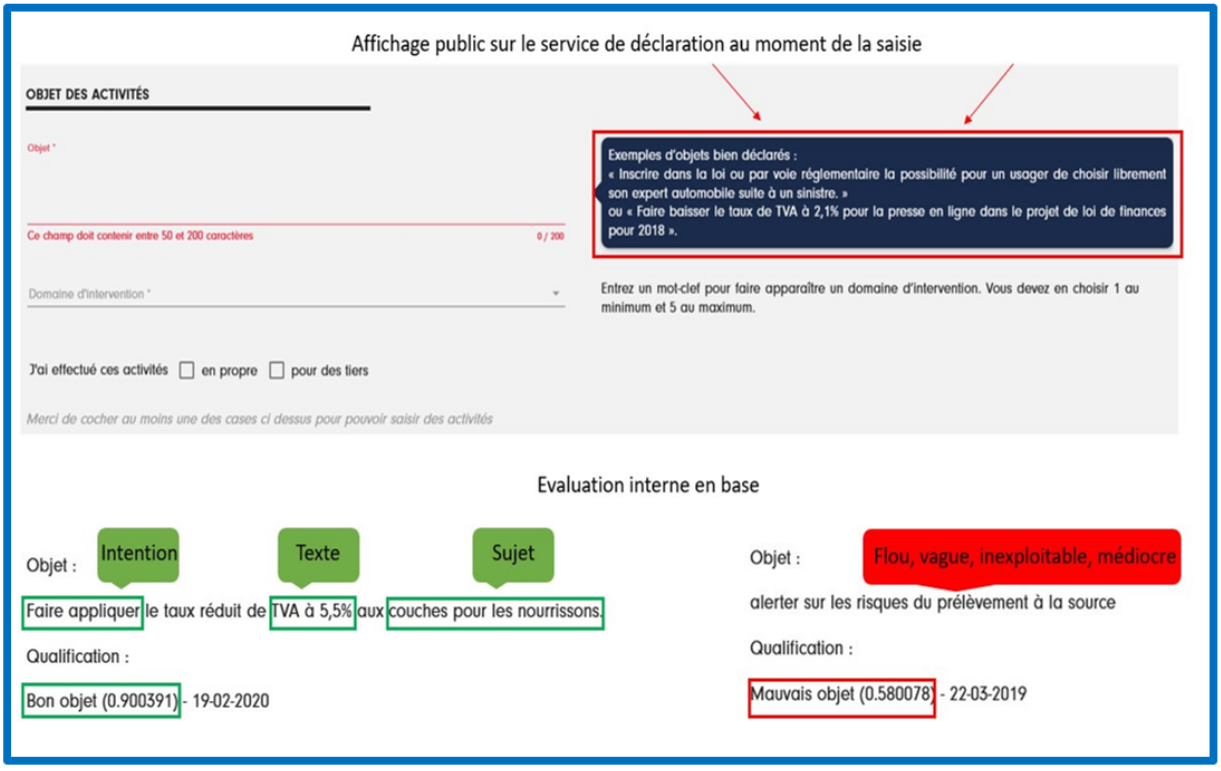
Source: High Authority for Transparency in public life, Guidance note "How to fill the 'object' section of an activity sheet?", https://www.hatvp.fr/wordpress/wp-content/uploads/2018/09/fiche-pratique-objet-sept-18.pdf

Second, using data analytics to strengthen the quality of the input has also proven useful in other OECD countries. For example, the HATVP established an algorithm based on artificial intelligence to detect potential defects upon validation of the activity report, including incomplete or misleading declarations. Concretely, when completing the "objective pursued" section of an activity report, lobbyists are nudged to provide specific details, including the subject on which the lobbying action bore, the expected results – using at least on positioned verb ("request", "promote", "oppose", "reduce") – and the public decision(s) targeted by the activities concerned (Figure 3.8). If the return they submit does not meet the established criteria of the algorithm, lobbyists are notified through a pop-up window indicating that that the information

entered does not meet the established criteria. It also provides guidance and good practice examples. Lobbyists then have the possibility to modify the information disclosed in the section.

Figure 3.8. Using data analytics to improve the quality of lobbying disclosures in France

Public display on the dedicated disclosure service at the time of entry



Note: The screen shot shows examples of good responses that would be accepted by the system (for example: "include in the law or by regulation the possibility for a user to freely choose his or her car expert following an accident", "lowering the VAT rate to 2.1% for the online press in the 2018 Finance Bill", "apply the reduced VAT rate of 5.5% to nappies for infants") and vague responses that would not be accepted by the system" (e.g. "alerting to the risks of the withholding tax").
Source: Information provided by the High Authority for Transparency in Public Life

3.5. Centralising lobbying information in a unique and intuitive online Lobbying Transparency Portal

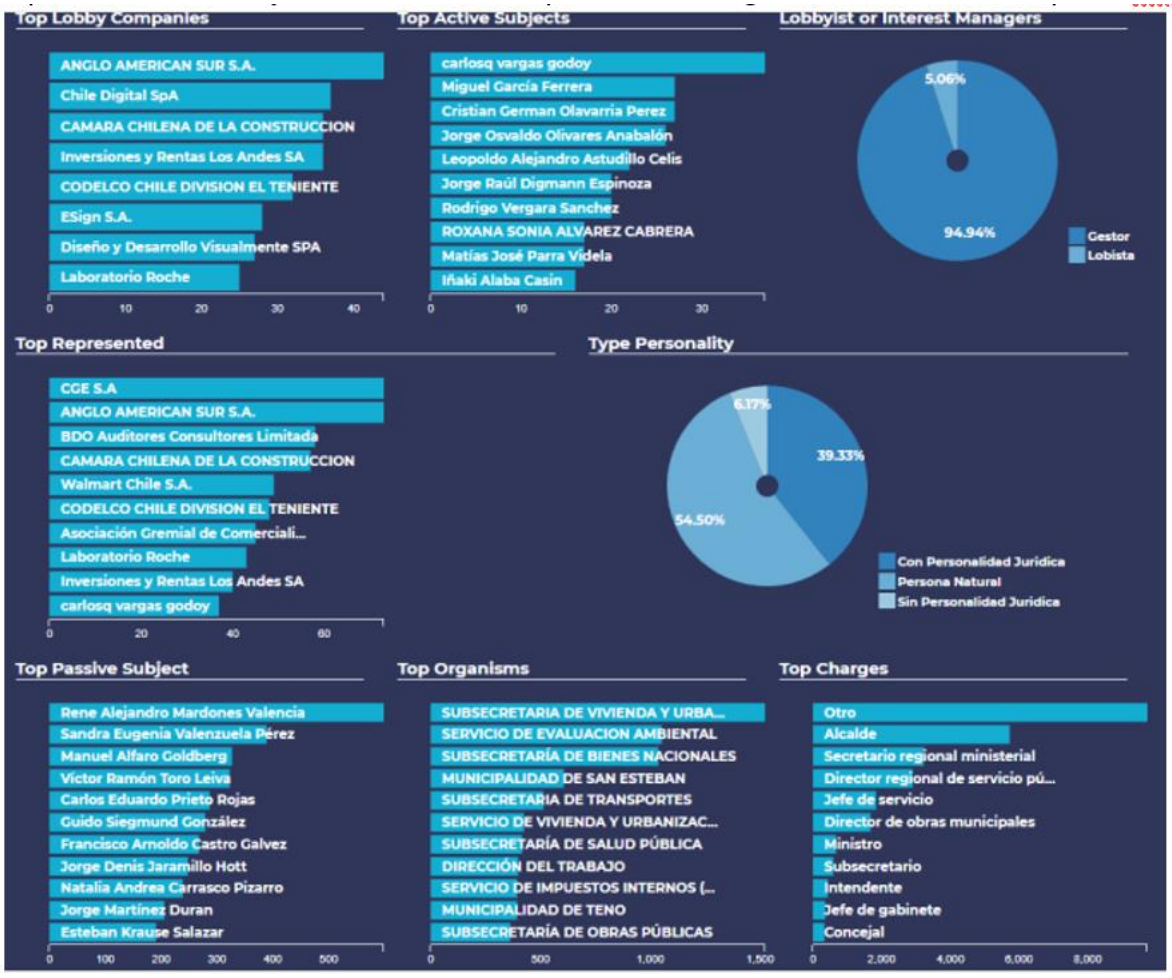
3.5.1. Information from all lobbying registers could be combined in a unique Lobbying Transparency Portal, with information available in an open data format

Once registration and disclosure platforms are in place, the information disclosed must be centralised and disclosed in a unique database enabling stakeholders – including civil society organisations, businesses, the media and the general public – to fully grasp the scope and depth of these activities (OECD, 2010[1]). While they may take various forms, online lobbying platforms should ease access to and understanding of large volumes of data collected through registries. As a general rule, lobbying transparency portals should avoid monolithic statements or lists of lobbyists that do not give any relevant information for citizens to understand the state of play of lobbying activities and their concrete impact on decision-making processes.

As such, for lobbying transparency portals to be useful and provide relevant information, they should be viewed as an information ecosystem shared between citizens, lobbyists and designated public office holders on matters related to lobbying, with the objective to maximise the data disclosed in the registration portals. Going beyond the availability of lobbying data, transparency portals can also be used as the one-stop-shop with guidelines for lobbyists, information for citizens, factsheets and analysis of the information contained in the registers. In Ireland for example, in addition to housing the online register, the website www.lobbying.ie includes all the information related and guidance tools explaining the registration and return processes.

In that respect, Chile currently has one of the best practices among OECD countries. The portal InfoLobby – although hosted on a different platform than LeyLobby – includes data visualisation tools and enables filtering information by category (Figure 3.9).

Figure 3.9. Lobbying transparency portal in Chile



Source: https://www.infolobby.cl/

In the future, and in the event that more comprehensive disclosure requirements are established for both lobbyists (active subjects) and public officials through the two complementary registers proposed in this report, information driven from these registers could be combined and made available in a unique Lobbying Transparency platform (and hosted within the proposed single central registration and disclosure portal), with relevant filters enabling searches by lobbying entities, public policy areas, passive subjects, or specific public decisions. In particular, aggregating data on a single website will allow cross-checking of data sources and also optimises the potential for transparency.

3.5.2. The Lobbying Act could include provisions on preparing a public decision-making footprint for specific decision-making processes, to be included in the Lobbying Transparency Portal

The proposed Lobbying Transparency Portal could also feature thematic analysis of data contained in the registers and prepared by the institution who will have responsibilities to administer the Portal. As such, the Lobbying Act could include a provision assigning responsibilities to compile and disclose a "public decision-making" footprint on specific decision-making processes, including for example legislation, government policies or programmes, and high-risk or high-dollar value contracts or concessions. In determining what specific public decisions should be accompanied by a public decision-making footprint, a risk-based approach could be considered. The information disclosed can be in the form of a table or a document listing the identity of the stakeholders contacted, the public officials involved, the purpose and outcome of their meetings, and an assessment of how the inputs received from external stakeholders was taken into account in the final decision.

By enabling stakeholders to get an overview of the lobbyists involved in a specific public decision, for example a legislative initiative, as well as an assessment of how the input received was factored into the final decision, the public decision-making footprint is a useful tool to shed light on the practical reality of lobbying. In France for example, the obligation to declare the objective of lobbying activities makes it possible for the HATVP to trace the influence communications disclosed on a specific bill or decision and compile the information into thematic reports published on the centralised platform https://www.hatvp.fr/lobbying/. The HATVP has already published two reports summarising all declared lobbying activities on specific bills, which shed light on the practical reality of lobbying.

Proposals for action

In order to enable effective transparency on lobbying in Chile, and to be as consistent as possible with OECD standards and international best practices in this area, the OECD recommends that the Government of Chile considers the following proposals.

Provide comprehensive and pertinent information on who is lobbying, on what issues and how

- Maintain the current system of registration of hearings and meetings established by SEGPRES and generalise it to all the passive subjects referred to in Article 3 and 4, so as to harmonise registration forms and provide a unique registration platform to request meetings and disclose information on these meetings.
- Amend Article 9 of the Lobbying Act to expand disclosure obligations for public authorities and officials beyond meetings that occurred to cover all meetings that were requested, so as to fully reflect the lobbying and influence taking place.
- Clearly differentiate in the information disclosed by public officials in the public agenda registers the activities that are strictly related to lobbying and influence from other information related to passive subjects' official agendas, travels and protocol gifts.
- To complement the current public agenda registers, introduce a Register of Lobbyists with disclosure obligations for entities – rather than individuals – conducting lobbying activities. Initial registration in this Register could be made a pre-requisite for engaging in lobbying activities, including for requesting official hearings and meetings with passive subjects. Active subjects would then be required to file additional information on their lobbying activities on a quarterly or semestrial basis (public decisions targeted, types of lobbying activities conducted, objective pursued).
- Establish clear criteria for withholding the disclosure of information related to national security or protected commercial information.
- Add a possibility for lobbyists to request the withholding of the disclosure of certain information related to sensitive commercial information. Such requests could be made to an independent oversight entity, with clear criteria to guide determination.

Provide a convenient electronic registration and report-filing system for both public officials and lobbyists

- Host on a single central registration and disclosure portal the two proposed registers for lobbyists and for public officials – while keeping them separate – so as to facilitate registration and enable greater public scrutiny through cross-checking of information.
- For active subjects, place the obligation to register on entities through a unique identifier and a collaborative space per organisation, with individual responsibilities of designated individuals in the registration of information.

Enhance the quality of the information disclosed by active and passive subjects

- Establish the centralised lobbying registration and disclosure portal as a one-stop-shop for lobbyists and public officials on how to register and disclose information.
- Include in the registration and disclosure portals clear and easy-to-fill sections, with guidance explaining how to fill sections with open text, and connected to relevant databases so as to facilitate registration and ease the burden of compliance for lobbyists and public officials.

Centralise lobbying information in a unique and intuitive online Lobbying Transparency Portal

- Publish all information from the lobbying registers on a unique Lobbying Transparency Portal, with information available in an open data format, enabling cross-checking of information, and including relevant filters allowing searches by lobbying entities, public policy areas, passive subjects, or specific public decisions.
- Include provisions in the Lobbying Act on preparing a decision-making footprint from information driven by the registers, to be published in the Lobbying Transparency Portal.

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4 Strengthening the integrity framework adapted to the risks of lobbying and influence for public officials and lobbyists in Chile

This chapter reviews the Chile integrity framework from the perspective of interactions between public officials and lobbyists. First, the chapter provides recommendations on strengthening the existing integrity framework for public officials adapted to the risks related to lobbying and influence activities, implementing an effective system to manage pre/post public office and employment risks, and providing rules that promote integrity and inclusiveness in advisory and expert groups. In addition, the chapter discusses how to better support businesses and civil society organisations in reinforcing their frameworks for transparency and integrity in policymaking, including through the introduction of a Lobbying Code of Conduct as a starting point for promoting responsible engagement, as well as strengthening disclosures on sources of funding, transparency of media companies' ownership structures and financing, and regulations on the political activities of certain interest groups.

4.1. Introduction

In addition to increasing the transparency of the policymaking process, the strength and effectiveness of this process also depends on the integrity of both public officials and those who seek to influence them (OECD, 2021[1]). Public officials should conduct their communication with lobbyists in line with relevant rules, standards and guidelines in a way that bears the closest public scrutiny. They should cast no doubt on their impartiality to promote the public interest, share only authorised information and not misuse 'confidential information', disclose relevant private interests and avoid conflict of interest. Decision makers should also set an example by their personal conduct in their relationship with lobbyists (OECD, 2010[2]; OECD, 2021[1]).

However, lobbying and influence are typically an example where public officials may face ethical dilemmas in cases where there are no clear legal "right" or "wrong" answers or where there may be conflicts between different values or principles. As such, lobbying-related ethical dilemmas are a key challenge for integrity policies. This is particularly true in an age of social media and information overload, where back and forth between the private and public sectors is commonplace, and where public officials are constantly exposed to public scrutiny and criticism, risking the collapse of their reputations every time an intervention is misperceived or misinterpreted.

Similarly, lobbyists, in particular those coming from the private sector, are under an increasingly high degree of scrutiny from all stakeholders, notably their own employees, investors and the public. This has significantly increased the expectations regarding their level of and their commitment to integrity in engaging with the policymaking process (OECD, 2021[1]).

As such, both public officials and lobbyists therefore need an integrity framework adapted to the specific risks of lobbying and other influence practices. In Chile, public officials who are lobbied are subject to various integrity standards and transparency requirements, specified in Article 11 of the Law. Similarly, lobbyists (i.e., lobbyists and managers of private interests as defined in the Lobbying Act) also face a number of obligations specified in Article 12 of the Law, and can also rely on a Code of Good Practice for Lobbyists (provided in Annex A) to guide their behaviour.

To further strengthen this integrity framework, this chapter provides recommendations on the following two core themes:

- Strengthening the current lobbying integrity framework for public officials.
- Assisting businesses and civil society organisations in reinforcing their frameworks for transparency and integrity in policymaking.

4.2. Strengthening the lobbying integrity framework for public officials

4.2.1. Article 11 of the Lobbying Act could be strengthened to introduce additional lobbying-related integrity standards for public officials that clarify their expected behaviour when dealing with lobbying

Lobbying integrity standards for public officials may be included in a specific lobbying law, a lobbying code of conduct as well as guidelines specific to interactions with external parties, or general standards applicable to public officials, such as laws, codes of ethics or codes of conduct. Depending on the type of document in which the standards are included, standards for public officials and their interactions with lobbyists may include, for example (OECD, 2021[1]):

- The duty to check that lobbyists are duly registered in the Register of Lobbyists, or that they intend to do so within the indicated timeframe.
- The duty to treat lobbyists equally by granting them fair and equal access.

- The obligation to report violations of existing lobbying standards to the competent authorities.
- The duty to publish information on their meetings with lobbyists (through a lobbying registry or open agendas).
- The obligation to refuse to accept gifts (in whole or beyond a certain value) from lobbyists, or to declare gifts and benefits received, among others.

In addition, these standards can be adapted to sectors or functions of the executive and legislative branches, as well as to higher and more politically exposed positions. For example, it may be necessary to set higher expectations for politically exposed positions (Members of parliament, Ministers and policy advisors) in order to effectively address the risks of lobbying and other influence activities affecting them.

In Chile, Article 11 of the Lobbying Act specifies that the authorities and officials referred to in Articles 3 and 4 shall maintain equal treatment with respect to persons, organisations and entities requesting hearings on the same matter. While they are not required to respond positively to every demand for meetings or hearings, if they do so in respect to a specific matter, they must accept demands of meetings or hearings coming from all those who request them on the said matter.

To further strengthen Article 11, several other provisions could be added. For example, Article 11 could include a duty for passive subjects who become of aware of a violation of any provision of the Lobbying Act to report the details of the violation. Such provisions exist for example in Australia's Lobbying Code of Conduct. Passive subjects could also be required to check, before accepting a meeting with a lobbyist, that they are duly registered in the Register of Lobbyists, or that they intend to do so within the indicated timeframe.

Lastly, specific provisions on accepting gifts could be included, for example the duty to refrain from accepting gifts from lobbyists, or the duty to report gifts received from lobbyists above a certain threshold. Such provisions could be differentiated based on the categories of public authorities and passive subjects described in Articles 3 and 4 of the Lobbying Act, according to their particular context and risks, and added either in the Lobbying Act or in broader integrity-related acts, regulations or codes of conduct. Examples from Spain and the United States are provided in Box 4.1.

Box 4.1. Guidelines on accepting gifts and benefits from lobbyists in OECD countries

Spain

The Code of Conduct of the *Cortes Generales* in Spain establishes that the Members shall refrain from accepting, for their own benefit or that of their families, gifts of value, favours, services, invitations or trips that are offered to them for reasons of their position or which could reasonably be perceived as an attempt to influence their conduct as parliamentarians. Gifts with a value greater than EUR 150 are understood as an attempt to influence Members' conduct as parliamentarians.

Gifts and presents received by Members on official trips or when acting on behalf of the Parliament must be delivered to the General Secretariat of the corresponding Chamber, provided that they are offered for reasons of their position and not a personal title and have an estimated value of more than EUR 150. These gifts will be inventoried and published on the website of the corresponding Chamber.

United States

The U.S. House of Representatives Ethics Manual explicitly prohibits gifts offered by lobbyists. A Member, officer or employee of the House of Representatives may not accept any gift from a registered lobbyist, agent or a foreign principal, or a private entity that retains or employs such individuals.

Additionally, Members, officers and employees may accept virtually any gift below USD 50 from other sources, with a limitation of less than USD 100 in gifts from any single source in a calendar year.

Invitations to travel, both in their official and personal capacities, are considered as gifts to Members, officers and employees, and are thus subject to the same prohibitions as other gifts.
Source: (OECD, 2023[3])

4.2.2. The Government of Chile could strengthen legislation that adequately manages the revolving-door phenomenon

Another issue of particular importance to consider in the Chilean context is the "revolving door" between the public and private sectors. The revolving door phenomenon can be characterised as the movement of personnel between the public and private sectors in related fields, and can produce many positive outcomes, including the transfer of knowledge and experience. Nevertheless, it can pose a number of problems, including conflicts of interest and the misuse of inside information. For example, individuals who work in a relevant area of the public sector and then move on to the private sector (or vice versa) may use inside information gained in their role in a way that gives them an unfair advantage (OECD, 2021[1]).

To mitigate these risks, some OECD countries have introduced restrictions and prohibitions on post-public service, including "cooling-off periods" between public and private sector employment. Such provisions are useful tools to avoid the use of insider information and to discourage influence peddling, or to avoid being suspected of having previously made decisions that might be favourable to a potential employer. They can take various forms, such as a ban on the use of confidential information obtained in the course of the public mandate, restrictions on certain activities for a certain period of time, such as agreeing to become a member of a board of directors or to be employed in private entities with which the public official has had official relations, or to participate in consultancy activities.

Chile currently lacks effective revolving door regulations for both public officials and lobbyists: there are no colling-off periods for lobbyists and only limited provisions for public officials that lack effective enforcement mechanisms. A special regulation was established for commissioners of the Financial Market Commission, who must comply with a 6-months cooling-off period after they leave office (Law No. 21.000 creating the Financial Markets Commission). In addition, article 56 of Law No. 18.575 on the General Bases of State administration provides that "(...) the activities of former authorities or former officials of an audit institution that involve an employment relationship with entities in the private sector subject to the supervision of that agency are incompatible. This incompatibility shall persist for up to six months after expiration of their functions". However, as emphasised in the National Public Integrity Strategy, in practice, this provision has limited application. On one hand, there is no oversight to ensure compliance; on the other hand, the law does not confer powers to a supervisory body that could serve as an effective deterrent to prevent the violation of the provision (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[4]).

Some of the envisioned provisions to be introduced include prohibiting those who are registered as lobbyists and who have lobbied passive subjects of a specific institution from taking office in senior positions in the same institution for a period of one year. The provisions would also prohibit former public officials from lobbying their former institution for a period of two years.

When determining the length of the cooling-off periods, key factors to be taken into account include whether the durations are fair, proportionate and reasonable, taking into account the seriousness of the potential offence. It is also necessary to tailor the duration of restrictions to the type of problem and the level of the hierarchy. For example, a ban on lobbying may be appropriate for a fixed period, but restrictions on the use of insider information could apply for life, or until the sensitive information is made public. Cooling-off periods on lobbying activities have been implemented for elected officials and certain at-risk positions in several OECD countries. Box 4.2 contains examples among OECD countries that can serve as a model for Chile on cooling-off periods that would apply to certain categories of passive subjects covered under the Lobbying Act.

Box 4.2. Cooling-off periods for lobbying activities for elected officials and public officials in high-risk positions in OECD countries

Australia

In Australia, Ministers and Parliamentary Secretaries cannot, for a period of 18 months after they cease to hold office, engage in lobbying activities relating to any matter that they had official dealings with in their last 18 months in office. Additionally, persons employed in the Offices of Ministers or Parliamentary Secretaries at Adviser level and above, members of the Australian Defence Force at Colonel level or above (or equivalent), and Agency Heads or persons employed in the Senior Executive Service (or equivalent), shall not, for a period of 12 months after they cease their employment, engage in lobbying activities relating to any matter that they had official dealings with in their last 12 months of employment.

European Union

Within 12 months of the end of their duties, senior officials (Directors General and Directors) are prohibited from engaging in lobbying activities against their former institution on matters for which they were responsible during the last three years of their term of office.

Canada

Canadian federal law imposes a prohibition on designated public office holders from engaging in lobbying activities for five years from the end of their duties. These rules are, however, limited to designated holders within the meaning of the Lobbying Act, i.e., those who exercise the highest responsibilities in public institutions.

The Netherlands

A specific circular adopted in October 2020, “Prohibition of lobbying for former ministers,” prohibits ministers and any official employed in a department from accepting employment as a lobbyist, ombudsman or intermediary in professional contacts with a ministry representing an area in which they have had public responsibilities. The duration of the lobbying ban is two years. Its objective is to prevent ministers who retire or resign from using their position, knowledge and network acquired in their public service to benefit an organisation for which they work following their resignation. The Secretary General of the ministry concerned has the possibility to grant a reasoned exception to former ministers who request it.

Source: (OECD, 2021[1]).

For certain categories of public officials, such as Ministers or ministerial advisors, it may be useful to introduce a mandatory check that the public official’s intended activities after leaving office do not put him or her at risk. The example of France is described in Box 4.3.

Box 4.3. Rules on employment after the exercise of a public service in France

In France, the HATVP is currently responsible for monitoring the post-public employment activities of former ministers, presidents of local executive bodies and members of independent authorities (article 23 of Law No. 2013/907 on the transparency of public life). For a period of three years, any person who has held one of these positions must refer the matter the HATVP to examine whether the new private activities they intend to carry out are compatible with their former functions.

The law of 6 August 2019 on the transformation of the civil service also gave the HATVP new responsibilities for monitoring the mobility of certain civil servants (Law No. 83/634 on the rights and obligations of civil servants). In concrete terms, public bodies control the transfer of former civil servants to the private sector, which is carried out by the official's supervisor. However, the line manager can refer to HATVP in case of doubt on individual cases. Referral to the High Authority is mandatory for certain senior officials.

Source: (OECD, 2021[1]).

With regard to the other side of revolving doors, rules requiring former lobbyists who have become public officials not to deal in their new functions with cases similar to those they have treated as lobbyists are rather rare in OECD countries. However, some countries impose such a time limit when electing, appointing or hiring a private sector official to public sector responsibilities. In France, for example, the HATVP was given a new "pre-appointment" control for certain positions of responsibility. A preventive check is carried out before appointment to certain high-level posts (including members of a ministerial cabinet, team members of the President of the Republic, directors of the central administration), if a person has performed duties in the private sector during the three years preceding the appointment (OECD, 2021[1]).

4.2.3. Chile could adopt binding rules for the establishment and selection process of advisory or expert groups providing advice to public officials, to strengthen integrity and inclusiveness

As emphasised in Section 2.2.5 in Chapter 2, advisory and expert groups allow for the inclusion of a diverse range of voices and expertise to enrich discussions on policy problems and how to address them. But transparency over the establishment and composition of advisory and expert groups remains a challenge across OECD countries.

To strengthen the integrity and inclusiveness of participants of such groups, the government of Chile could first consider undertaking a mapping exercise of all existing advisory or expert group established across government. Second, common rules and guidelines for the selection process of advisory and expert groups could also be adopted, providing for mandatory transparency on the structure, mandate, and composition.

Specific recruitment criteria and methodology for setting up these groups could help reduce the level of discretion on the institutional set up of these groups and ensure a balanced representation of interests in terms of private sector and civil society representatives (when relevant), as well as expertise from a variety of backgrounds. By defining appropriate qualifications and conditions for appointment, the rules can also guarantee that the selection process is inclusive, so that every potential expert and/or interest groups has a real chance to participate, and transparent, so that the public can effectively scrutinise the selection of members of advisory groups.

Moreover, considering that members of advisory groups come from different backgrounds and may have different interests, it is fundamental to provide a common framework that allows all members to carry out their duties in the general interest. It is therefore necessary to adopt specific rules of procedures for such groups that include procedures for preventing and managing conflicts of interest that should be adhered to by all those participating in providing advice to government. Such measures would provide reasonable safeguards against special interest groups capturing or imparting biased advice to government. Similar measures could be applied to all entities and individual experts selected to advise government entities (and mentioned in Article 6 §6 and §8 of the Lobbying Act).

For example, the Ministry of Local Government and Modernisation in Norway published guidelines on the use of independent advisory committees, which specify that the composition of such groups should reflect different interests, experiences and perspectives. While the guidelines are not legally binding, they provide an example for Chile on the selection process and the management of conflicts of interests within these groups (Box 4.4).

Box 4.4. Guidelines on the use of independent advisory committees in Norway

In 2019, the Norwegian Ministry of Local Government and Modernisation adopted guidelines entitled "Committee Work in the State. A guide for leaders, members and secretaries in government study committees". Regarding the composition of these committees, the document specifies that there needs to be a balanced composition of interests:

- "If the committee is to help clarify issues that are subject to academic disagreement, it is important that the composition is not skewed from an academic standpoint".
- "If the goal of the committee, in addition to acquiring knowledge, is to agree on common goals and values, it is important that the composition reflects different interests, experiences and standpoints".

Regarding conflicts of interest, the document warns that the work method and the effectiveness of the committee can be weakened by members who cannot comment on an independent basis and constantly need to clarify the assessments with the business or organisation to which they belong. As a result, the guidelines specify that members should "explain any commitments that may involve conflicts of interests".

Source: (Ministry of Local Government and Modernisation of Norway, 2019[5])

4.2.4. Additional capacity building and awareness raising activities for public officials on lobbying and other influence activities could be developed, in particular for passive subjects at the local level

Having clear principles, rules, standards and procedures for public officials on their interactions with lobbyists is key, but it is not sufficient to mitigate the integrity risks of lobbying and other influence activities. Raising awareness of the expected rules and standards as well as enhancing skills and understanding of how to apply them are also essential elements to foster integrity in lobbying.

In Chile, the Commission for Public Integrity and Transparency provides training and awareness activities for public officials. Nonetheless, the interviews conducted by the OECD with local elected representatives established that this aspect could and certainly should be strengthened. Indeed, the rules on lobbying and their relation to the integrity framework are not well known, and the implementation of the Lobbying Act at

the local level is made more difficult because of the lesser capacities in place. Municipal representatives insisted on the need for more trainings on the matter.

As such, the Commission for Public Integrity and Transparency could therefore strengthen its capacity building programme, with a special focus on the local level in order to help develop the knowledge, skills and capacity of passive subjects at the local level. In particular, the Commission could also develop "train the trainers" workshops with municipal associations (which could then provide training for civil servants), as well as regular and on-demand training for municipalities.

4.3. Assisting businesses and civil society organisations in reinforcing their frameworks for transparency and integrity in policymaking

4.3.1. Standards of conduct for lobbyists could be centralised into a mandatory Code of Conduct for lobbyists, with sanctions applicable for non-compliance

To ensure integrity in the policymaking process, interest groups require clear standards and guidelines that clarify the expected rules and behaviour for engaging with public officials, as they share responsibility for fostering a culture of transparency and integrity in lobbying. In particular, those who engage in public decision-making processes should comply with standards of professionalism and transparency in their relations with public officials (OECD, 2010[2]; OECD, 2021[1]).

In some OECD countries, lobbyists self-regulate through codes of conduct published by employers of lobbyists or lobbying associations. However, the experience of OECD Member countries has shown that self-regulation remains insufficient to mitigate real or perceived problems of inappropriate influence by lobbyists. For this reason, countries with a lobbying regulation also have standards in place for those who influence government. This is also the case in Chile: Article 12 of the Lobbying Act includes ethical requirements for lobbyists and managers of private interests. In particular, they must:

- Provide in a timely and truthful manner to the respective authorities and officials, the information indicated in the law, when required, both to request hearings or meetings, as well as for the purposes of publication (Article 12 §1). This includes information on the persons who will attend the meeting as well as matters to be dealt with during the meeting.
- Inform the passive subject to whom the meeting or hearing is requested of the name of the persons they represent, if applicable (Article 12 §2).
- Inform the passive subject to whom the meeting or hearing is requested whether they receive any remuneration for their actions (Article 12 §3).
- Provide, in the case of legal persons, the information requested of them regarding their structure and composition, without being obliged to provide confidential or strategic information in any case. This information must be requested by means of a form which, for this purpose, must be prepared by the SEGPRES, the Office of the Comptroller General of the Republic, the Central Bank, the Parliamentary Ethics and Transparency Commissions of the National Congress, the Public Prosecutor's Office and the Administrative Corporation of the Judiciary in their respective regulations (Article 12 §4).

In addition, active subjects must reply to passive subjects in writing within 5 working days when passive subjects request additional information in the 10 days following a meeting or hearing. They must also inform their clients or principals of the obligations to which they are subject by virtue of the Lobbying Act. Lastly, active subjects can also rely on a Code of Best Practices for Lobbyists (*Código de Buenas Prácticas para Lobbistas*), provided in Annex A.

This Code of Best Practices, however, has the structure of a code of ethics, as it includes values and ethical principles that active subjects must abide by when conducting lobbying activities. As such, the current Code of Best Practices could be transformed into a mandatory Code of Conduct for active subjects, while guidelines and practical examples could be included into a handbook accompanying the Code. The Code would be included in the legal framework and centralise all obligations and requirements applicable to active subjects, including the ones specified in Article 12. This will help ensure greater clarity for lobbyists on the standards of behaviour that are expected of them.

4.3.2. The Lobbying Act could require the disclosure of the sources of funding, both public and private, of foundations, research centres, think tanks and civil society organisations conducting lobbying activities

One way in which vested interests influence government policy is by funding third-party organisations, such as think tanks, research institutions or associations. The aim is to present expert opinion, evidence and data and to mobilise the public around the public policy process. However, as with any other form of lobbying, there is a risk of subjective influence, hence the importance of ensuring transparency around these practices to allow for public scrutiny. Similarly, public funding to these groups can also present integrity risks, if potential conflicts of interests stemming from links between public officials and certain interest groups are not adequately addressed and prevented.

This is especially important as civil society organisations (CSO) are expected by government, business and the general public to act in alignment with their mission, show integrity and be trustworthy, and display exemplary behaviour across the organisation. Any violation of these public integrity and good governance standards can jeopardise the legitimacy of CSOs in the eyes of government and the public, and undermine the sustainability of their activities and access to funding (OECD, 2020[6]).

In Chile, these risks have been brought to light recently in the wake of the scandal involving the foundation "*Democracia Viva*". The risks related to opaque funding of certain interest groups were also mentioned during interviews organised by the OECD with parliamentarians in March 2023. In response to the scandal, the special Ministerial Advisory Commission for the regulation of the relationship between private non-profit institutions and the State (*Comisión Asesora Ministerial para la regulación de la relación entre las instituciones privadas sin fines de lucro y el Estado*), proposed the creation of an electronic portal that allows monitoring and accessing information on transfers of public resources to civil society organisations. The commission also advocated for the creation of a beneficial ownership registry, which would strengthen the lobbying transparency framework by providing more transparency on who is ultimately benefiting from a lobbying activity (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[7]).

In particular, the special Commission concluded that the "*currently existing transparency rules [for not-for-profit organisations] are not precise enough to adequately fulfil their function*". For example, Law No. 20.500 on non-profit organisations establishes in its article 17 that public interest organisations that receive public funds must report on the use of these resources, but there is no oversight and sanction mechanism for this specific provision. In addition, non-financial transparency of civil society organisations, including the composition of their boards, is also insufficient.

To mitigate risks, the government of Chile could therefore amend the Lobbying Act to require the disclosure by lobbyists and managers of private interests of their sources of financing, including financing by governments (including foreign governments), individuals and other interest groups, as indicated in the proposed sections for initial registration in the Register of Lobbyists (Table 3.4 in Chapter 3). In Canada for example, the Lobbying Act requires lobbyists to disclose "*any government funding received, the name of the government or agency providing funding, and the amount of funding received*", as well as whether lobbyists registered were previously public office holders (in this case they need to disclose a description

of the offices held, which of those offices, and the date on which the employee last ceased to hold such a designated public office).

In addition to strengthening transparency on public sources of funding, greater transparency on private sources of funding of these organisations in particular would help to distinguish between genuine advocacy networks and the practice of 'astroturfing'. Astroturfing is the practice of creating or funding citizens' associations or organisations in order to create or reinforce an impression of widespread popular support for a public action or programme, in order to indirectly influence decision making. The messages conveyed give the appearance of a spontaneous and disinterested consumer or citizen movement, but in reality conceal positions aligned with those advocated by an industry, lobby group or other interest group. To date, the EU Transparency Register is the only transparency regime that requires think tanks, research centres and academic institutions to declare the source of their funding: any organisation must indicate its sources of funding in the register, either by providing a link to a web page containing the relevant information or by requiring disclosure of this information in the register if the information is not already publicly available (OECD, 2021[1]).

Additional disclosure requirements that could be considered by the government of Chile include:

- Disclosure of **donations, contributions and services to the government, political parties and election campaigns**, either directly or through other third parties or natural persons hired to conduct lobbying activities and influence activities.
- Disclosure of **engagement with other organisations and individuals for the purpose of conducting lobbying and influence activities**, such as companies, trade associations, non-governmental organisations, consultancies, think tanks and research bodies, media and journalists, as well as with experts and personalities, and disclosure of funding to these organisations and individuals, as well as any gifts, invitations and hospitalities given.
- Disclosure of **the membership and interests of board members and senior executives** with companies, state agencies, and outside organisations such as business and trade associations, non-governmental organisations, consultancies, think tanks and research bodies, where such membership is closely linked to the lobbying and influence activities conducted.

These disclosures are in line with the proposals made by the special Ministerial Advisory Commission for the regulation of the relationship between private non-profit institutions and the State (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[7]).

4.3.3. The broader legal framework could be amended to strengthen the transparency of media companies' ownership structures and financing, including beneficial ownership, as well as transparency around all sponsored content and advertising

As emphasised throughout this report, using traditional and social media or other public platforms is also a way to shape perceptions of the public and policymakers and ultimately influence the policymaking process. An emerging concern is also the lack of transparency and accountability regarding the rising expenditures on digital media through advertisements, promoted content and other political paid material. Recent evidence shows that spending on online political advertisements has increased significantly in recent years, particularly during the COVID-19 pandemic (OECD, 2021[1]).

In Chile, the fact that most media outlets are owned by big business groups, with possible conflicts of interests in covering certain issues, has undermined the trust of much of the population. The lack of transparency around the concentration of spending around advertising purchases is also a major concern (Reporters Without Borders, 2023[8]; Ruiz and Tagle, 2011[9]; Espejo and von Wolfersdor, 2019[10]). Taken together, these challenges increase the risks of media capture by political or private interests. Media capture refers to situations where individuals or groups exert significant control over media organisations in a way that influences content, coverage, and functioning. Particularly when conducted by – or complicitly

with – the government, the goal of media capture is often to confuse debate, weigh in on political debates, limit dissent, and reduce the democratic checks that the media can otherwise provide. In these contexts, the media's ability to serve its democratic role as a "watchdog" is compromised (Nelson, 2017[11]).

While this aspect falls outside the scope of the Lobbying Act, the risks evidenced in Chile call for increased transparency and public scrutiny of media ownership and the use of advertisements by special interests. To that end, regulation can take the form of requirements for increased transparency around media ownership, for example, by mandating full disclosure of owners, the size of the shareholdings, and their other economic and political interests. Increasing transparency around political advertisements, including through requiring information around the provenance and target audiences; instituting standardised reporting mechanisms; and creating databases of relevant advertisements may all also play a role in increasing transparency and integrity around these practices (OECD, 2024[12]).

4.3.4. The broader legal framework could be amended to strengthen regulations on the political activities of certain interest groups

While the financing of elections and political campaigns remains outside the scope of this report, a significant challenge that emerged during interviews with Chilean stakeholders is the political activities of certain interest groups, usually think tanks and research institutes, with either ties to political parties, or who conduct political activities on behalf of political parties or candidates in elections. Some of these institutes are referred to as "political training institutes" and must disclose information on their income and funding to the Electoral Service (*Servicio Electoral – SERVEL*). However, registration is made on a voluntary basis, and this category leaves out other types of research institutes, such as think tanks related to political parties (Cárdenas, 2019[13]).

In addition, the legal framework remains vague on the issue of third-party political spending and there is currently no explicit regulation on third-party involvement in political campaigns, except during the campaign period of a referendum, which are provided in the forty-second transitory provision of the Political Constitution – "rules on the publicity of contributions received by political parties, independent parliamentarians and civil society organisations that receive contributions for the campaign period of a referendum". In June 2023, the SERVEL announced the opening of an investigation by its Directorate on the Control of Electoral Expenditure and Financing on whether the activities conducted and contributions received by several CSOs violated these rules on the publicity of contributions received by political parties, independent parliamentarians and civil society organisations that receive contributions for the campaign period of a referendum (Electoral Service of Chile, 2023[14]). The investigation focused in particular on the conduct of campaign activities for the Constitutional Vote of 2022, as well as the transfer of money between CSOs for political purposes.

Regulating third-party political spending for all electoral campaigns is also a pressing issue for the lobbying framework because it has a direct influence on election results and indirect influence on public officials elected in office. As such, specific definitions and rules could be introduced in the broader legal framework to increase transparency of the political activities conducted by certain organisations. In particular, interest groups who conduct political activities or activities that would be considered as electoral propaganda could be required to register specific information on these activities. Several examples are provided in Table 4.1.

Table 4.1. Third party campaigning regulations in OECD countries

	Definition	Regulation
Australia	"**Third parties"**: a person or entity (other than a political entity or a member of the House of Representatives or the Senate) incurring electoral expenditure that is more than the disclosure threshold during a financial year; but is not required to be registered as a 'significant party'. "**Significant third parties**": persons or entities are required to register as a significant third party when: ○ Electoral expenditure exceeds AUD 250 000 during that financial year, or any one of the previous three financial years; or ○ Electoral expenditure is at least equal to the disclosure threshold during that financial year and electoral expenditure during the previous financial year was at least one third of the revenue of the person or entity for that year; or ○ during that financial year the person or entity operates for the dominant purpose of fundraising amounts: (i) the aggregate of which is at least equal to the disclosure threshold; and (ii) that are for the purpose of incurring electoral expenditure or that are to be gifted to another person or entity for the purpose of incurring electoral expenditure.	"**Third parties**" must lodge an annual disclosure return with the Australian Electoral Commission by 17 November each year and comply with foreign donation restrictions. "**Significant third parties**" must register with the Australian Electoral Commission before the end of 90 days after becoming required to be registered. For a significant third party that is registered or is deregistered during the financial year, the annual return must be provided in relation to the whole financial year. A significant third party that registers within the current financial year and was not required to be registered in the previous financial year must lodge an annual return for the previous financial year within 30 days of having been registered. A person or entity that is required to be registered as a significant third party for a financial year must not incur further electoral expenditure or fundraise any amounts for the purpose of incurring electoral expenditure in that financial year until they are registered. Lodgment of an annual disclosure return is due by 20 October each year and comply with foreign donation restrictions.
Canada	A **third party** is a person or group seeking to participate in (or influence) elections but not as a political party, electoral district association, nomination contestant or candidate.	For general elections, a third party cannot make donations totaling an aggregate amount of more than CAD 350 000 on partisan activity expenses, election advertising expenses, and election survey expenses. No more than CAD 3 000 of the maximum amount must be incurred to promote or oppose the election of one or more candidates in a given electoral district.
United Kingdom	"**Third party**" means individuals and organisations that campaign in the run-up to elections but do not stand as political parties or candidates.	There is a spending limit of GBP 10 000 for England and GBP 5 000 for Scotland, Wales and Northern Ireland. A register of non-party campaigners is made public on the UK Electoral Commission website.

Source: (OECD, 2022[15]); and Australian Electoral Commission, Financial Disclosures, https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/

Proposals for action

In order to strengthen the public integrity framework adapted to the risks of lobbying and influence activities for public officials and lobbyists in Chile, and to be as consistent as possible with OECD standards and international best practices in this area, the OECD recommends that the Government of Chile considers the following proposals.

Strengthening the lobbying integrity framework for public officials

- Amend Article 11 of the Lobbying Act to introduce additional lobbying-related integrity standards for public officials, including:
  - A duty for passive subjects who become of aware of a violation of any provision of the Lobbying Act to report the details of the violation.
  - A requirement to check, before accepting a meeting with a lobbyist, that they are duly registered in the Register of Lobbyists, or that they intend to do so within the indicated timeframe.
  - Specific provisions on accepting gifts, for example the duty to refrain from accepting gifts from lobbyists, or the duty to report gifts received from lobbyists above a certain threshold.
- Strengthen legislation that adequately manages the revolving-door phenomenon, by introducing cooling-off periods on lobbying activities for elected officials and public officials in high-risk positions.
- Adopt binding rules for the establishment and selection process of advisory or expert groups – or individual experts – providing advice to public officials, to adequately manage lobbying-related risks.
- Provide additional capacity building and awareness raising activities for public officials on lobbying and other influence activities, with a special focus on the local level. Such trainings could also include "train-the-trainers" workshops with municipal associations (which could then provide training for civil servants), as well as regular and on-demand training for municipalities.

Assist businesses and civil society organisations in reinforcing their frameworks for transparency and integrity in policymaking

- Centralise the standards of conduct for lobbyists into a mandatory Code of Conduct for lobbyists embedded in the legal framework, with sanctions applicable for non-compliance.
- Add a provision in the Lobbying Act requiring legal entities such as foundations, research centres, think tanks and civil society organisations to disclose sources of funding, both public and private.
- Amend the broader legal framework to strengthen transparency of media companies' ownership structures and financing, including beneficial ownership, as well as transparency around all sponsored content and advertising.
- Amend the broader legal framework to better regulate the political activities of certain interest groups.

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5 Establishing mechanisms for effective implementation, compliance and review of the lobbying framework in Chile

This chapter discusses the steps that Chile must take to ensure there is an oversight function on lobbying and influence activities with the capacity to enforce policies and regulations and monitor and promote their implementation. First, the chapter provides recommendations to assign clear responsibilities to an independent body with broader responsibilities for verifying information disclosed, investigating potential breaches and enforcing the Lobbying Act. The chapter also discusses ways to safeguard those that report violations of the policies and rules on lobbying and influence activities, and applying a gradual system of financial and non-financial sanctions for breaches of the Lobbying Act. Lastly, the chapter provides recommendations for the regular review of the lobbying framework in Chile, in order to best meet stakeholder expectations and developments in lobbying.

5.1. Introduction

Transparency and integrity objectives cannot be achieved if disclosure and ethical requirements are not respected by the actors concerned and properly implemented by the relevant supervisory bodies (OECD, 2010[1]). To that end, oversight functions are an essential feature to ensure an effective lobbying regulation. The oversight function refers to an independent public institution or institutions, dedicated or with broader competencies, adequately resourced and empowered to investigate and enforce policies and regulations concerning lobbying and influence activities, and monitor and promote their implementation.

All countries with a mandatory register on lobbying activities – including Chile – have an institution or function responsible for monitoring compliance. While the responsibilities of such bodies vary widely among OECD member and partner countries, four broad functions exist: 1) enforcement; 2) monitoring; 3) promotion of the law; and 4) review of the law.

In Chile, various institutions make up the institutional framework on lobbying, from the day-to-day administration of the registers to conducting investigations and applying sanctions (Table 5.1). While it is not necessarily recommended to have a unique oversight body to conduct all the activities mentioned in the table below, the absence of a body representing the law in Chile – i.e., a body with competences to administer the registers for all passive subjects, centralise lobbying information into a single transparency portal, verify the accuracy and completeness of the registrations, and conduct investigations – has emerged as a major challenge.

Table 5.1. Institutional responsibilities for the implementation of the Lobbying Act in Chile

Day-to-day administration of the registers, guidance and training	Transparency portal and data visualisation of lobbying information	Monitoring and verification of lobbying disclosures	Investigations of potential breaches and application of sanctions
• **SEGPRES** (passive subjects under Article 3, 4 §1, 4 §4, 4§7) • **Office of the Comptroller General of the Republic** (passive subjects under Article 4 §2) • **Parliamentary Ethics and Transparency Commissions of the National Congress** (passive subjects under Article 4 §5) • **Central Bank** (passive subjects under Article 4 §3) • **Public Prosecutor's Office** (passive subjects under Article 4 §6) • **Administrative Corporation of the Judiciary** (passive subjects under Article 4 §8)	Transparency Council	None	• **Office of the Comptroller General of the Republic** (passive subjects under Article 3, 4 §1, 4 §2, 4 §4, 4 §7) • **Parliamentary Ethics and Transparency Committee of the Chamber of Deputies** (Comptroller General under Article 4 §2) • **Parliamentary Ethics and Transparency Committees** (passive subjects under Article 4 §5) • **Council of the Central Bank** (passive subjects under Article 4 §3) • **National Public Prosecutor** (passive subjects under Article 4 §6) • **Superior Council** (Administrative Corporation of the Judiciary) (passive subjects under Article 4 §8)

Source: author's contribution, based on the Lobbying Act

Similarly, the sanction regime detailed in Section III of the Lobbying Act currently lacks teeth on several fronts: the sanction regime is currently focused on passive subjects (public authorities and civil servants), with no designated authority that could apply sanctions to lobbyists in case of breaches to the law, and the sanctions applied do not have a deterrent effect as they mostly rely on administrative liability (Table 5.2). In addition, the Comptroller General of the Republic pointed out that some of the sanctions proposed for passive subjects are not applied. Information transmitted by the Comptroller General of the Republic to the Commission for Public Integrity and Transparency shows that between 2018 and 2022, only 22 summary

proceedings have been filed for violation of the Lobbying Law, with only 10 completed as of December 2023, and no information available as to whether a sanction was applied (Presidential Advisory Commission for Public Integrity and Transparency of Chile, 2023[2]).

Table 5.2. Sanctions for public authorities and passive subjects in the Lobbying Act

	Investigating and sanctioning authority	Procedure	Breaches and fines	Name and shame
Passive subjects referred to in Article 3, Article 4 §2, §4 and §7, the regional councillors and the executive secretary of the regional council referred to in Article 4 §1 [Article 15 & 16 of the Lobbying Act]	Office of the Comptroller General of the Republic *In the event that the person liable for the penalty is the head of service or authority, the power to impose the penalty shall lie with the authority that appointed him/her	The Office of the Comptroller General of the Republic must inform the official of a possible violation, who has 20 days respond. Sanctions are proposed by the Comptroller General but applied by the head of service in which the public official is employed.	**Failing to record information on time:** fine of 10 to 30 monthly tax units. **Inexcusable omission or knowingly disclosing inaccurate or false information:** fine of 20 to 50 monthly tax units.	The names of the person or persons sanctioned shall be published on the websites of the respective body or service for a period of one month from the date on which the decision establishing the sanction becomes final.
Mayors, councillors, directors of municipal works and municipal secretaries (Article 4 §1) [Article 17 of the Lobbying Act]	Office of the Comptroller General of the Republic	The Office of the Comptroller General of the Republic must inform the official of a possible violation, who has 20 days respond. Sanctions are proposed by the Comptroller General but applied by the head of service in which the public official is employed.	**Failing to record information on time**: fine of 10 to 30 monthly tax units. **Inexcusable omission or knowingly disclosing inaccurate or false information:** fine of 20 to 50 monthly tax units.	Once the sanction applied has been enforced, the competent body shall notify the municipal council at its next session. Likewise, this sanction shall be included in the public account referred to in Article 67 of Law No. 18.695 and shall be included in the extract of the same, which must be disseminated to the community.
Comptroller General of the Republic (Article 4 §2) [Article 15 & 16 of the Lobbying Act]	Parliamentary Ethics and Transparency Committee of the Chamber of Deputies	The Chamber of Deputies is responsible for verifying due compliance with the provisions of the Act.	**Failing to record information on time:** fine of 10 to 30 monthly tax units. **Inexcusable omission or knowingly disclosing inaccurate or false information:** fine of 20 to 50 monthly tax units.	The names of the person or persons sanctioned shall be published on the websites of the respective body or service for a period of one month from the date on which the decision establishing the sanction becomes final.
National Congress (passive subjects referred to in Article 4 §5) [Article 19 of the Lobbying Act]	Parliamentary Ethics and Transparency Committees	The procedure may be initiated *ex officio* by the Committees or on the basis of a complaint by any interested party. The passive subject has the right to reply within 20 days.	**Failing to record information on time:** fine of 10 to 30 monthly tax units deducted directly from their remuneration or allowance. **Inexcusable omission or knowingly disclosing inaccurate or false information:** a fine of 20 to 50 monthly tax units.	The names of the sanctioned person or persons shall be published on the website of the respective Chamber for a period of one month after the decision establishing the sanction has become final.

	Investigating and sanctioning authority	Procedure	Breaches and fines	Name and shame
Central Bank (passive subjects referred to in Article 4 §3) [Article 20 of the Lobbying Act]	Council of the Central Bank	The Bank's minister of faith shall bring the respective background information to the attention of the Board, so that the relevant proceedings may be initiated, and the affected party shall be notified of this circumstance, who shall have the right to reply within 10 working days.	**Failing to record information on time:** fine of 10 to 30 monthly tax units. **Inexcusable omission or knowingly disclosing inaccurate or false information:** sanctions in accordance with the constitutional organic law of the Central Bank.	The names of the sanctioned person or persons shall be published on the Central Bank's website for a period of one month after the decision establishing the sanction has become final.
Public Prosecutor's Office (passive subjects referred to in Article 4 §6) [Article 21 of the Lobbying Act]	National Public Prosecutor *If the person who fails to comply with or commits the offences referred to above is the National Public Prosecutor, the provisions of Article 59 of Law No. 19.640 shall apply.	The procedure may be initiated *ex officio* by the appropriate hierarchical superior or upon complaint by any interested party. The passive subject has a right to reply within 20 days.	**Failing to record information on time:** fine of 10 to 30 monthly tax units. **Inexcusable omission or knowingly disclosing inaccurate or false information:** a fine of 20 to 50 monthly tax units.	The names of the sanctioned person or persons shall be published on the websites of the respective Public Prosecutor's Office for a period of one month after the decision establishing the sanction has become final.
Director of the Administrative Corporation of the Judiciary (Article 4 §8) [Article 22 of the Lobbying Act]	Superior Council	The procedure may be initiated *ex officio* by the High Council or upon complaint by any interested party. The affected party shall be notified of this circumstance, who shall have the right to reply within 20 days.	**Failing to record information on time:** Fine of 10 to 30 monthly tax units. **Inexcusable omission or knowingly disclosing inaccurate or false information:** Fine of 20 to 50 monthly tax units.	/

Source: author's contribution, based on the Lobbying Act

To further strengthen the oversight and enforcement of the Lobbying Act in Chile, this chapter provides recommendations on the following three core themes:

- Assigning clearer responsibilities for implementation and enforcement.
- Strengthening the sanctions regime.
- Enabling an effective review of the lobbying framework.

5.2. Assigning clear responsibilities for implementation and enforcement

5.2.1. An independent body could be entrusted with broader responsibilities for verifying information disclosed, investigating potential breaches and enforcing the Act

To strengthen the oversight and enforcement of the Act, it is crucial that the Lobbying Act further clarifies responsibilities for compliance and enforcement activities. In particular, and to align with OECD standards in this area, oversight functions should ensure impartial enforcement. At the OECD level, all countries with

a transparency register on lobbying activities have one or several institutions responsible for monitoring compliance, including Chile (Table 5.3). Some countries have chosen to entrust implementation, monitoring and enforcement to a single dedicated institution (the Office of the Commissioner of Lobbying in Canada, the Office of the Registrar of Consultant Lobbyists in the United Kingdom). It is also not uncommon to assign the oversight body responsible for integrity standards in the public sector with responsibilities for lobbying (e.g., the High Authority for Transparency in Public Life in France, the Chief Official Ethics Commission in Lithuania). While the institutional set-up varies greatly among OECD countries, most of these bodies or functions monitor compliance with disclosure obligations and whether the information submitted is accurate, presented in a timely fashion and complete (OECD, 2021[3]).

Table 5.3. Oversight function for lobbying activities in selected OECD countries

	Authority	Main missions and enforcement powers
Australia	Attorney-General's Department	• Administer the Australian Government Lobbying Code of Conduct and the Register of Lobbyists • Ensure that registered lobbyists provide confirmation that their details are accurate • Receive and assess reports of breaches • Remove lobbyists from the Register
Canada	Office of the Commissioner of Lobbying	• Administer the Registry of Lobbyists • Develop and maintain educational programmes to encourage public awareness of the requirements of the Act • Conduct reviews and investigations to ensure compliance with the Act and the Lobbyists' Code of Conduct
France	High Authority for Transparency in Public Life (HATVP)	• Administer the public register of lobbyists • Detect and investigate possible breaches of lobbying rules
Germany	President of the Bundestag	• Maintain and administer the Lobby Register (the German Bundestag and the Federal Government have concluded an administrative agreement on the details for maintaining it)
Iceland	Prime Minister's Office	• Maintain a log of registrations and publish them on the website of the Government Offices of Iceland • Provides guidance and monitoring on the registration of lobbyists • Examine suspected violations
Ireland	Standards in Public Office Commission	• Administer the Regulation of Lobbying Act • Investigate possible breaches of the Act • Prosecute offences • Administer fixed payment notices for late filing of lobbying returns
Lithuania	Chief Official Ethics Commission	• Administer the Law on Lobbying Activities and the Transparent Legislative Processes Information System • Investigate potential breaches to the Law • Provide lobbyists and public officials with methodological support and recommendations
Slovenia	Commission for the Prevention of Corruption	• Administer the Register of Lobbyists • Enforce sanctions (fines or bans on lobbying)
United Kingdom	Office of the Registrar of Consultant Lobbyists	• Administer the statutory Register of Consultant Lobbyists • Monitor compliance with the provisions of the Act • Investigate information from third parties on alleged non-compliance • Initiate enquiries if the consistency or accuracy of information is in question • Issue formal Information Notices to registrants or non-registrants • Impose civil penalties of up to GPB 7 500, or refer the latter to the Director of Public Prosecutions for potential criminal prosecution • Impose civil and criminal penalties for non-compliance
United States	Office of the Clerk of the House of Representatives Secretary of the Senate	• Make available to the public online all documents filed under the Lobbying Disclosure Act • Review, verify and request corrections in writing to ensure the accuracy, completeness and timeliness of registrations and reports • Refer potential non-compliant registrants to the US Attorney, following failure to remedy a violation after notification from Congress

	Authority	Main missions and enforcement powers
	Government Accountability Office	• Conduct annual reviews of lobbyists' compliance with disclosure requirements
	United States Attorney for the District of Columbia	• Secure compliance through informal outreach and follow-up efforts • Impose civil or criminal penalties for noncompliance
EU	Transparency Register Joint Secretariat	• Administer the transparency register • Monitor compliance with disclosure and ethical requirements • Detect and investigate possible infractions

Source: OECD 2020 Survey on Lobbying and additional research by the OECD Secretariat

In Chile, previous reform proposals included assigning responsibilities for supervising the requirements for active subjects, and applying relevant sanctions to active subjects, to the Council for Transparency or the Financial Market Commission. However, this would further complexify the existing system. Faced with this dilemma, two solutions could be envisioned:

- **Entrust broad responsibilities for the implementation of the Lobbying Act to the Transparency Council**. Several stakeholders consulted for this report mentioned that the Transparency Council would be the best placed institution, although this would require a modification of the Transparency Law and a constitutional reform to extend its scope of competence over autonomous bodies and the National Congress.
- **Amend the legal framework to institutionalise the Presidential Advisory Commission for Public Integrity and Transparency, with a sufficient level of independence and the necessary powers to implement the Lobbying Act over all the public authorities covered in Articles 3 and 4.** These powers would include verifying information disclosed by public officials ("public agenda registers") and active subjects ("register of lobbyists"), conducting investigations when necessary, requesting active subjects to update information in case of non-compliance, proposing or imposing financial (fines) and administrative sanctions (suspension or removal from the register) and, if necessary, referring the most serious cases to the judiciary for civil and criminal prosecution, and providing advice and training for active and passive subjects.

Regarding the latter, and as stated above, it is not uncommon to assign the oversight body responsible for integrity standards with responsibilities such as implementing and enforcing lobbying regulations. For example, in Ireland, the Standards in Public Office Commission oversees the administration of legislation in four distinct areas, including the Ethics in Public Office Act, which sets out standards for elected and appointed public officials, and the Regulation of Lobbying Act, which regulates lobbying for elected and appointed public officials, as well as officials in the civil service. In particular, the Commission manages the register of lobbying, ensures compliance with the Act, provides guidance and assistance, and investigates and prosecutes offences under the Act (OECD, 2021[3]).

5.2.2. The Lobbying Act could further clarify the types of verification activities conducted and the investigative powers entrusted to the oversight entity(ies)

In Chile, there are no verification mechanisms established in the legal framework. This means that the accuracy and completeness of the information disclosed is not verified. The Lobbying Act could therefore clarify the types of verification activities conducted and the investigative powers entrusted to the chosen oversight entity(ies). Verification activities include for example verifying compliance with disclosure obligations (i.e., existence of declarations, delays, unregistered lobbyists), as well as verifying the accuracy and completeness of the information declared in the declarations. Investigative processes and tools include:

- random review of registrations and information disclosed or review of all registrations and information disclosed

- verification of public complaints and reports of misconducts
- inspections (off-side and/or on-site controls may be performed)
- inquiries (requests for further information)
- hearings with other stakeholders.

In Canada for example, the Office of the Commissioner of Lobbying can verify the information contained in any return or other document submitted to the Commissioner under the Act, and conduct an investigation if he or she has reason to believe, including on the basis of information received from a member of the Senate or the House of Commons, that an investigation is necessary to ensure compliance with the Lobbyists' Code of Conduct or the Lobbying Act. This allows the Commissioner to conduct targeted verifications in sectors considered to be at higher risk or during particular periods. The Commissioner can ask present and former designed public officials to confirm the accuracy and completeness of lobbying disclosures by lobbyists, summon and enforce the attendance of persons before the Commissioner, and compel them to give oral or written evidence on oath, as well as compel persons to produce any document or other things that the Commissioner considers relevant for the investigation. The Irish Standards in Public Office Commission, on the other hand, reviews all registrations to make sure that all who are required to register have done so and that they have registered correctly (OECD, 2021[3]).

5.2.3. The government of Chile could introduce an anonymous reporting mechanism for those who suspect violations of the Lobbying Act, and consider including in the appropriate legislation violations of the Lobbying Act in the scope of wrongdoings whose disclosure benefits from whistle-blower protection

The lack of oversight in the current system has a negative impact on the willingness to comply with the law. Stakeholders interviewed for this report highlighted that the only effective way to uncover "shadow lobbying" would be a system of rules and procedures for reporting suspected violations of the policies and rules on lobbying activities, and ensuring the protection in law and practice against all types of retaliation as a result of reporting in good faith and on reasonable grounds.

In Chile, rules on the protection of whistleblowers were first introduced in Law No. 18.334 on the Administrative Statute (consolidated with the adoption on 16 March, 2005 of a Decree with force of law issued by the Ministry of Finance – DFL 29), Law No. 18.575 or General Law of Bases (*Ley General de Bases*) and Law No. 18.883 on the Administrative Statute for Municipal Officials, which were modified with the adoption in 2007 of Law No. 20.205 on the protection of civil servants who report irregularities and breaches to the principle of probity. Under this law, all civil servants are required to report crimes, simple offences or irregularities, and whistleblowers granted the right to be defended. While the framework provided by this Law was a step forward, its implementation was however limited. The recent Law No. 21.592, adopted in August 2023, establishes a statute of protection in favour of complainants of acts against administrative probity. This law also establishes incentives and effective protections for civil servants who report irregularities; in particular, Article 3 of the Law establishes a Complaints Channels administered by the Office of the Comptroller General enabling the report of "facts constituting disciplinary infractions or administrative misconduct, including, among others, facts constituting corruption, or that affect, or may affect, public assets or resources, in which personnel of the State Administration or an agency of the State Administration may participate". However, the Law does not clearly specify whether violations of the Lobbying Act are included the scope of wrongdoings whose disclosure benefits from whistle-blower protection.

Another option would be to allow anonymous complaints to be made directly into the registry by any person. This solution exists, for example, in Ireland: each page containing information on the lobbying activities of an active subject contains the possibility to click directly in the register on a "report inaccurate information" button that allows false information to be reported (Figure 5.1). In doing so, individuals who witness or are

aware of violations of the lobbying and influence-related rules and standards, could feel free to come forward to the relevant authorities to disclose the wrongdoing.

Figure 5.1. Reporting inaccurate information in the Irish Lobbying Registry



Source: www.lobbying.ie

5.3. Strengthening the sanctions regime

5.3.1. The Lobbying Act could include a gradual system of financial and non-financial sanctions for active subjects, applied at the entity level

Sanctions should be an inherent part of the enforcement and compliance setup and should first serve as a deterrent and second as a last resort solution in case of a breach of the lobbying regulation. Article 8 §1 of the Lobbying Act specifies that anyone who, when requesting a meeting or hearing, inexcusably omits the information that is necessary for disclosing meetings or hearings, or knowingly provides inaccurate or false information on such matters, shall be punished with a fine of between ten and fifty monthly tax units, without prejudice to any other penalties that may apply. However, the Act does not specify which authority is responsible for investigating such matters or applying fines.

As a first step, and if active subjects face disclosure requirements in a Register of Lobbyists, the Lobbying Act will need to strengthen the types of breaches from active subjects that could lead to sanctions. Sanctions for lobbyists usually cover the following types of breaches:

- not registering and/or conducting activities without registering
- not disclosing the information required or disclosing inaccurate or misleading information
- failing to update the information or file activity reports on time
- failing to answer questions (or providing inaccurate information in response to these questions) or not co-operating during an investigation by the oversight authority
- breaching integrity standards / lobbying codes of conduct.

Sanctions should be objective, proportionate, timely and dissuasive. The practice from OECD countries has also shown that a graduated system of administrative sanctions appears to be preferable, such as warnings or reprimands, fines, debarment and temporary or permanent suspension from the Register and prohibition to exercise lobbying activities. A few countries have criminal provisions leading to imprisonment, such as Canada, France, Ireland, Peru, the United Kingdom and the United States.

Most importantly, sanctions for lobbyists could be applied at the entity level instead of individual lobbyists. This introduces the clear responsibility of entities towards the people they employ and their managers. It can also encourage entities to adopt internal compliance rules, thereby raising the degree of professionalism with which lobbying activities should be carried out.

5.3.2. The Lobbying Act could include provisions that enable the oversight entity(ies) to send formal notices and apply administrative fines to incentivise compliance

OECD practice shows that regular communication with lobbyists and public officials on potential breaches appears to encourage compliance without the need to resort to enforcement, and helps to create a common understanding of expected disclosure requirements. These notifications can include for example formal notices sent to potential un-registered lobbyists, requests for modifications of information declared in case of minor breaches, or formal notices sent to a lobbyist or a public official to advise of a potential breach (Box 5.1).

Box 5.1. Formal notices to encourage compliance in France

When the High Authority for transparency in public life finds, on its own initiative or following a public complaint, a breach of reporting or ethical rules, it sends the interest representative concerned a formal notice, which it may make public, to comply with the obligations to which he or she is subject, after giving him or her the opportunity to present observations.

After a formal notice, and during the following three years, any further breach of reporting or ethical obligations is punishable by one year's imprisonment and a fine of EUR 15 000.

Source: HATVP, https://www.hatvp.fr/espacedeclarant/representant-dinterets/ressources/#post_4640

Administrative monetary penalties also help to promote compliance and resolve cases of late submission or failure to register. Since the entry into force of the Lobbying Act in Ireland, the Standards in Public Office Commission has focused on encouraging compliance with the legislation through interactions with lobbyists to resolve any cases of non-compliance, including the issuance of fines for late reporting, before proceeding with further sanctions. The Commission concluded that increased communication and outreach to lobbyists early in the process reduced the number of cases involved in legal proceedings (Box 5.2). The majority of lobbyists comply with their obligations when contacted by the investigation unit.

Box 5.2. Financial penalties imposed by the Standards in Public Office Commission in Ireland

Part 4 of the Irish Regulation of Lobbying Act 2015 on enforcement provisions gives the Standards in Public Office Commission the authority to conduct investigations into possible contraventions to the Act, prosecute offences and issue fixed payment notices (FPN) of EUR 200 for late filing of lobbying returns.

The Commission reviews all registrations to ensure that all persons who are required to register have done so and that they have registered correctly. The Commission can also request, by providing notice to a given registrant, further or corrected information when it considers that an application is incomplete, inaccurate or misleading.

The Commission established a separate Complaints and Investigations Unit to manage investigations and prosecutions, and put in place procedures for investigating non-compliance in relation to unreported lobbying by both registered and non-registered persons, as well as non-compliance related to non-returns and late returns of lobbying activity:

- Unregistered lobbying activity is monitored via open-source intelligence such as media articles, from the Register itself, or from complaints or other information received by the Commission;
- Late returns by registered persons are monitored on the basis of information extracted from the lobbying register relating to the number of late returns and non-returns after each return deadline. The online register is designed to ensure that fixed payment notices are automatically issued to any person submitting a late return on lobbying activities. If the payment is not paid by the specified date, the Commission prosecutes the offence of submitting a late return.

As observed in Commission annual reports, in most cases, compliance was achieved after receipt of the notice. In 2017, there were neither convictions nor investigations concluded, as this was the first year in which enforcement provisions were in effect. In 2018, 26 investigations were launched to gather evidence in relation to possible unreported or unregistered lobbying activity, of which 13 were discontinued (in part due to the person subsequently coming into compliance with the Act).

The Commission noted that the FPNs issued in respect of the three relevant periods of 2018 (270) were significantly lower than in 2017 (619), signalling a marked improvement in compliance with the deadlines.

Source: (OECD, 2021[3]).

5.4. Enabling an effective review of the lobbying framework

5.4.1. The Lobbying Act could include a periodic review mechanism to address new developments in lobbying

The regular review of established lobbying rules and guidelines, and how they are implemented and enforced, helps to strengthen the overall framework on lobbying and to improve compliance. This helps to identify strengths, but also gaps and implementation failures that need to be addressed to meet evolving public expectations for transparency in decision-making processes and to ensure that regulation takes into account the multiple ways in which interests can influence policymaking processes. From this perspective, it is important that any law or regulation on lobbying includes a mechanism for periodic review.

As such, the regular review of the Lobbying Act could be embedded in the legal framework and entrusted to the Ministry in charge of the Act – in this case SEGPRES. The example of Ireland is provided in Box 5.3.

Box 5.3. Review of the Lobbying Act in Ireland

Section 2 of the Lobbying Act provides for regular reviews of the operations of the Act. The first review of the Act took place in 2016. The report takes into account inputs received by key stakeholders, including persons carrying out lobbying activities and the bodies representing them. No recommendations were made by the government for amendments of the Lobbying Act. Subsequent reviews must take place every three years.

The first report found a high level of compliance with legislative requirements. Lobbyists highlighted the need for further education, guidance and assistance, which led the Standards in Public Office Commission to review its communication activities and guidance to lobbyists.

In its submission to the first review of the operation of the Act, the Commission recommended that any breaches of the cooling-off statutory provisions should be an offence under the Act. It also pointed to the lack of power to enforce the Act's post-employment provisions or to impose sanctions for persons who fail to comply with these provisions.

The Code of Conduct for persons carrying out lobbying activities, which came into effect on 1 January 2019, is also reviewed every three years.

Source: (OECD, 2021[3]).

5.4.2. To improve compliance and the perception of lobbying among citizens, the government of Chile could further promote stakeholder participation in the discussion, implementation and subsequent revisions of lobbying-related regulations and standards of conduct

OECD practice shows that involving relevant stakeholders in the revision process of lobbying-related rules and guidelines is key to create ownership and ensure a common understanding of the requirements and expected behaviours for both lobbyists and public officials. As such, the Commission for Public Integrity and Transparency is encouraged to continue involving stakeholders and citizens not only throughout the revision process of the current Lobbying Act, but also in its implementation and subsequent revisions (including, for example, the drafting and revision of codes of conducts or guidelines). Following the examples of Ireland and Canada, this could include regular consultations on the content of regulations (Box 5.4).

Box 5.4. Consultations on the drafting and revision processes of lobbying regulations in Ireland and Canada

Supporting a cultural shift towards the regulation of lobbying in Ireland through public consultation

In Ireland, the Standards in Public Office Commission established an advisory group of stakeholders in both the public and private sectors to help ensure effective planning and implementation of the Regulation of Lobbying Act. This forum has served to inform communications, information products and the development of the online registry itself.

Consultation on future changes to the Lobbyists' Code of Conduct in Canada

In Canada, the Office of the Commissioner of Lobbying launched a series of consultations in 2021 and 2022 to collect views on improving and clarifying the standards of conduct for lobbyists to update the *Lobbyists' Code of Conduct*.

An initial consultation was held in late 2020 to obtain the views and perspectives of stakeholders in relation to the existing *Lobbyists' Code of Conduct*. A second consultation (Dec. 15, 2021 to Feb. 18, 2022) aimed to collect views on a preliminary draft of the revised Code. A final and third consultation on changes to the Code was conducted in May- June 2022. The new Code was published in the Canada Gazette and came into force on July 1, 2023.

Source: (OECD, 2021[3]; Office of the Commissioner of Lobbying, 2023[4])

Proposals for action

In order to strengthen established mechanisms for effective implementation, compliance and review of the lobbying framework in Chile, and to be as consistent as possible with OECD standards and international best practices in this area, the OECD recommends that the Government of Chile considers the following proposals.

Assign clear responsibilities for implementation and enforcement

- Entrust an independent body with broader responsibilities for verifying information disclosed, investigating potential breaches and enforcing the Act. This independent body could be the Council of Transparency or an institutionalised Commission for Public Integrity and Transparency, with a sufficient level of independence and the necessary powers to implement the Act over all the public authorities covered in Articles 3 and 4.
- Include in the Lobbying Act provisions specifying the monitoring and verification activities entrusted to the oversight entity(ies), as well as its (their) investigative powers.
- Introduce an anonymous reporting mechanism for those who suspect violations of the Lobbying Act.

Strengthen the sanctions regime

- Establish a gradual system of financial and non-financial sanctions (including administrative and criminal sanctions) for active subjects, applied at the entity level, such as warnings or reprimands, fines, debarment and temporary or permanent suspension from the Register and prohibition to exercise lobbying activities.
- Amend the Lobbying Act to enable the oversight entity(ies) to send formal notices and apply administrative fines to both public officials and lobbyists to incentivise compliance.

Enable an effective review of the lobbying framework

- Include in the Lobbying Act a periodic review mechanism to address new developments in lobbying.
- Promote stakeholder participation in the discussion, implementation and subsequent revisions of lobbying-related regulations and standards of conduct.

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Annex A. Code of Best Practices for Lobbyists (*Código de Buenas Prácticas para Lobbistas*)

This Code of Best Practices has been created in response to international recommendations and by virtue of the comparative experience in the matter, and its objective is to promote compliance with the highest ethical standards in lobbying activities, strengthening transparency and probity in relations with government agencies, in the terms set forth in Article 1 of Law No. 20 730. For these purposes, lobbying is understood as "any remunerated activity that consists of promoting, defending or representing particular interests, with the purpose of influencing decisions to be adopted by authorities and officials" (Article 2, No. 1 of Law No. 20 730).

Lobbying is a legitimate activity and an important part of the democratic process. By influencing the decision-making process, lobbying can improve the design and outcomes of public policies, both for the benefit of those directly concerned and for society as a whole.

There is, on the other hand, a public expectation that the activity of lobbyists is carried out in an honest and transparent manner, and that the authorities and officials (passive subjects in the terms of the current law) who are contacted by them, can clearly recognise the interests they represent, so that they can make well-informed decisions.

This Code promotes trust and integrity in the decision-making processes of the State Administration and seeks to ensure that contacts between officials and authorities on one hand, and the active subjects of lobbying on the other, are carried out in accordance with the principles of probity and transparency.

In line with the foregoing, those legal or natural persons that lobby in the area regulated by Law No. 20 730 are urged to adopt the following good practices in their relationship with the agencies of the State Administration, as well as with their clients, without prejudice to the obligations established under the law.

1. Principles

1.1. Honesty and integrity: Lobbyists shall conduct and promote honest and upright relationships with government agencies, their clients, the media and the general public, as well as with other lobbyists.

1.2. Transparency: Lobbyists shall provide transparent and reliable information on their activities to government agencies, their clients, the media and the general public, except for information that must be confidential in order to protect the interests of the client.

1.3. Professionalism: Lobbyists shall admit their quality as such in their professional relations, observing the highest legal and ethical standards in the exercise of their work, as well as the prescriptions and recommendations of the multilateral organisations to which the country adheres.

1.4. Compatibility of private interest and public interest: Lobbyists shall promote, defend or represent the private interests of clients without contravening the general interest of the community.

2. Subjection to current regulations

2.1. Regulations applicable to the lobbying activity. The lobbyist shall know and comply with all laws and regulations that are applicable to its activity and that are in force.

2.2. Regulations on political participation. The lobbyist shall know and comply especially with the regulations on financing of political parties and electoral campaigns and, in general, with all regulations applicable to political participation, refraining from infringing the prohibitions or restrictions established therein.

2.3. Refraining from unlawful conduct. The lobbyist shall refrain from engaging in any conduct contrary to the law, and from inducing or causing others to violate the law or fail to comply with their legal duties.

3. Relationship with the client

3.1. Loyalty and dedication to management. The lobbyist shall maintain loyalty to the client's interests and should represent, promote or defend them with vigour and diligence. The lobbyist shall devote adequate time, attention and resources to the representation, promotion or defence of the client's interests, taking into account the client's expectations, what has been agreed with the client and the remuneration for the management.

3.2. Provision of information to the client. The lobbyist shall inform the client in a truthful, complete and timely manner on the following aspects:

a) The obligations to which he/she is subject in accordance with the law in force and the ethical parameters of his/her actions that he/she voluntarily adopts;
b) The risks and alternative courses of action in the representation of his/her interests, so that he/she is in a position to assess them without raising false expectations;
c) Any action, conduct or proposal in relation to the representation of his or her interests that may involve contravening the law, the public interest or his or her ethical duties;
d) The status of the work entrusted to him/her, and any significant matters arising in the course of such work;
e) Any payments, commissions or fees paid to him/her, or any other payments, commissions or fees paid to him/her;
f) Any payment, commission or contribution offered or made by any person or company, which is relevant in any way to the interest of that client.

The lobbyist shall ensure, by reasonable means, the truthfulness and accuracy of the information provided to the client.

3.3. Use of information. The lobbyist shall refrain from disclosing or using privileged or confidential information obtained in the course of his/her activity, except with the informed consent of the client. In particular, from using privileged or confidential information to the detriment of the client, or to obtain advantages or gains unrelated to the management of the client's interests, and in general for any purpose unrelated to the promotion, defence or representation of the client's interests.

3.4. Use of means. The lobbyist shall refrain from advising his/her client to act fraudulently or in breach of the law, or to offer the use of unlawful means. In particular, he/she shall refrain from promising results that do not depend exclusively on his/her professional performance.

3.5. Precautionary principle. Before accepting a mission, the lobbyist shall consider whether the advice or representation poses a serious risk of breaching his/her professional duties towards a client, in which case

he/she should refuse the assignment. The lobbyist should also withdraw from the professional assignment if such a risk arises for any supervening reason.

3.6. Termination of representation. Upon termination of the representation, the lobbyist shall take reasonable steps to protect the interests of the client, including notifying the client in advance of the termination of the representation. This is to allow sufficient time for the client to hire another professional, and to provide the client with the documentation relating to the assignment.

3.7. Claiming infringements. The client has the right to report breaches of the law and breaches of ethics by the lobbyist. To this end, the lobbyist shall inform the client in advance of the responsibilities and sanctions established in the applicable law.

4. Relationship with the authority

4.1. Provision of information. The lobbyist shall provide in a timely manner to the respective authorities and officials, the information required by law for the purposes of registration and publication on the active transparency websites and in the consolidated lists of the Transparency Council, always ensuring that the information is reliable and up to date.

In the event that inaccurate or outdated information has been provided, as well as in the event that the authority requires additional information, the lobbyist must provide it as soon as possible and always within the legal deadline.

The lobbyist shall provide precise information on the issue or matter in respect of which he/she is pursuing his/her client's interests.

4.2. Verification of information. The lobbyist shall ensure, by reasonable means, the truthfulness and accuracy of the information provided to the authority.

4.3. Intermediaries. The lobbyist shall refrain from using persons as intermediaries in the representation of a person's interests in order to hide the link with his/her client or not to provide information on such link for the purposes of the registrations provided for in the law.

4.4. Reporting of unlawful or unethical actions. The lobbyist will shall report to the competent authority any misconduct or infringement of which he/she becomes aware in the course of his/her work.

4.5. Undue influence. A lobbyist shall not propose to an official to take any action, or to obtain any information or any decision, in an improper or dishonest manner on his or her behalf.

The lobbyist shall refrain from offering or accepting the granting of any kind of payment, commission, compensation or benefit to an authority or public official as a condition or means to gain access to a contact or information from him or her or to influence any kind of decision.

The lobbyist shall refrain from intruding into the private sphere or personal life of a passive subject for the purpose of influencing decision making in his or her public function.

5. Conflicts of interest

5.1. Principle of independence. Lobbyists shall endeavour not to intervene in matters where their professional judgement could be seriously impaired, for their own interest or for reasons of friendship, kinship, ideological, cultural or other similar reasons.

5.2. Duties of abstention and information. The lobbyist shall refrain from representing a particular interest of a client in conflict with that of another client with respect to the same matter or issue.

The lobbyist shall inform the client of any circumstances that detract from the client's independence or conflict of interest, so that the client can decide in a timely manner how to act.

In the event that taking on the representation of one client could have an adverse effect on the interests of another client, the lobbyist shall inform the client concerned and obtain his/her consent to act, even if he/she is not representing the other client in respect of the same issue or matter.

5.3. Incompatibility with public functions. Lobbyists shall refrain, in the exercise of their work, from influencing authorities or civil servants of the State Administration with whom they have or have had a contractual or family relationship.

The lobbyist shall refrain from hiring persons who are authorities, civil servants or persons who are passive subjects of lobbying according to Law No. 20.730, or former authorities or former civil servants for two years after they have ceased their public functions.

5.4. Other rules. The lobbyist shall strictly separate any personal activity or involvement in favour of a political party from his/her professional work.

The lobbyist shall refrain from investing in the client's securities without the client's prior written permission.

The lobbyist shall inform the client of any involvement, relationship or financial interest he/she has with any other company or person whose services are recommended.

OECD Public Governance Reviews

The Regulation of Lobbying and Influence in Chile

RECOMMENDATIONS FOR STRENGTHENING TRANSPARENCY AND INTEGRITY IN DECISION MAKING

Lobbying and influence activities are legitimate acts of democratic participation and enable different groups to provide input and expertise to the policymaking process. This report looks at Chile's existing framework to ensure equity, integrity and transparency in public decision-making processes, and assesses its resilience to the risks of undue influence by special interest groups. The report also explores how to improve transparency and facilitate the disclosure of lobbying and influence activities. Finally, it discusses complementary reforms of the legal framework on integrity and transparency that could help strengthen the lobbying framework.

PRINT ISBN 978-92-64-72558-4
PDF ISBN 978-92-64-52624-2