

**PUBLIC AFFAIRS COMMUNITY OF EUROPE'S RESPONSE TO  
OECD ONLINE PUBLIC CONSULTATION ON THE DRAFT REVISED RECOMMENDATION ON  
TRANSPARENCY AND INTEGRITY IN LOBBYING**

**December 1, 2022**

First and foremost, the Public Affairs Community of Europe (PACE) welcomes the OECD's Recommendation on Principles for Transparency and Integrity in Lobbying as an update and revision of the 2010 Recommendation on Principles for Transparency and Integrity in Lobbying.

The PACE and its member national associations also welcome the effort to adapt the 2010 Principles to the current nature of lobbying, that as the text reflects, has substantially changed, and doing so by an open, inclusive, and democratic process that we are sure will help to enrich the OECD's views with those of the agents involved in the lobbying sphere.

The PACE is an *Association Internationale sans but Lucratif* (AiSBL) incorporated under Belgian Law in 2019. However, the association is the result of 10 years of consecutive meetings of national associations representing lobbyists across the European region for the purpose of connecting our different national realities, ensure that the voice of national lobbyist – those who operate in the different countries - is heard, and to transmit the different realities and the importance of having balanced lobbying frameworks across the board.

Our current members represent national associations of lobbyists of Austria, Belgium, Bulgaria, Czech Republic France, Germany, Italy, Luxembourg, Romania, Serbia, Slovenia, Spain and Switzerland. Additionally, we count with representatives from Greece and Portugal, where no associations exist. Therefore, we are an accredited voice of what is happening in the European lobbying arena.

Lobbying is an essential part of the democratic process through which citizens may make their views on public policy and public services known to politicians and public servants. Organizations such as interest groups, representative bodies, industry and civil society organizations, NGOs, charities, and third-party professional lobbyists all provide necessary input and feedback to politicians and public servants through the communication of their views and concerns.

However, regulating lobbying is complex. There are many Governments that find difficulties adopting lobbying regulations and thus, lobbying remains largely unregulated among OECD members, despite the efforts of organizations such as the OECD and, in most cases, of the professional lobbyists. In this context, the issuance of guidelines like those subject to consultation is particularly welcome, but a more proactive approach may be needed to make national Governments embrace the benefits of enhancing transparency by way of the adoption of adequate and balanced lobbying rules.

As lobbying regulations remain an outstanding issue in most European countries, we are hereunder responding to OECD questions on lobbying recommendations and detailing those aspects which the member associations of PACE consider must be considered for the development of regulation of interest groups, applicable for both the executive and the legislative branches.

## QUESTIONS

- 1. Does the draft revised Recommendation adequately reflect the emerging concerns and challenges in the lobbying and influence landscape? What additional challenges, if any, should the draft revised Recommendation address?**

The PACE and its member associations reckon that the OECD's recommendations adequately reflect the emerging concerns and challenges in the lobbying and influence landscape in the current reality, such as:

- a) A broad definition of lobbying, focused on the activity rather than on the agents.
- b) The inclusion of advisory councils in the integrity framework.
- c) The innovative definition of undue influence.
- d) The importance of the supervision/ enforcement..
- e) The necessity to address conflict of interests with media and political activities.
- f) The so-called "revolving doors."
- g) The legislative footprint.

However, it is also important to mention that the proposed Recommendations tends to focus, as most lobbying regulations do, on the control and disclosure by lobbyists (companies, trade associations, grassroots organisations, think tanks, research bodies and other organisations having a significant role in lobbying and influence activities).

The PACE and its national associations believe in balanced schemes, where there is a set of obligations on both parties of the equation. Transparency is a two-way road, and hence, while those wishing to legitimately influence or shape the public policy making must be transparent – there is no question about that – the same can be applied to those who carry out duties in the public sector.

Additionally, the digitalization of communications has multiplied the scenarios, agents and tools that can be used for the purpose of exercising influence. We believe that no set of rules can be efficient if it fails to address this complexity, though we are aware that this may involve far-reaching measures.

The following remarks will be in this direction.

**2. What are, in your view, key aspects related to the lobbying and influence landscape that should be added to the draft revised Recommendation?**

There are some issues that, in our opinion, may be included in the Recommendation aimed at making it more comprehensive and efficient for the purpose of enhancing transparency, fostering participation, and address some of the most pressing challenges and create a balanced scheme.

1. Code of Conduct.

The registration in any transparency register at national level must be accompanied by the acceptance of a reasonable and balanced Code of Conduct for interest groups, that ensures ethical and professional behaviour of interest groups in its interactions with public officials. The Code of Conduct must be accompanied by an objective, proportionate, independent, and balanced sanctioning regime.

2. Publicity of agendas of public officials.

Member States must also be encouraged to establish public agenda obligations for public officials. The mandatory disclosure of meetings between public officials and interests groups is an essential, cost-effective, and efficient tool to introduce transparency and foster participation. This obligation, on the other hand, must be accompanied by its own and specific sanctioning regime for the public officials.

3. Cooling-off periods.

To prevent conflict of interests, we believe it is necessary to encourage member States to include specific cooling-off period for public officials wishing to move to the private sector, especially if they want to carry out lobbying activities on behalf of the economic sectors or civil society organizations in the sectors where the public official held special decision-making powers.

4. Transition to public sector.

Likewise, measure must be in place that ensure that transition from the private sector to the public one is legitimate and avoids conflict of interests.

5. Independence, objectivity, and proportionality of supervision.

An effective lobbying regulation should be accompanied by an independent, rigorous, effective, proportionate, and dissuasive infringement regime. We think that the Recommendations should be more specific on this aspect, proposing adequate measures that ensure that both interests groups and public officials

6. Transparency of media and social media.

If the full disclosure of lobbying groups financing and control is relevant to prevent conflicts of interest and identify those interests at stake, the same can be said about media and social media. However, while media are not an interest group as such, and the exercise of journalism is protected by freedom of the press and the right to information and it totally differs from the lobbying activity, they are an essential tool for the activity. Therefore, the OECD may encourage member States to ensure that media are also transparent in their funding, as this may relate to lobbying campaigns, undue influence, grassroots, and astroturfing.

### 3. What changes, if any, would you recommend in the draft revised Recommendation?

On the first part of the document, we particularly support the following statements:

*“that integrity, transparency, openness, and equity in public decision-making are necessary for both the creation of optimal policies and citizens’ trust in government”*

*“that while lobbying and seeking to influence government decisions are legitimate ways in which stakeholders participate in public decision-making processes and support informed decisions by providing valuable data and insights for effective public policies, all stakeholders should have a fair and equitable opportunity to participate in public decision-making”.*

*“that while the responsibility for ensuring transparency, integrity and equity in public decision-making rests primarily with the government, at all levels of government, and by all public institutions, it is also shared with influence actors”*

- We also would like to add that rules that enable transparency and integrity are necessary to maintain the utility of lobbying. It is precisely in the absence of adequate frameworks that phenomena like undue influence or misrepresentation flourish, and this task is very specific for OECD Governments to assume, in the light of these Recommendations and their respective constitutional and legal frameworks.
- In other words, lobbying rules are not necessary only to curb undue influence, but also to promote participation, transparency, and integrity and because of this, improve policy making.
- On the other hand, measures of disclosure in the field of interest representation should be moderate and regarding the functioning of the specific processes of democratic decision-making. Democracy and politics also thrive on the protected exchange of ideas and interests. Especially in times of social media and constant media scandalisation, there needs to be space for political compromise. Therefore, it is forbidden to disclose measures and circumstances of an interest representation that can lead to live observation. Just like a register, a legislative footprint can only ever disclose in retrospect. What does matter, however, is also relevant to future activities, in that further dialogue is shaped by insights from these registers.

On the definitions:

**Lobbying and Influence Activities:** the PACE supports a definition of lobbying aimed at covering the activity, not focused on the agents who carry it out. Therefore, we find this definition adequate and comprehensive, and we would suggest encouraging governments, when regulating, to avoid an approach based on an exhaustive list of actors *involved or excluded* from the definition (eg., lobbyists included, labour unions not..). This approach will guarantee that the same activity receives the same treatment of law, even if those who carry it out the activity are diverse and heterogeneous groups or individuals in their nature or interests.

**Oversight Function:** compliance with lobbying rules should indeed be promoted by institutions and we support that these are adequately *resourced and empowered*, but they should also be

independent, objective and ensure proportionality in the case of having the capability of imposing sanctions.

**Undue influence:** we especially welcome the inclusion of this concept, very difficult to grasp, aimed at covering the many subtle forms of covert influence. However, it is rather focused on actions, while oftentimes this influence become “undue” not only by the action of “*providing covert, deceptive or misleading evidence or data, by manipulating public opinion, or by using other practices capable of manipulating the decisions of public officials*” but by who is attempting the influence, and this is very much linked to the issue of the so called “revolving doors.” Therefore, we suggest including the actions of former public officials in this concept.

Most of our comments on the section of Recommendations have been addresses in the response to question number 2.

### **About PACE**

PACE is a Europe-wide community of National Lobbyists Associations and public affairs professionals committed with the enhancement of the positive role that transparent lobbying can provide to democratic participation.

PACE was launched as a joint initiative of the Italian Association IL Chiostro and the Spanish APRI on the 7th of May 2011 in Rome, as a platform of national organizations of European public affairs professionals and lobbyists.

PACE is committed with the values of transparency and professionalism in European countries and wants to raise attention of the European institutions and of the national Governments on the critical importance of fostering a balanced framework of rights and obligations for interest groups across Europe.

PACE gathers 13 National associations and 2 individuals representing PA professionals and agencies in Europe:

**Austria:** Österreichische Public Affairs Vereinigung

**Belgium:** Belgian Public Affairs Community

**Bulgaria:** Bulgarian Association of Public Affairs Specialists

**Czech Republic:** Association of Public Affairs Agencies - APAA

**France:** Association Française des Conseils en Lobbying et Affaires Publiques

**Germany:** Deutsche Gesellschaft für Politikberatung e.V.

**Greece:** Palladian

**Italy:** Il Chiostro

**Luxembourg:** Letzfact

**Portugal:** Sofia Cartó



**Rumania:** Asociației Registrul Român de Lobby

**Serbia:** The Serbian Lobbying Society

**Slovenia:** Slovenian Chamber of Lobbyists

**Spain:** Asociación de Profesionales de las Relaciones Institucionales

**Switzerland:** SSPA – Swiss Society of Public Affairs