



Senator Paul Coghlan

GOVERNMENT CHIEF WHIP

SEANAD ÉIREANN,
BAILE ÁTHA CLIATH 2

Mr. Brendan Howlin TD
Minister for Public Expenditure & Reform
Government Buildings
Upper Merrion Street
Dublin 2

03 February 2015

Dear Brendan,

As discussed regarding the lobbying Bill there were a few items, which due to the time constraint at second stage, I did not get around to asking you about.

Namely, Section 5 (2) (c) refers to a body that exists primarily to take up particular issues and the relevant communications are made in furtherance of those issues. It is a different entity from a representative body and I just wonder what type of organisation it is intended to cover and how the distinction is drawn between a representative body and an issues based organisation.

As I read Section 5 (3) (b) am I right in concluding that the intention is to capture relevant communications made by paid representatives or offices of a trade body and not by volunteer members or officers. You might indicate what it is intended to capture or omit here and address how they will impact on compliance. Again clarity at this stage would assist.

Again on the scope of the application of the legislation it would be helpful to know if the reference in Section 5 (9) (c) will capture companies that are participating in public procurement exercises through eTenders or in receipt of a grant following a normal grant application process. I am not sure that I fully grasp the exception at the end of that subsection "apart from any matter relating to the implementation of any such policy, programme, enactment, or award of a technical nature". Does this mean that an SME with over 10 employees responding to a request for a proposal or an organisation applying for a grant to establish channels is not involved in lobbying? Again the complexity of what the legislation is trying to address is very challenging. Of course an organisation that is trying to make representations to a Minister about a procurement competition is engaged in

Over/....

INDUSTRIAL & COMMERCIAL PANEL

Tel: (01) 6183132 • Locall: 1890 732 623 • Fax: (01) 6184636 • E Mail: paul.coghlan@oireachtas.ie
95 New Street, Killarney, Co Kerry. • Tel: 064 6631961 • Fax: 064 6634652 • Mobile: 087 2217400

Page 2.

lobbying but an organisation that is participating in a competition on eTenders is not. Has this balance been recognised and addressed?

In Part 2 of the Bill, Section (8) (1) says that a person shall not carry on lobbying activities unless the person is a registered person. I was not able to find a definition for "lobbying activities" in this part of the Bill and I suspect that in the interests both of compliance, consistency with the earlier provisions in Section 5 and most of all for enforcement, that these activities need to be defined clearly. What if someone carries on lobbying activities outside the provisions of Section 5. Is that person obliged to register? Surely a lobbyist who is advising a client on how to lobby should fall within the scope of the Bill – even if the client is making, directing and managing the lobbying themselves? Again clarity on this issue would be beneficial from all perspectives, including I suspect those that are the intended target of the regulatory structure.

I do hope that the reporting requirements imposed under the Bill do not have the unintended consequence of closing off designated public officials to engagement with external vested interests for fear of being "listed" in the reports to SIPO. It would be regrettable if a cautious desire to avoid the limelight of reportage actually led to the system of public administration clamming up and closing in on itself. It would be important that this aspect is monitored closely to ensure that the intent and objective underpinning this important legislation does not lead to non engagement with external groups and individuals, particularly among public servants. I can see how designated public officials might refuse to meet a group or individual for fear that the meeting might be perceived as having resulted in influence being exercised over a particular policy or decision. This would be an ironic and counterproductive outcome if it occurred.

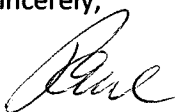
As you understand I am not being critical of the Bill, however I do think that new and innovative legislation of this nature needs to be very clear as to its scope and impact if it is to achieve its intention. Of course the legislation can be tweaked after a period, but if you are able to spot ways in which it can be improved as it goes through surely it would be remiss of us not to raise these issues and elements.

I regret that I will not be present on Thursday due to a prior engagement so hence this letter rather than any amendments.

Wishing you every success with it.


Best wishes.

Yours sincerely,



Senator Paul Coghlan

Our Ref: 15/0038/PER

 February 2015

Senator Paul Coghlan
Government Chief Whip
Seanad Éireann
Dublin 2

Dear Paul

I wish to acknowledge receipt of your letter dated 3 February 2015 regarding the Lobbying Bill.

I am looking into the matter and I will reply to you as soon as possible.

Yours sincerely



Brendan Howlin TD
Minister for Public Expenditure & Reform