TITHE AN OIREACHTAIS

An Comhchoiste um Airgeadas, Caiteachas Poiblí agus Athchóiriú

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HOUSES OF THE OIREACHTAS

JOINT COMMITTEE ON FINANCE PUBLIC EXPENDITURE AND REFORM

Report on hearings in relation to the Draft General Scheme of the Regulation of Lobbying Bill, 2013

November 2013

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1. Submissions received by the Department of Public Expenditure and Reform on the General Scheme of the Regulation of Lobbying Bill 2013 and formally referred to Joint Committee on Finance, Public Expenditure and Reform; available on the Department of Public Expenditure and Reform web site:-
   http://per.gov.ie/regulation-of-lobbyists-submissions/

2. Transcripts of the public hearing with the OECD can be accessed at Oireachtas web site:-
   http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/FIJ2013090500015?opendocument#O000100

3. The Draft Heads of General Scheme of the Regulation of Lobbying Bill, 2013 is available on the Department of Public Expenditure and Reform web site:-
   http://per.gov.ie/wp-content/uploads/Draft-General-Scheme-of-the-Regulation-of-Lobbying-Bill.pdf

Chairman's Preface

The Minister for Public Expenditure and Reform, Mr. Brendan Howlin, on the 1st May 2013 wrote to the Joint Committee on Finance, Public Expenditure and Reform to advise the Committee that *"the Regulation of Lobbying Bill 2013, which was approved for priority drafting with a view to early enactment by the Government at its meeting of 30 April 2013".* The Minister also advised that *"the Government also agreed that in parallel with the drafting process that the Heads of the Bill should be forwarded to your Committee as the appropriate Oireachtas legislative/policy in this regard, for pre-legislative scrutiny".*

The Joint Committee, following discussion at its meeting of 10 July, agreed that the best input it could make to the process is to undertake a review of those who have made submissions as part of the Department's public consultation process. Accordingly, by letter of 16 June, the Joint Committee wrote to the Department and requested the formal referral, to the Joint Committee, of any submissions received together with other relevant material such as conference papers, which the Department considered appropriate or would be of assistance to the Joint Committee.

Following a review of the documents received from the Department a summary of the issues raised was prepared by the secretariat. The Joint Committee reviewed this and on 5 September engaged in video conference with Mr. Janos Bertok, Head of Public Sector Integrity Division, OECD; Paris. The video conference allowed members discuss with Mr. Bertok the Principles for Transparency and Integrity in Lobbying developed by OECD in the context of the issues that were identified in the summary prepared by the secretariat.

I would like to express thanks to everyone who took part in this consultative process and look forward to further engagement with the Minister as the Bill progresses through the Houses.

I would like to express my appreciation to the Members of the Joint Committee, the Clerk, Mr. Ronan Lenihan and the Committee Secretariat

Staff, Mr. Eoin Hartnett and Ms. Lorraine West for their commitment and dedication. I hope this work will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.

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Ciaran Lynch T.D.
Chairman
November 2013.

Introduction

On the 1st May 2013 The Minister for Public Expenditure and Reform, Mr. Brendan Howlin requested the Joint Committee on Finance, Public Expenditure and Reform to undertake pre-legislative scrutiny on the Draft Heads of the General Scheme of the Lobbying Bill. Therefore, this Report forms part of the initial stages of a wider legislative process within which the Joint Committee considers that the regulation of lobbying should not be about policy, it should be about openness, transparency and the willingness of all to work to a better society.

The Joint Committee, following discussion at its meeting of 10 July agreed that the best input it could make to the process was to undertake a review of those who made submissions to the Department as part of the Department's public consultation process. The Joint Committee wrote to the Department and requested the formal referral of any submissions received together with other relevant material such as conference papers. The submissions and other documents received were reviewed and a summary of the issues raised was prepared by the secretariat.

Following a review of the summary, the Joint Committee decided that it should engage with the OECD as the OECD had developed Principles for Transparency and Integrity in Lobbying. Accordingly, on 5 September, by way of video conference, the Joint Committee engaged with Mr. Janos Bertok, Head of the OECD Public Sector Integrity Division, Paris. This allowed members discuss with Mr. Bertok the OECD Principals in the context of the issues that were identified in the summary prepared by the secretariat.

The Joint Committee wishes to express its thanks to all those who participated in this process and valued the opportunity to engage with interested parties.

This Report does not purport to be, and should not be construed as being, a definitive statement of all the issues pertaining to the subject matter of the Bill/Act in question. Further, the Joint Committee in this report are

not making recommendations, rather this report sets out the issues that were identified in the review of the submissions made to the Department.

The Joint Committee, in taking the view to publish the review of submissions, is setting out the issues that the legislation should address. It is the opinion of the Joint Committee that the Minister and the Department must address these issues and when the legislation is then considered at the Committee stage the Minister will be able to explain why he has chosen to address the issues in the manner set out in the legislation.

The Joint Committee wishes to express its thanks to all those who participated in this process and, in particular, Mr. Janos Bertok, Head of Public Sector Integrity Division, OECD, Paris for engaging with the Committee by video link.

Summary of Submissions

Summary of the main points as raised by those who made submissions to the Department of Public Expenditure and Reform on the Draft Heads of the General Scheme of the Lobbying Bill.

Issue – General:	
Submitter	Commentary
Alcohol Action Ireland	Alcohol Action Ireland would support increased regulation and full transparency in all matters of public affairs. We believe that regulation is essential to ensure transparency and protect the integrity of public policy-making, by identifying and managing conflicts of interest in the development and implementation of public policy, as appropriate. The development of a Code of Conduct and Ethical Framework would also help to provide guidance in this area but cannot act as a substitute for good legislation. Participation by commercial vested interests in public policy can be an inherent conflict of interest i.e. if the policy delivering the maximum public good directly impacts on the vested commercial interest's profits, then the vested commercial interest is already in conflict with the desired outcomes *(please see specific comments relating to vested interests and principle I.1 below).* 'Partnership' between public sector organisations and private sector interests need to be clearly defined and assessed as to whether their impact counteracts effective evidence-based policy in the area. Public policy is underpinned by the concept of stewardship, the liberal state's commitment to look after the basic needs of people, individually and collectively. The State is failing in this duty of care if it allows vested commercial interests to subvert public policy. We would offer the general observation, similar to that made by the OECD's own Trade Union Advisory Committee (TUAC) when asked to comment on principle I.1: *countries should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public bodies.*
Association of Optometrists Ireland	Interaction with government at the instigation of or by invitation of government should not be considered as lobbying.
Construction Industry Federation	A separate exemption set out in the policy proposals, is that communications made in response to a request by a public official should be excluded. The CIF agrees with this suggestion. For example the CIF is regularly asked to provide information and opinions to Government Departments, other State bodies and to individual public representatives or civil servants. We are very happy to accommodate these requests for information and opinions. However as we are not the originators of these requests, it should not be the responsibility of the CIF to document and notify the register about them. If these communications were included it would increase the bureaucratic burden placed on compliant organisations. We also believe in these cases it should not just be factual information that should be excluded but also opinions or other perspectives that have been canvassed. However these communications should only be exempt when the organisation in question does not originate the flow of information.
	The CIF agrees that the lobbying register should be published on the web. This is easily maintained, easily accessed and a low cost option. However it is important that the format can be easily updated by organisations and the information provided is clear.
	The CIF agrees with the general proposals that issues on which

	lobbying has taken place should be disclosed, the people who have been lobbied should be detailed as well as the level and mechanics for the engagement. We also agree that the lobbying body should provide details such as their name, address, contacts etc. However in the case of professional lobbyists (and not organisations who engage with the Government on an ongoing basis) more details should be provided. The list of bodies who could benefit from any particular commercial decision should be included. Without this measure it would be possible to get around the regulations. If a particular company (Company X) wanted to engage in lobbying they could set up an outside group or body (Association Y) which would act as a holding group for the engagement. Under the current proposals the professional lobbyist would then be able to say they were engaged by Association Y and not declare that the lobbying they are doing would really benefit Company X. So transparency would be lacking from the process. We also agree with the ICTU and other groups who have made the point that campaigns carried out in the public interest by members and widespread public appeals should be differentiated. The CIF occasionally asks our members to interact with their local political representatives on matters in the public interest, for example the Construction Contracts Bill. It would be impossible for the CIF to detail all the engagement undertaken by our members as part of that campaign. However it would be possible to detail if such a widespread campaign had been launched. This would seem like a more realistic and practical solution. It should also be noted that the deadline of 10 working days after the end of each quarter for the submission of the information may not always be practical. In some organisations there are a lot of different people interacting with Government. If one of these were on holidays or away for a couple of weeks it may be necessary to await their return before submitting complete and accurate details. On that basis we believe the deadline for submissions to the register should be slightly extended, perhaps to within a month of the period in question.
	The CIF agrees with the general list of topics detailed under the proposals which cover most areas of engagement. A broad list will ensure that the register lives up to the level of transparency required. However we note that appointments to State Boards/ other State positions do not seem to be covered by the current proposals and we believe these should also be included. These positions can be the subject of intense lobbying activity and that should be detailed if the register is to cover all activity of interest.
Commission for Communications Regulation	ComReg would suggest that the extension of the application of the definition of 'lobbied persons' to sectoral regulators (and indeed other public bodies) needs careful consideration.
	ComReg wishes to point out that consultation and engagement with the operators it regulates is a core function and necessary in developing the appropriate regulatory framework. Consultation is required under EU and national law in various instances. ComReg's principal concern is that new legislation regarding lobbying would therefore be cognisant of existing legislative frameworks, such as those put in place by sectoral regulators, and would be without prejudice to the requirements of such frameworks. ComReg would agree with the OECD principle #4 quoted at 6.4 in the DPER Policy Paper in relation to the desirability of excluding regular, transparent consultations by public bodies from the scope of the proposed lobbying control regime: "*Definitions should also clearly specify the type of communications*

	with public officials that are not considered 'lobbying' under the rules and guidelines. These include, for example, communication that is already on public record – such as formal presentations to legislative committees, public hearings and established consultation mechanisms."
	Like other regulators, ComReg's functions, powers and duties are set out in legislation and ComReg cannot depart from those. In this regard, there is a significant difference with Minister/legislators, where wider and more general remits may apply. ComReg adheres to the principles of good regulation which include a focus on transparency, consultation, proportionality, accountability and evidence based decision making. The experiences identified by DPER in other jurisdictions would appear to focus on legislators / parliamentarians and not on sectoral regulators and other public bodies. One option for DPER may be to define those 'lobbied' as set out in a schedule to a Bill. That schedule could begin with a more limited group of 'office-holders' which could be extended over time where a case to do so was apparent.
Conor McGrath Public Affairs	While it is obviously important how legislation is framed, it is equally vital that the introduction of lobbying regulation means more than simply ticking a box to say that one of the pledges contained in the Programme for Government has been met. Unless the government demonstrates as firmly as possible that regulation will be continuously enforced over the long-term, then some lobbyists will seek to evade it. I would suggest that the most appropriate process by which to ensure this is: 1) that the government prioritise the introduce of legislation establishing which body will be responsible for overseeing the regulatory system; 2) that it include in the legislation a phrase to the effect that lobbyists are required to disclose "such other matters as may be prescribed by the Minister as being required in order to enhance transparency and maintain stability and confidence in policy, political and decision making processes" (Fine Gael, 2010: p. 78) – although personally I would favour giving that power directly to the regulator rather than the Minister in order to provide more maximum flexibility; 3) that once the legislation is enacted the register comes into effect with lobbyists disclosing whatever fundamental items the government considers essential to transparency; and 4) at the same time, the new regulator holds a time-limited open consultation period with all interested stakeholders intended to inform him or her in the task of drawing up more detailed rules concerning the practice of lobbying and operational procedures. It seems to me that discussion around the key elements of enforcement could include: the regulator; the role of the lobbying industry in improving standards; a Code of Conduct; regulation of the lobbied; and the promotion of standards through incentives as well as sanctions.
	The Regulator. The government parties are generally fairly similar in their proposals regarding the regulator, although there are several points on which the Labour Party is more specific and prescriptive and I should say that my own personal preference would be for the powers given to the regulator to be as rigorous as possible. Both parties have suggested that the appropriate body to regulate the lobbying industry is the Standards in Public Office Commission (though under Fine Gael's proposals that would be renamed the National Electoral Office). Certainly, there is some fit with that body's current responsibilities, but my own view is that we should have a clearly identified individual with a specific title such as Commissioner of Lobbying, even if that person is an employee of

	SPOC/NEO. Both parties agree that the register of lobbyists shall be "organised in such manner and kept in such form" as the regulator wishes (Fine Gael, 2010: p. 77), and both agree that the register would be available for public inspection. Here, though, the Labour Party text is vastly preferable to the Fine Gael version: Fine Gael's draft legislation does not explicitly require that the register be placed on the Internet to facilitate public scrutiny, whereas the Labour Party text states (2008, p. 9) that the regulator "shall also arrange for the publication of the register in electronic form by means of the Internet and without charge". Both parties require SPOC/NEO to produce an annual report on the operation of the register, give that body power to investigate suspected breaches of the legislation, and oblige the regulator to publish a report on each investigation which was undertaken. My own view is that perhaps the language of the Labour Party text is more detailed and comprehensive, and I would urge the government to be particularly rigorous in this section of its legislation. While Fine Gael's draft Bill does state that a criminal offence would be committed if "an unregistered person [engages] in lobbying on behalf of a commercial undertaking" (2010, p. 77), it does not specify any penalties which that offence would attract. The Labour Party version provided for punishments of up to two years imprisonment and/or a fine of up to €10,000 (2008, p. 12), and I would favour the legislation being as precise as possible on this point. One interesting idea which the regulator may consider relates to the current self-regulatory requirement that lobbyists are honest and do not mislead policymakers: while none have yet passed, Bills which would make it a criminal offence for a lobbyist to lie to a legislator have been introduced in a number of American states, including Arizona (KTAR News, 2009) and Georgia (Savannah Now, 2008). The government could consider giving the regulator power to levy specific penalties on those found to have provided policymakers with false or misleading information. Finally, here, Fine Gael would have lobbyists making declarations every six months, whereas the Labour Party envisages that lobbyists would file a declaration no later than 10 days after they agree to lobby for a client or employer and thereafter to update their declaration within 30 days of any material change (2008, p. 5). Personally, I can see no reason given existing technological capability why registration should not happen as close to real-time as reasonable rather than allowing lobbyists to wait for up to six months before disclosing information. Lanny Davis (a former White House adviser to Bill Clinton) has suggested harnessing technology to make US lobbyists' registration entirely current. Under his proposal (Davis, 2008), in advance of every meeting with a policymaker, every lobbyist should have to register their name and that of their client or employer, the specific reason for the meeting and the legislation or policy issue to be discussed, the lobbyist's position on that issue, the specific action which the policymaker will be requested to perform and details of all campaign contributions which have flowed from the lobbyist and/or client to that policymaker. Then, as the lobbyist arrives for the meeting, he or she would be obliged to sign in to a real-time computerised log to indicate that the meeting is actually taking place. In Davis' view this "total transparency" would be burdensome but he suggests that US lobbyists would simply have to learn to live with it as they have learned to live with current rules, and that any bureaucracy is more than outweighed by the public benefit provided by such blanket accountability

	Five points regarding the regulatory system are absolutely crucial in my view and should be highlighted: • To be as useful as possible, the register ought to be Internet-based and be easily searchable so that all citizens have access to the information, and it does need to be based upon a reliable IT platform. One of the lessons of the current register of the UK Public Affairs Council is surely that this is not something which can be done cheaply if it is to function properly. The government will need to invest significant resources to get such a system established, but we will all derive benefit from having an effective register. Lobbyists should be required to file their registrations and other material electronically. • Pross has stated (2007, p. 39) that "the autonomy of the [regulator] is essential to ensuring the continued integrity of lobby regulation." The regulator should be independent of both the government and the lobbying industry if it is to have the credibility required to help enhance public confidence in our policymaking process. • A range of penalties – from censure to more substantial measures – must be available to the regulator and/or the criminal courts for non-compliance with the system, on a sliding scale so that minor offences can be reasonably dealt with and serious transgressions are liable to significant punishment. • Clearly, there will be a financial cost attached to the establishment and maintenance of any regulatory system – particularly in terms of IT and staffing (although I would expect that a handful of officials is probably all that would be needed). To some extent, this is part of the price of an open and vibrant democracy and DPER should not shy away from making the case for public investment. Equally, though, I believe that it is appropriate that lobbyists themselves contribute to the cost of the register, through an annual registration fee of perhaps €200-300 per registrant. • It is important that the legislation grants wide-ranging power to the regulator to modify and update the rules concern the practice of lobbying in as flexible a manner as possible. No regulatory model is perfect, and some lobbyists will certainly seek to identify any possible loopholes. The regulator needs to be able to close these quickly, and to learn from the evolving lessons of his or her counterparts in other jurisdictions. What the loopholes in Irish legislation will prove to be is almost impossible to predict, but there will inevitably be loopholes and the regulator must be in a position to respond to them. For instance, in 2010 lobbyists in Texas began to avoid lengthy queues to enter the state Capitol by applying for firearms permits so that they could then make use of a separate entrance (Ward, 2010). That will not be an issue here, but the underlying point remains that some lobbyists are adept at finding new ways around existing rules.
	The Role of the Lobbying Industry in Improving Standards. One of the more innovative elements of the report of the House of Commons Public Administration Select Committee was the recommendation that lobbyists should establish a "single umbrella organisation with both corporate and individual membership, in order to be able to cover all those who are involved in lobbying as a substantial part of their work" (PASC, 2009a, p. 42). The purpose of the organisation would be centred around the promotion of "ethical behaviour by those involved in lobbying" (PASC, 2009a, p. 42). The

	new body should be funded by lobbyists, but its management should be undertaken at least in part by "people from outside the lobbying world with a track record in regulation and in business ethics" (PASC, 2009a, p. 42) both so that an element of external expertise can be injected into the group and to guard against a tendency to defend rather than punish any members found guilty of wrongdoing. The committee proposed that the group must apply more rigorous ethical standards to its members (including some degree of independent and external accreditation), and should establish "an externally assessed and validated standard – a kind of kite mark – which its members should be required to meet" (PASC, 2009a, p. 43). Both individual and corporate standards should be created (and monitored by an independent group external to the industry), and crucially should be set at such a level that it would be possible for some applicants not to meet them. All those who are "involved in lobbying decision-makers on a regular and continuing basis" (PASC, 2009a, p. 43) would be expected to want to join the new organisation; and the body must be prepared to impose sanctions on any of its members "who fail to meet its criteria," and these sanctions might include "naming and shaming," financial penalties, suspending members for a period, and expelling them from the group (PASC, 2009a, p. 43). Perhaps the government could consider whether such a body might be usefully in the Irish lobbying industry, and if so how to encourage the industry to begin to take the idea forward. I have previously urged the UK industry to take the initiative itself to establish an organisation of this nature, stressing the need for "a single trade association, capable of speaking for the industry with a single voice" (McGrath, 2005b, p. 174), and describing the lack of a body open to individual rather than corporate membership which is specific to lobbyists rather than to the general public relations industry as "a serious gap which needs to be closed by lobbyists themselves establishing their own group" (McGrath, 2005a, p. 131). The same is true of the Irish industry. I believe that a handful of consultancies have already had discussions about setting up an association, but these seem to have floundered because it was felt that insufficient numbers would join – but to my knowledge these discussions were not opened up to the larger community of corporate and NGO in-house lobbyists. One of the benefits of a mandatory register is that we would have a comprehensive list of all professional lobbyists in the country; perhaps it would be possible to devise a means whereby the annual registration fee included a component which would be taken as a membership fee for a mandatory trade association representing lobbyists and focusing on driving up ethical standards. Such a body has the potential to drive the whole industry forward positively and to boost public confidence in the Irish lobbying industry. Peter Bingle (Chairman of Bell Pottinger Public Affairs) told the PASC committee that: "One of the issues for the industry is to have somebody talk on its behalf who is a skilled communicator, who can actually get across what we do and be proud of our industry and that would encourage a higher quality of person coming into it" (PASC, 2009b, p. 71). That sort of proactive promotion of the industry would surely be a key function of such a trade association. Among the challenges facing the industry are: a need to communicate more effectively to the public about the proper role of

	lobbying in a democracy; the development of rigorous ethical standards; the ability to offer some form of redress to lobbying clients serviced by shoddy or substandard consultants; and the creation of a training scheme for lobbyists. The third of these items reflects a concern over what Norton (1991, p. 65) terms "consumer accountability" – on what basis should a potential client or employer hire someone and how will they judge the quality of the services they receive? Charles Miller (a senior UK lobbyist who would later become a driving force in the Association of Professional Political Consultants) argued (1991, p. 166) that lobbyists have a "duty to be properly qualified for the work at which they are representing professional expertise." This area alone could provide a large work agenda for a new umbrella organisation. An inclusive trade association would enable lobbyists in Ireland to begin to exercise vocal and vigorous leadership of their profession. An inclusive association of lobbyists could begin to educate both policymakers and the general public about the valuable and legitimate role which interest representation plays in policy formulation. Even senior civil servants, and some politicians, can be resistant to meeting with lobbyists to discuss policy issues, because of a lack of awareness of their capacity to provide information and analysis. A strong professional association representing all lobbyists could institute a mandatory ethics training programme, and cooperate with higher education and in-career training providers to both accredit relevant degree courses and provide programs of continuing professional development for lobbyists. It could instil in individual lobbyists a strong sense of professional identification and an appreciation of why membership of a representative body is important. It could undertake a series of strategic media relations and of targeted outreach to civil society; it could work with academics to produce best practice guides for practitioners; it could co-operate with other professional groups in other jurisdictions to ensure that lobbyists in Ireland are better able to network with their counterparts internationally; and it could establish a mentoring scheme whereby younger professionals could benefit from the experience of more established colleagues. An agenda of this type would enable lobbyists acting together to make substantial progress towards gaining greater public acceptance of the industry (McGrath, 2005a). One additional function could well be that a trade association would provide a forum through which the regulator could seek the views of industry on potential amendments to the rules concerning the practice of lobbying (though, of course, this should be no more than a purely advisory role). One misplaced assumption which often seems to be accepted without question is that lobbyists themselves oppose regulation. There is in fact some evidence from other jurisdictions that individual lobbyists may be more willing to embrace reform than are the leaders of the groups which claim to represent the industry. For instance, a survey of 100 UK in-house practitioners in 2005 revealed that 70 per cent of them would support a new professional body specifically for public affairs, with over 60 per cent also backing the introduction of an industry wide recognised training program and more than 50 per cent favouring the development of a public affairs qualification (Hawkins, 2006, p. 35). Chari *et al* found that the lobbyists they surveyed in Canada, the United States, the EU and Germany were quite happy to register, believing that it brought

	some benefits (such as good PR and increased legitimacy) to them at relatively little cost. In a similar vein, Holman and Luneburg (2012) found that 26 per cent of US and Brussels lobbyists favoured voluntary registration and 66 per cent preferred mandatory registration, with only 8 per cent opposing registration at all.
Construction Industry Federation	As a membership representative organisation one of our prime responsibilities is to represent the views of members throughout the construction industry to Government and other relevant stakeholders. Often this involves providing and discussing these views and considerations with politicians and civil servants. This is part of a two way process that encourages a better understanding and flow of information regarding the construction sector. Access to information should be key priority for all those involved in setting policy. For that reason we believe that it is essential that the CIF and other groups will be able to continue to operate the strong and transparent level of engagement that has helped create a better framework for developing strong policies that represent the national interest.
Issue - Implementation issues:	
Submitter	Commentary
Chartered Institute of Logistics and Transport in Ireland	The Institute supports the views expressed … … in relation to minimising the administrative burden of the proposed regulatory system as summarised in paragraph 11.1.3 of the Policy Paper. It is critically important to minimise the amount of paperwork for example by not requiring the separate reporting of multiple contacts with public bodies on a single issue. Because the Institute is governed by people acting in a voluntary capacity, we would share the concern of others about the imposition of sanctions for inadvertent omissions from reports. Quarterly reporting can be quite onerous for small bodies which are heavily dependent on volunteers and consideration should be given to annual or twice yearly reporting instead. Reporting within 10 working days of the relevant reporting period is also quite onerous and a longer period of one month should be considered.
Conor McGrath Public Affairs	I must record my view that there is one particularly significant weakness in the conceptualisation of lobbying in the government's General Scheme. Lobbying is defined in paragraph 1 of Head 4 as *"all communication [by specified categories of people] on specific policy, legislative matters or prospective decisions with designated public officials or officeholders."* However, it is crucial in my view that 'communication' does not only mean direct contact between a lobbyist and a policymaker but extends more broadly to encompass the whole range of preparatory work which all lobbyists undertake prior to actual direct communication. One of the clichés of lobbying – but no less valid for that – is that every hour of direct contact first requires 10 hours of background research. For instance, the UK Public Affairs Council's definition of public affairs states that it includes the provision of *"lobbying or advice on lobbying"* and *"services with intent to assist lobbying, including the provision of monitoring, public affairs and programme support, strategic communications advice, profile raising, decision-making analyses and perception auditing services"*. The government's proposed legislation would be significantly strengthened if its scope was widened such that this type of activity was captured by the definition of 'lobbying'. In the Irish context, the preamble to the Public Relations Institute of Ireland's Code of Professional Practice for Public Affairs & Lobbying states that *"public affairs practice"* is taken to mean *"all activity associated with representing the interests of a*

	client or employer in relation to any matter of public policy" including the provision of information and *"professional advice"*, and the *"making of representations, or the advocacy of a point of view, to any persons or institutions"*. Thus, Irish lobbyists themselves recognise that lobbying involves more than simply direct contact with policymakers, and that it does encompass information gathering and strategic counsel. Indeed, it is anomalous that subparagraph 4(1) of the General Scheme is currently written so that the work involved in the *"management or direction"* of direct lobbying communications does not need to be disclosed, but that one specific type of such work is singled out – the directing or stimulation of a grassroots lobbying campaign. If the *"management or direction"* of indirect grass-roots lobbying is sufficiently significant as to require disclosure, then so too is the *"management or direction"* of the more common day-to-day work of direct lobbying communications. Given that most consultants rightly regard their role as being to advise clients on how to contact policymakers themselves, I do fear that this omission from the government's conceptualisation of lobbying in the General Scheme might conceivably result in all in-house lobbyists being fully registered but many consultants being able to avoid registration by simply foregoing the relatively small proportion of the work which involves direct representation with policymakers. Something similar has already become an issue in the US, against a context in which registered lobbyists are increasingly criticised and restricted in their activities to the extent that many seek to avoid registering For instance, a new business model has been developed which is described as a "non-lobbying entity" – K Street Research is a firm which undertakes the research and preparatory work which lobbyists traditionally need to do themselves to inform their lobbying communications; by contracting that work to K Street Research, lobbyists can thus ensure that they spend less than 20% of their time lobbying for a client and so are able to avoid registering. Lobbyists here wishing to escape registration could under the terms of the government's General Scheme ensure that all direct communication with policymakers came from their clients so that an entire lobbying consultancy would not be obliged to register. I urge the government most strongly to reconsider this issue, and to amend its General Scheme so that both direct communication and the full range of strategic advice services provided by lobbyists would have to be registered. A lobbying register which did not fully encompass lobbying consultants would be a most peculiar document without international precedence. I believe that this issue could be avoided by amending paragraph 1 of Head 4 of the General Scheme through the insertion of a new clause: • (iv) the provision to a third party or employer of services intended to assist communication with a public official – including research, monitoring, political intelligence, programme support, strategic advice and profile raising.
Issue - Regulation of those lobbied:	
Submitter	Commentary
Conor McGrath Public Affairs	*Regulation of the Lobbied.* Much of the debate in the UK and US over the last two decades has focused not on the behaviour of lobbyists, but rather on the conduct of those policymakers who are the targets of lobbying. This approach seems to be predicated on the rationale that corruption cannot be unilaterally imposed on politicians or civil servants by lobbyists – only when an unethical lobbyist meets an

	unethical policymaker can anything inappropriate result. The theory that the conduct of policymakers is as important as that of lobbyists is perhaps vividly summed up in an old adage about legislators: "If you can't eat the lobby's steaks, drink the lobby's whiskey, sleep with the lobby's women, and then vote against the lobby in the morning, then you don't belong here" (Pittman, 1992, p. 228). In 1995, the Committee on Standards in Public Life issued a report on the ethical conduct of Parliament, Ministers, civil servants and quangos, which set out (1995, p. 14) "Seven Principles of Public Life," intended to guide the conduct of all public office-holders. While useful, such broad statements of principle need to be translated into more detailed and specific rules, and in fact this is done in a number of 'rulebooks' which apply in various parts of the UK public sector. Among the more important which relate to lobbying is a Cabinet Office paper titled "Guidance for Civil Servants: Contact With Lobbyists" (reproduced at PASC, 2009b, pp. 129- 31). That document emphasises that it is fundamentally legitimate for civil servants to meet with lobbyists, but stresses that all such contact must be conducted appropriately. It states that some dealings would constitute serious disciplinary matters, such as leaking confidential material to lobbyists or providing their clients with unwarranted influence over policy decisions. Most contact, though, is not so clear cut, and thus advice is offered as to where the bounds of propriety should be drawn. For instance, civil servants are told that if they grant a meeting to a group they should consider whether other groups interested in the same issue should also be met with. Civil servants ought not to accept gifts or hospitality from lobbyists which could be regarded as placing the official under some obligation to the lobbyist, and are cautioned that even general conversation about political events and personalities could be commercially valuable to a lobbyist. It is self-evidently true that policymakers have the ability to control access by lobbyists simply by agreeing or refusing to meet with any external organisation. Moreover, policymakers ultimately must exercise their own judgment as to which of the representations they receive are credible and relevant.
Construction Industry Federation	The CIF welcomes the fact that under the proposals the definition of lobbied personnel is quite broad and should capture most relevant personnel. However we would be concerned if they were to omit individuals who hold positions like private secretaries to a Minister. If the register is to ensure full transparency this is a position that should be included. Equally any interactions with the civil servant responsible for a Minister's diary should be detailed.
Issue - Code of Conduct:	
Submitter	Commentary
Conor McGrath Public Affairs	*A Code of Conduct.* According to Fine Gael's draft Bill, a lobbyists' code of conduct would be drawn up by SPOC/NEO which would first "invite submissions from and consult with interested persons, office holders and organisations affected" (Fine Gael, 2010: p. 78), but the proposed legislation gives no details of what such a code of conduct might encompass. By contrast, the Labour Party text included a schedule (2008, pp. 14-15) which detailed a lobbyists' code of conduct which established a series of substantive 'rules' relating to professionalism, transparency, confidentiality, conflict of interest, and improper influence, which all registered lobbyists would have been obliged to adhere to. My own view is that such a code does not need to be included in legislation: if one is included it runs the risk of being somewhat anodyne and bland, imposing on practitioners only the most basic obligations. It also becomes set in stone and

	necessitates a relatively cumbersome process if amendments are required. It may be better to leave the drafting of any code of conduct to the regulator so that it can be both rigorous and flexible. I would in addition urge the government of the importance of any code of conduct being directed towards the general public as much as it is towards the lobbying industry. For instance, the code adopted by the Public Relations Institute of Ireland groups its first nine articles under the subheading 'Conduct towards the public', but in fact the public is largely excluded in practice from this code. Lobbyists must disclose to policymakers the identity of their client, but there is no mechanism by which the public is entitled or enabled to learn who is lobbying whom on whose behalf. The code treats ethical lobbying standards solely as an internal matter for the industry, over which the general public has no right to information. Nothing in the code obliges any lobbyist to make any information at all available to the public, and thus it does nothing whatever to increase general transparency, accountability or public confidence in the lobbying process. Hence the PRII code, while well-intentioned, fails to enhance the public acceptability of lobbying or public trust in the policymaking process.
Issue - Review of legislation:	
Submitter	Commentary
Construction Industry Federation	The CIF agrees with the review system put forward in the proposals. However in the case of auditing being carried out, the group being audited should not be subjected to carrying the cost of the audit. This provision should only apply to randomly selected audits. If the Government believed an audit was necessary due to a suspicion of non compliance, the audit fee could be imposed in the event of the auditor producing a finding of non compliance by the organisation in question. The CIF also believes that when the proposals are implemented there should be a teething period as all organisations involved in lobbying become familiar with the new requirements. While those who do not comply should be held accountable, it may be necessary for some organisations to get used to the new register. Some leeway should be provided in the case of errors being made while these organisations who wish to be compliant familiarize themselves with the new system.
Issue - Government and politicians:	
Submitter	Commentary
ASH Ireland	Groups involved in lobbying government departments and agencies should be required to provide research and/or specific justification for courses of actions they wish the government to take on specific issues
	The lobbying of Ministers and Junior Ministers, TDs and Senators, in constituency offices, for example, as a means of avoiding the impact of the Freedom of Information Act should be deemed to be unethical in regard to matters of national interest. Such activity should be formally recorded and placed in the files of the relevant government department
Construction Industry Federation	Following on from our previous point about the need to ensure that all lobbying activity is included in the register, the CIF would be concerned if public representatives were excluded from the definition of lobbyists as is suggested in the current proposals. Such a measure may become a loophole for keeping major lobbying campaigns out of the public eye if this exclusion were to be maintained. In theory this could become a particular concern when it comes to regulating the activity of some members elected to Seanad Éireann. While the issue of whether Seanad Éireann will continue to

	exist is due to come before the public during the lifetime of the current Dáil, as it is currently constituted certain groupings and bodies have the privilege of nominating candidates for election to particular panels during the Seanad elections. If a candidate nominated by a particular grouping was successfully elected, there would be little to prevent that candidate from acting as a lobbyist on behalf of the grouping in question. So in effect that person could act as the conduit for all political engagement carried out by the grouping and because of the exemption, none of that lobbying activity would have to be provided to the register. In effect this could become a method of shielding lobbying activity from the public eye. It should also be noted that many county and city councillors also maintain other forms of employment. If they were excluded from the register, what is to stop them from becoming a major conduit for lobbying activity on behalf of their employers? The principle that underlies this policy on lobbying is to ensure the public is kept aware of lobbying activity. It will allow greater transparency in the process of policy formulation. However if public representatives were to be excluded, that principle could be undermined.
Issue – Definitions:	
Submitter	Commentary
Age Action Ireland	Age Action believes that non-government organisations are essential to the lobbying/advocacy process and significantly contribute to the formulation of better public policies. Representing socially excluded groups whose voices would not otherwise be heard, significantly differentiates Age Action from commercial lobbyists who are paid by a client to lobby for changes which directly benefit them. Age Action believes there needs to be a separate register for charities engaged in advocacy. As a charity registered with the Revenue Commissioners, Age Action is prevented from engaging in lobbying activity. However, advocacy in pursuit of the progressing the organisation's charitable purpose is recognised by the Revenue Commissioners as being a legitimate activity. We do not believe that the Government's intention when moving to regulate lobbyists was to end the charitable status of charities which engage in advocacy. We accept that the advocacy activities of charities cannot be exempt from the move towards greater transparency. Age Action is happy to make public any advocacy work it does. Therefore we recommend that a separate register be established for registered charities which engage in advocacy activity. This should be done in consultation with the Revenue Commissioners to ensure that registration on the charity advocates register does not compromise an organisation's charitable status.
Association of Optometrists Ireland	The definition of 'lobbyist' (requiring regulation) should not include administrative and clerical staff employed by an organisation or professional body.
	The definition of 'lobbyist' (requiring regulation) should not include members of professional bodies who serve in a voluntary capacity on committees or otherwise represent a professional body.
	The definition of 'lobbyist' (requiring regulation) should include those employed by professional bodies who spend a significant portion of their working time engaged in tasks which can be considered as 'lobbying'.
	The setting of thresholds in relation to compensation / working time is extremely complex, but the AOI would suggest that if a threshold be set to include a person on a register of 'lobbyists' that it would not apply to voluntary representatives of professional bodies who do

	not receive remuneration (excepting legitimate expenses) for their representation. In the case of staff employed by organisations or professional bodies such thresholds should be set to include only those who spend a majority of their time on activities that can be classed as lobbying.
Barnardos	A clear definition of lobbying is required to ensure all parties are starting from the same point. In the interest of fairness to all lobbyists and ensuring equal access to decision makers, politicians who are advancing a policy position must actively seek out both sides of the issue in order to make an informed decision. It is important not to favour the professional and paid lobbyist over concerned citizens. Similarly it is important to protect the funding given to charitable organisations and individuals engaged in lobbying work in the interests of ensuring that the views of voiceless, marginalised and disadvantaged people are heard. Civil society must not be penalised as a result of lobbying work undertaken in the best interests of such groups.
Chambers Ireland	Appropriately define the term 'lobbyist' before a registrar is introduced
	Compliance is best secured where definitions and exemptions are: • Unambiguous and clearly understood by lobbyists and office holders • Practically in application • Robust enough to support legal challenges The 1995 US Lobbying Disclosure Act defines a lobbyist as "Any individual who is employed or retained by a client for financial or other compensation for services that include more than on lobbying contract…" thereby linking the definition of lobbyist to the lobbying activity
Chartered Institute of Logistics and Transport in Ireland	All communications by individuals employed by an organisation or acting as officeholders will be encompassed within the definition of lobbying. The primary legislation will need to clearly define what is meant by "an officeholder" in this context so as to ensure that there is no ambiguity about the categories of persons covered by the legislative provisions. The Institute is concerned that the definition will not be too widely cast because a very wide definition of "officeholder" could potentially include some 60 people involved in the governance of the organisation, all of them acting in an unpaid voluntary capacity.
	The Policy Paper recommends that any individual or body who undertakes lobbying would have an obligation to register and report on their lobbying activity. This is a circular definition which does not make it clear which specific individuals within an organisation will be covered by the registration and reporting obligations of that organisation. Clarity on this issue is important, particularly where it affects people who act in a voluntary capacity within an organisation.
	There needs to be clarity as to what precisely is meant by the phrase "senior civil and public servants". Presumably this will be dealt with by a detailed listing of the grades and offices covered by the legislation so that lobbying organisations are in no doubt as to which communications with what officials are regarded as lobbying. It will also be important to be unambiguous as to the meaning of the term "special adviser" as a range of terms have been used to cover such individuals, including programme manager. For example, are Ministerial press advisors and personal assistants to be included within this definition?
Commission	A proposed definition of matters on which lobbying takes place is set

for Communications Regulation	out in Recommendation 2. It is clear that the work of ComReg encompasses such matters. Recommendation 3 proposes defining lobbyists as *"any individual or body who undertakes the activity falling under the definition of lobbying in the proposed legislation would have an obligation to register and report on their lobbying activity"*. It would appear that this approach would likely have the effect of defining all entities/relevant staff in those entities regulated by ComReg as lobbyists, given that most regulated entities engage with ComReg on the substance and detail of relevant regulation. This would include telecommunications companies, broadcasters, postal service providers and premium rate service providers, potentially covering some hundreds of employees. In this regard there would be a considerable new administrative burden for these entities.
	Recommendation 4 sets out the scope for a definition of 'lobbied' persons. At 4(v) it proposes the inclusion of senior civil and public servants. It is expected that this would include Commissioners in ComReg and potentially other staff in ComReg. Clarity on the detail of this definition in the eventual draft legislation would be welcomed.
Conor McGrath Public Affairs	It is tremendously encouraging that the government proposes such robust definitions under Heads 2 and 4 of the General Scheme. In particular, the focus is on regulating 'lobbying' rather than regulating 'lobbyists', and on 'lobbying communications' rather than on 'attempts to influence', both of which emphases are appropriate in my view. The government's approach here is absolutely correct: the most crucial issue is to produce an explicit statement of what constitutes 'lobbying' – once that is established, then all those who undertake 'lobbying' on a professional basis can be regarded as 'lobbyists'.
	Head 2 includes a definition of the public officials to be regarded as the 'lobbied'. Personally, I would suggest that this list could be strengthened. Although the list may be extended in the future to cover "such other persons or categories of persons as may be prescribed", I would argue that certain categories should be established at the outset in the legislation. An Information Note published by DPER states that initially the Minister intends to designate as "senior civil and public servants" those holding Secretary General and Assistant Secretary grades or their equivalents. I believe that lobbying communications directed at officials at lower levels, down perhaps to the Administrative Officer grade, should be covered by this legislation. In addition, the government's definition does not include officials employed by either House of the Oireachtas (as opposed to politicians' personal staff who are included), or the President and his/her officials, or members of the Council of State – all of whom are likely to become the focus of lobbying activity albeit perhaps on a more *ad hoc* basis than is true of those categories of people who are designated in Head 2 as public officials. Finally, my own preference would be for the professional staff of all registered political parties to also be regarded as public officials for the purposes of this legislation, given that lobbyists will legitimately seek to influence election manifestoes, for instance, which could then directly feed into Programmes for Government.
	Head 2 goes on to define "grass-roots communication", which is in itself progressive as most nations which regulate direct lobbying neglect to cover this sort of indirect lobbying. I would personally suggest that the wording of this definition might be amended slightly. It currently means (in part) communication made *"in an attempt to influence the designated public official or office holder to*

	endorse a particular opinion". Firstly, the use here of the notion of 'influence' runs counter to the more general definition of lobbying provided in Head 4 of the General Scheme which states more straightforwardly that lobbying is *"all communication ... on specific policy, legislative matters or prospective decisions"* with no mention made (rightly in my view) of 'attempts to influence'. Secondly, the current wording of Head 2 offers lobbying groups a clear loophole, in that they could potentially argue that particular grass-roots communications do not need to be registered as they were undertaken for purely educational or informative purposes rather than explicitly to influence. Thirdly, the concept of some public officials 'endorsing a particular opinion' may be problematic. If a Minister or TD makes a speech or votes in the Oireachtas, they can be clearly regarded as 'endorsing' a given policy. However, that is not necessarily true of a senior civil servant tendering private advice or briefing to a Minister. I would argue that the definition here would be improved if it read instead: *"grass-roots communication means appeals to members of the public or members of a particular organisation through the mass media or by direct communication that seek to persuade members of the public to communicate directly with a designated public official or office holder in respect of specific policy, legislative matters or prospective decisions."* In other words, substituting 'in respect of policy, legislative matters or prospective decisions' for 'in an attempt to influence the designated public official or office holder to endorse a particular opinion' is more neutral, less ambiguous, and would tend to capture more lobbying communications.
	I welcome the fact that Head 2 of the General Scheme includes a wide range of lobbying organisations – companies, industry and professional associations, representative groups, voluntary bodies, trade unions, chambers of commerce, charities and non-profit bodies. Comprehensive inclusion of the entire spectrum of the lobbying industry is crucial in the interest of equity and in the provision of a level playing field for all. Two specific queries arise on which it might be helpful for the government to provide clarification. Will all religious organisations fall under the scope of *"a charitable or non-profit organisation, association, society or interest group"*? Will all law firms be encompassed as *"a company incorporated under the Companies Act 1963"*, and if so is it explicitly the case that the disclosure requirements of this legislation will take precedence over the client confidentiality clause of their own professional code of conduct? Since substantial lobbying appears anecdotally to emanate from these two sectors, it is important that their activities are covered by this legislation.
	Head 2 of the General Scheme defines what is meant by "specific policy, legislative matters or prospective decisions". As the accompanying Information Note states, these are focused on "decisions at both administrative and ministerial level" and "on legislation". While the definitions which are given in Head 2 are appropriate in their own terms, I believe they should be extended to more explicitly include the non-legislative work of the Oireachtas. This could be achieved by adding new subparagraphs so that "specific policy, legislative matters or prospective decisions" would also encompass: • *"(vi) the development, introduction, amendment, passage or repeal of any resolution or statutory instrument which is to be or has been laid before either House of the Oireachtas.* • *(vii) any parliamentary question or debate.*

	• *(vii) the work of any committee in either House of the Oireachtas."* Furthermore, it may be helpful if the government could clarify that in existing subparagraph (i) *"the development of … legislation"* explicitly includes the introduction, passage or repeal of legislation; similar clarification that subparagraph (iv) includes the awarding of contracts and licenses would be useful. In line with my recommendation above regarding the inclusion of political parties, I would also like to see this definition extended to cover: • "(viii) the rules, policies and positions of any political party."
	In its definition of *"specific policy, legislative matters or prospective decisions"*, Head 2 suggests that there is no need to register details of discussions held with policymakers regarding *"implementation matters of a purely technical nature"* within an already established policy framework. I entirely disagree with this proposition. Lobbyists seek legitimately to influence the ways in which policy is implemented, but they cannot reasonably argue that such activity does not constitute lobbying. How policy is implemented matters significantly; often as much is at stake for an organisation in the implementation of policy as it is in the formulation of policy. And this exemption raises the possibility of a loophole which could be exploited by lobbyists if they are authorized to determine for themselves whether any communication was of *"a purely technical nature."*
	Moving on to the definitions and exemptions contained in Head 4 of the General Scheme, I believe that the categories of people regarded as lobbyists in paragraph 1 could be strengthened. Subparagraph (i) is clear, and deals with lobbying by in-house employees (although see the following paragraph below for further thoughts on this topic). Subparagraph (ii) perhaps could be amended to include 'directors' as well as 'officeholders', unless existing legislation already specifies that directors are regarded as officeholders. This clause does raise the question of what is meant in legal terms by *"a purely voluntary capacity"*, and clarification here may be helpful. Personally, I am unconvinced by the government's decision here to require registration by *"an officeholder of a body at national level"* rather than simply by 'an officeholder of a body' given that significant volumes of lobbying may be directed at policymakers from those people who hold local or regional office in an organisation. Further, while this clause would capture lobbying by a national officeholder *"including those in a purely voluntary capacity"*, it excludes such lobbying emanating from groups *"with no remunerated officers or employees"* even though Head 2 has already specified that 'lobbyist' is defined as including representatives of voluntary organisations. Whether or not a voluntary organisation has paid employees seems to me to be immaterial when considering whether their lobbying communications must be registered, since that lobbying is undertaken not on the person's own behalf but on behalf of the voluntary organisation itself. Finally here, subparagraph (iii) of paragraph 1 deals with commercial consultants who receive *"fees or remuneration from a third party"*. This phrasing will allow the non-registration of any work carried out on a *pro bono* basis, and introduces the possibility of a significant loophole whereby a consultant could charge a client an excessive fee for some non-lobbying work and undertake their lobbying work without charge. Personally, I believe that all professional lobbying should be registered, although perhaps the register could allow lobbyists to indicate specifically which work was performed *pro bono*.

	As noted above, subparagraph 4(1)(i) deals with lobbying by in-house employees. It is important, in my view, that the legislation recognises that not all in-house lobbying is undertaken by dedicated lobbyists. As currently written, this subparagraph in fact does appear to mean that all lobbying by all employees of an organisation must be registered. It might be useful for the government to clarify that this is indeed the intention. For instance, a corporate CEO may typically spend only a few days a year lobbying policymakers, but such interactions can be very significant. The opportunity exists in this legislation for Ireland to implement a truly original element of lobbying regulation. If subparagraph 4(1)(i) does not already have this effect, I would urge the government to amend it so as to ensure that any organisation which is obliged to register its lobbying activities must record all such contacts between the organisation and policymakers. Tim Hancock (Campaigns Director of Amnesty International) has argued that: *"Transparency matters and it matters to understand not only who are lobbyists but it is really important to understand what the contacts are between the lobbyists and the officials or the MPs, but that also means at what level. One thing that is important to understand is the difference and frequency between the contact that Amnesty International has with the Foreign Office and a company like British Aerospace and at what level those contacts are taking place. I am not necessarily saying those contacts are right or wrong but they should be visible."* If anyone in an organisation meets the definition of a lobbyist, then all lobbying undertaken by everyone in that organisation ought to be recorded. In practice, this could be done quite simply, in either of two ways: (1) every individual who has at least one lobbying contact or communication must file a return to the lobbying register; or (2) for those groups which register multiple lobbyists, one would be designated as the primary respondent (and naturally if an organisation only registers one lobbyist then he or she is by default the primary respondent) who has the responsibility of ensuring that all contacts between non-registered employees and policymakers are recorded in the register. This measure would at a stroke avoid the series of difficulties which have beset President Obama's lobbying reforms – as the activities of registered lobbyists are increasingly restricted, organisations simply circumvent the restrictions by using unregistered lobbyists and thus reducing the overall amount of transparency and accountability which the system is meant to provide.
Córas Iompair Éireann	The definition of "Lobbying" in Recommendation 1 of Chapter 3 states that "…this definition would encompass all communications by individuals employed by an organisation or acting as an officeholder of a body…for making or organising or planning that communication on specific policy, legislative matters or prospective decisions with designated public officials or officeholders". Strictly speaking this would mean that any servant or agent of CIE or its subsidiary companies that made, organised or planned a communications on a specific policy, legislative matter or prospective decision with a public official or stakeholder would be categorized as "a lobbyist"
	Recommendation 3, in defining "lobbyist" states that "…it is recommended that any individual or body who undertakes the activity falling under the definition of lobbying…would have an obligation to register and report on their lobbying activity." This is of particular concern given that Recommendation 4 defines "lobbied" persons to include the following:- "(i) Ministers, Ministers of State;

	(ii) TDs, Senators and members of their staff; (iii) Members of Local Authorities; (iv) Special Adviser; and (v) Senior Civil and Public Servants" Strictly speaking this would mean that any servant or agent of CIE and subsidiary companies on the receiving end of "lobbying" would not qualify as a "lobbied" person
	Chapter 4 of the same document headed *"Definitions and Scope of Lobbying Legislation"* ...find no evidence that a "public body" such as CIE or its subsidiary companies would be "protected" by a proposed lobbying Bill...it would appear that any representations it make under the previous headings to a Government department or Minister would classify as lobbying under the proposed Act
Cúram - Irish NGO seeking recognition for unremunerated parents and carers	Lobbying is an activity undertaken by representative groups and by vested interests seeking a particular outcome of financial or other benefit to themselves. Representative groups, as well as individual citizens, however, have the right and often the capacity to develop expertise on a particular issue, for the benefit of the particular group they represent, and possibly also for the public good. Developing a register of stakeholders can be the first step for the government to help distinguish such views and expertise from narrower self-interest and vested interests.
Issue – Exemptions:	
Submitter	Commentary
Age Action Ireland	Some lobbying regulatory systems require organisations to register the names of their personnel who engage in lobbying or advocacy work. This would cause difficulties for charities such as Age Action, as staff, volunteers and members regularly raise issues with politicians and policy makers. Nobody within Age Action has a dedicated role as a public policy advocate. We believe it should be sufficient for the organisation to register as a charity which engages in advocacy. As a charity which encourages its members to engage in the political process, Age Action is concerned that the proposed regulatory process would not hinder members of the public from contacting and communicating with their public representatives on issues of concern. The regulatory process must be able to differentiate between a representative of Age Action's advocacy team meeting a TD to discuss an issue and highlight the charity's concern, and a group of two or three members from Age Action attending the constituency clinic of their local TD to raise the same issue.
Chartered Accountants Ireland	It would be impossible to operate a system of lobbying regulation that focused on activities rather than on the organisation which performs the activities. It seems to us that lobbying regulation in the United States and Canada for example may overemphasise the activities undertaken and has resulted in the creation of a whole new compliance industry. Therefore, we consider that organisations which conduct lobbying which is consistently characterised by the following aspects should be excluded from regulation: • The lobbying is not undertaken for reward • The organisation does not make representations which would result in a policy exclusion for itself • The organisation publishes or otherwise places in the public domain its representations and submissions • The organisation only lobbies on its own behalf, or alternatively only with other organisations observing the same criteria.
	Any blanked exemptions or exclusions should be operates by reference to the organisation of the lobbyist, rather than by

	reference to the lobbying activity. In particular: • Individuals should be excluded, unless the lobbying is undertaken for reward • Organisations below a certain participant or membership size should not be burdened by regulation. For example, a local GAA club lobbying for planning permission for a new clubhouse should not fall within the remit of a regulatory regime • Government agencies should be excluded, on the basis that their lobbying activities are discoverable under freedom of information Acts • Public representative organisations and commentators offering analysis or comment which in its entirety is widely and systematically publicised or broadcast should not require lobbying regulation. Exemptions and exclusions should be self-determined. Sanctions and penalties should apply to individuals or organisations which should have registered as lobbyists but did not. We regard the "for reward" criterion as critical, and would not be supportive of a *de minimis* amount of a threshold
Conor McGrath Public Affairs	Head 4 of the General Scheme makes the point that all lobbying regulation in other jurisdictions provides for exemptions from the requirement to register. It is also true, however, that the list of exemptions contained in paragraph 3 here is unusually extensive. The diplomatic exemptions in subparagraphs (i) and (ii) are standard and noncontroversial. Subparagraph (iv) is most welcome, ensuring as it does that this legislation will in no way affect the ordinary right of a citizen to lobby government on his/her own non-commercial behalf. Similarly subparagraph (vi) is useful as regulating employment negotiations do not fall within the objectives of this legislation.
	Other exemptions, though, are more open to question, in my view. Subparagraph 3(iii) exempts information provided to policymakers at their explicit request which is "strictly factual" in nature, the implication being that this material is offered with no intent to influence policy. Personally, I would reject this claim out of hand. Virtually no information in the policymaking arena is not capable of being used to advocate for a particular policy decision. To take a straightforward example, the number of people who die each year on Ireland's roads is in itself an objective measure of fact. However, the number of lobbying communications which provide that information and only that information are relatively few. Most lobbyists in that area would provide the number and draw from it a subjective opinion as to whether the level of fatalities could be attributed to poor design and manufacturing by car companies, speed limits set too high, dangerous road construction, drink driving, excessive speeds by young male drivers, inadequate roadside signage or lighting, inadequate car safety inspections, or any one of a host of other contributory factors – each of which would, if accepted by policymakers, point towards a different public policy solution. It may be possible for the register to allow lobbyists to indicate in their entries those contacts which were initiated by policymakers, but I certainly do not believe that such contacts ought to be entirely excluded. Granting to lobbyists the ability to decide for themselves that any communication is "strictly factual" creates a loophole which will be gradually and surreptitiously widened over time. The Information Note published by DPER suggests that this is an area in which additional transparency could be achieved in the future through secondary legislation, but simply dropping the

	exemption from the Bill would remove that need.
	Subparagraph 3(vii) would exempt the registration of communication "which could cause a threat to the life or safety of a person" is doubtless well-intentioned but nonetheless problematic. In the first place, who is authorised to make this judgement – the lobbyist, or the registrar? It may be that truly exceptional circumstances would occasionally arise, but the registration system should be designed around more standard circumstances. One obvious option, for instance, may be that the information would have to be disclosed to the lobbying registrar but publication in the register could be delayed for a set period of time at the discretion of the registrar. Subparagraph (ix) would allow internal policymaking discussions within government to continue to be conducted in private, but it does raise one significant query. As currently written, this clause seems to permit TDs, Senators or councillors who also engage in private employment as lobbying consultants to avoid registering their communications. Personally, I believe it should be written more tightly by specifying that this exemption applies solely to those contacts they have in the normal course of their role as a public representative but not to any contact they make with public officials in their capacity as a lobbyist.
	Subparagraphs 3(viii) and 3(xi) both have the effect of permitting lobbying communications not to be registered if they take place in a wider context of transparency, such as a hearing of an Oireachtas committee or a forum established by a Minister. In my view any lobbying which arises from an interest organisation's participation in such settings is nonetheless lobbying; and in any event, such activity would not be remotely difficult for the organisation to register in the interests of maintaining as complete and accurate a register as possible.
Issue – Transparency:	
Submitter	Commentary
Age Action Ireland	*[An]* area of concern regarding the disclosure of information as part of any supplementary disclosure requirement would be the personal details individuals (e.g. in cases where requests for assistance were made to a TD on behalf of a specific individual). This has been dealt with in Oireachtas reports by withholding the names of individuals in such cases. We would hope that a similar approach would be adopted by this legislation. Age Action is also anxious that any register of lobbyists or charities engaging in advocacy would be available in a format which most citizens could access. Almost 80% of older people in Ireland do not currently have computer skills. It is important that the Government recognises this fact and not only makes the register available electronically, but also produces a paper version of it, which is made available at local public offices.
Alcohol Action Ireland	Alcohol Action Ireland supports increased regulation and full transparency in all matters of public affairs. We believe that regulation is essential to ensure transparency and protect the integrity of public policy-making, by identifying and managing conflicts of interest in the development and implementation of public policy as appropriate. Such regulation needs to identify and distinguish between the range of organisations engaged in influencing and lobbying activities.
Barnardos	There must also be a public record of all lobbying that has been done on any issue, and this should be easily accessible for any interested citizen to view. Citizens have a right to know how issues were influenced and how Governmental decisions were reached

	particularly those decisions that fundamentally affect every citizen in the country e.g. Bank Guarantee Scheme in 2008 etc. Regulation of lobbying activities must be clear, implementable and avoid over bureaucratisation. The register of lobbyists must identify whether or not they are paid by an organisation or are representing themselves or their organisation and whether or not they have charitable status.
BirdWatch Ireland	Clarity is required as to the definition of lobbying and lobbyists. It is our view that the advocacy activities of charities, that by definition work for public benefit, should be treated differently to lobbyists who may operate for material gain and not necessarily for public benefit. As such it would not be appropriate to include NGOs with charitable status in the type of regulation being proposed to date. A separate register of charities engaging in advocacy activities may be more appropriate. There are, however a number of parallels that can be drawn from the OECD principles report that apply to both lobbyists and those engaged in advocacy, these are relevant to this call for submissions as they underpin the cultural and national approach to dealing with stakeholders that needs to be dramatically improved. The proposed regulation of lobbyists is perhaps just one component of a suite of things needed to address the principles identified in the OECD report as these also have implications for the advocacy work of NGOs with charitable status that work for public benefit. These include public participation & civil dialogue, access to senior official and Ministers, access to information and transparency in decision-making processes and the inappropriate weighting of stakeholders and their views.
Chambers Ireland	Promote a sensible balance between transparency and information overload
Conor McGrath Public Affairs	I expect that some lobbyists may attempt to argue that the localistic and clientelistic nature of Irish politics means that lobbying regulation will infringe on the personal access to policymakers which people expect. Frankly, there is an obligation on politicians to conduct their official business in an official manner. Ministers, for instance, should not hold substantive policy discussions with interest groups in the absence of civil servants. Tailored education programmes should be organised for policymakers (and their staff) in order that public officials are entirely clear on the standards required of lobbyists, how their relationships with lobbyists should be conducted, and the mechanisms available to them should they wish to make a complaint about a lobbyist's behaviour (see the written evidence of Consolidated Communications at PASC, 2009b, p. 190). Indeed, a successful regulatory regime would be one which featured in the everyday life of policymakers, as they routinely checked the status of those wishing to lobby them. An additional reform which the government may wish to consider is whether Ministers, officials, TDs and Senators should be required to log records of their meetings and discussions with registered lobbyists, in order to provide a check that the lobbyists themselves are being assiduous in recording these communications on the register. One specific reform is, I believe, absolutely essential: any current or former public office holder who also works as a lobbyist must have any privileged access to the institutions of government rescinded for the duration of the time in which they are registered as a lobbyist.
Cúram - Irish NGO seeking recognition for unremunerate d parents and	Groups seeking to participate in or influence EU decision-making must register their interest on an annual basis (http://europa.eu/transparencyregister/index_en.htm). It takes approximately one hour to register and approximately 20 minutes to update annually, which is not excessive and would not exclude most

carers	organisations from participation. Also, the organisation is informed when opportunities to make written submissions or otherwise provide input into their stated areas of interest arise. Unfortunately, other possibilities to input into the work of relevant EU bodies, such as conferences, research, and strategic planning, come as a result of personal contact and developing relationships with personnel. This means that the most important aspect of representation and/or lobbying is restricted to those groups with greater means and/or a permanent physical presence close to the headquarters of the EU institutions of interest to them. Another body which accredits representative groups and lobbyists is ECOSOC, the policy-making body of the UN (http://esango.un.org/civilsociety/login.do). A new group cannot qualify for immediate accreditation: it must wait for several years; furthermore, to keep accreditation, it must submit a report outlining all consultation and lobbying activities carried out at the UN once every four years. This is much more resource-heavy but does mean that there is a published record of activity and access to the text by all UN bodies of all written submissions made. Accredited organisations are however invited to participate in written consultations and all conferences, meetings and activities relevant to their area(s) of interest (with some exceptions). Cúram has participated in both EU and UN systems (directly or through umbrella organisations) and recognises that, while these structures do force organisations to focus their resources and improve the quality and effectiveness of their activities, neither levels the playing pitch between those who are involved in consultation in order to further a vested interest (which may have very significant financial and other resources behind them) and those with a legitimate view or expertise which may serve the public interest and/or the group they represent. Many reports on the poor decision-making of the Celtic Tiger period have noted how groupthink and consensus excluded alternative voices with valid views which could, and in many cases should, have been taken into consideration. There are benefits to providing structured consultations if they are properly targeted, focused and planned, at all levels of the process, beginning with a clear description of the ultimate result sought by the body inviting consultation.
Issue – Fees:	
Submitter	Commentary
Chartered Institute of Logistics and Transport in Ireland	The Institute is strongly opposed to the levying of fees or charges on users of the register. If the State wishes to regulate lobbying activity, then it should bear the cost through general taxation. It is difficult to reconcile the two statements in Recommendation 15 that the level of fee will not be a significant disincentive to registration and that the fee will be set to cover the cost of establishing and maintaining the lobbying register.
Conor McGrath Public Affairs	Finally so far as Part I of the General Scheme is concerned, Head 6 makes clear that the cost of a lobbying register is to be borne by public funds. The accompanying Regulatory Impact Analysis published by the Department of Public Expenditure and Reform states (p. 11) that it is anticipated that the system will involve start-up costs of €300,000 and annual ongoing costs of €400,000.[9] My strong belief is that this is part of the price of an open and vibrant democracy and DPER should not shy away from making the case for public investment. Equally, though, it is appropriate that lobbyists themselves contribute to the cost of the register, through an annual registration fee of perhaps €200-300 per registrant. One of the significant costs will be the creation of an easily searchable database

	so that all citizens have access to the information, which requires a reliable IT platform. One of the lessons in the evolution of the current register of the UK Public Affairs Council is surely that this is not something which can be done cheaply if it is to function properly. The government will need to invest significant resources to get such a system established, but we will all derive benefit from having an effective register.
Construction Industry Federation	The CIF is opposed to any fees being introduced for the proposed register of lobbyists. As the proposals require those who are taking part in the register to undertake the costs of registering the public affairs activity and to complete the necessary paperwork, it would be unfair to then require these bodies to pay another fee on top of that work. Those who are complying with the proposals should not be subjected to further financial impediments in the form of fees. A registration fee would amount to no more than a tax for those bodies who are seeking to comply with the proposals. It would amount to a tax for activity that these bodies are expected to undertake as part of the proper functioning of Government and Irish society. If the Government determines that a fee is necessary to meet any costs associated with the establishment of this register, then that fee should not apply to bodies and groupings who engage with the Government on an ongoing basis. Engagement is one of the major factors why these various organisations came into being. Engaging in the political and policy framework has been an active part of the work conducted by these organisations and it has helped guide the successful formulation of informed policy. They should not be subjected to an additional fee for working in tandem with the Government. It would seem more logical and more appropriate that if a fee is to be implemented it should be limited to professional lobbyists paid for undertaking particular lobbying campaigns and not bodies who represent membership groups or industries.
Issue - Registrar and Registration:	
Submitter	Commentary
ASH Ireland	All business entities, organisations, umbrella groups, specific groups established for lobbying purposes and individuals who engage with government departments and related agencies including interaction with Ministers and Junior Ministers, TDs and Senators should be listed for public view at a web location to be decided – and the issue on which these groups and organisations have lobbied should also be listed. In addition, the names of all individuals present, as well as the date and location, should be made available.
Association of Optometrists Ireland	In principle the AOI supports the concept of a Register for 'lobbyists' however we feel that the definition of lobbyist needs to be carefully considered. Organisations such as professional bodies, like the AOI, have a clearly defined role in representing the views of the membership of that body. As far as we are aware, in Australia & New Zealand where there is legislation requiring the registration of lobbyists professional bodies such as the AOI, where it is clear whom it is being represented, are exempt from the requirement to register. The AOI would strongly support this position and urge the Minister support this. As with other professional bodies the AOI is required to engage with government; for example officials in various government departments, the HSE, Competition Authority, Opticians Board and or CORU on a variety of levels. In the main this is dealt with on a case by case basis by volunteer members of the AOI (elected to) committees, supported by the administrative staff. As mentioned above and detailed in the appendices, the AOI position is that such representation of the views of the profession by members

	of the profession should not require registration as a 'lobbyist'. In certain circumstances organisations such as the AOI may opt to retain the services of a professional 'lobbyist'. If so, such a lobbyist should be covered by any registration scheme and it would be appropriate, in the interests of full disclosure and clarity, that where any submission is made the input of a professional 'lobbyist' should be clearly indicated.
	An electronic register of 'lobbyists' should be made available online. This register should include details of the o Company name o Name of lobbyist(s) o Previous role as elected official or civil servant for staff of 'lobbying' company or organisation o Name and details of the company, person or organisation engaging the service of the 'lobbyist' o Dates and brief descriptions of meetings with civil servants or elected officials.
Chambers Ireland	Ensure that the registry is introduced on a basis that ensures that legimate representative organisation such as our own are not forced to pay registration fees for representing the legimate needs and interests of our stakeholders
Chartered Institute of Logistics and Transport in Ireland	Among the information which it is recommended should be submitted on registration is *"the specific policy or legislative issues or areas of public administration of interest to the registrant, including the name of the Bill or other identifier of the legislation"*. Some parts of this definition, particularly the latter clause, seem more relevant to regular detailed reporting than to general registration. A more general formulation along the following lines would seem more appropriate to registration: *"the general policy or legislative issues or areas of public administration of interest to the registrant"*. The more specific issues of interest to a lobbyist, for example a particular piece of legislation, will more appropriately be picked up through the quarterly reporting obligations. The Policy Paper proposes that there should be quarterly reporting on lobbying activity. What is not clear is the extent to which these reporting obligations impinge on individuals, particularly those who act in a voluntary capacity. To enable an organisation comply with its reporting obligations, will it be necessary for people who act as officers of that organisation in a voluntary capacity to keep a record of all contacts, however fleeting, with public officials? The quarterly report is supposed to include "summary information to determine the nature, scope, intensity and type of lobbying activity during that period". There needs to be much greater clarity as to what precisely this means. Which the inclusion of the words "summary information" suggests a light touch approach, the rest of the definition seems to involve very onerous reporting obligations for the organisation itself and for its individual employees and officeholders who will have to provide the raw material on which the report is based. Such clarity is of particular importance because it will become the determining factor for continued participation by some people in the governance of bodies covered by the lobbying legislation. Will responses to public consultations or other communications to public bodies which they routinely publish on their websites be subject to reporting under these provisions? Recommendation 6.5(vi) goes part of the way to answer this question, but the exemption is much too narrowly drawn.
Conor McGrath	Part II of the government's General Scheme outlines the mechanics of how the lobbying register will operate. Head 7 ensures that it will

Public Affairs	be accessible free of charge on the Internet, and leaves it to the registrar to determine how the register shall be organised. In this regard, I endorse the comments made by Rob McKinnon of Who's Lobbying in his written evidence to the House of Commons Political and Constitutional Reform Select Committee inquiry regarding the need for a register to be fully searchable and for lobbying organisations to be clearly identified in it. The register must be updated *"a minimum of three times a year"* according to Head 8 – in my view, this is the very least we ought to expect of lobbyists, and it would be preferable if the system allowed them to file returns more regularly than this if they wish to do so. Indeed, the anecdotal experience of lobbyists in other regulated jurisdictions is that registration is a relatively straightforward matter which is simplest and least time-consuming when it is done more regularly.
	Head 9 sets out (in paragraph 1) the categories of information which will initially be registered. Most are straightforward and appropriate. In this regard, the government's proposals certainly meet the test suggested by the UK House of Commons Public Administration Select Committee which concluded (p. 41) that, *"If sensibly framed, regulation would simply require those involved in the process of lobbying to provide information which should already be in their hands."* Most lobbying organisations presumably already hold the records of their lobbying activities in the normal course of their internal operation and accounting. It is likely that the time involved in preparing this information in whatever form would be specified by the lobbying registrar would not be onerous – and certainly the benefits to wider accountability and transparency disproportionately outweigh the costs to each lobbying organisation. Subparagraph (viii) would require lobbyists to declare if they have *"access rights"* to Leinster House or government offices. I would suggest that the legislation ought to establish a rule that any current or former public office holder who also works as a lobbyist must have any privileged access to the institutions of government rescinded for the duration of the time in which they are registered as a lobbyist. According to subparagraph (ix), registration will include *"summary information to determine the type, nature and extent of lobbying activity / communication techniques undertaken."* While this information would certainly be useful and relevant, it does leave open at this stage the question of what constitutes an adequate summary. One suggestion offered by ASH Ireland, in its submission to Phase I of DPER's consultation exercise, was that lobbyists ought to be obliged to *"provide research and/or specific justification for courses of action they wish the government to take"*.
Cúram - Irish NGO seeking recognition for unremunerated parents and carers	1. For the government to establish a single, publically-available database, possibly under the Department of the Taoiseach, similar to that of the EU commission, for lobbyists and representative organisations to o register their interests and their sources of finance and revenue o apply to receive calls for participation in consultations, conferences, and other opportunities to make submissions, o upload written submissions, o list meetings granted with members of the government, Oireachtas, or higher civil servants in government departments; 2. Registration to the database should not take more than 1 hour initially and updates should only take 15 minutes; 3. For the government, Oireachtas, and government departments to

	publish a list of lobbyists and representatives granted meetings, including the date and topic of meetings; 4. For organisations seeking meetings with government, Oireachtas and government departments to register to the database.
Issue - Disclosure of information:	
Submitter	Commentary
Conor McGrath Public Affairs	According to one academic: "Registration is likely to serve little purpose unless it requires the provision of specified information, most importantly the beneficiaries of lobbying, a list of clients, and the issue or subject-matter" (Rush, 1994, p. 634). The register should be framed in such a way as to require only that information which can be provided with relative ease, and only that which is "of genuine potential value to the general public, to others who might wish to lobby government, and to decision makers" (PASC, 2009a, p. 52). Under Fine Gael's proposals (2010, p. 78), registered lobbyists must declare: the client or employer on whose behalf lobbying was undertaken; the public bodies which were lobbied; the "subject matter, proposal or policy" which was lobbied on; and "such other matters as may be prescribed by the Minister as being required in order to enhance transparency and maintain stability and confidence in policy, political and decision making processes". The Labour Party Bill (2008, pp. 6-7) calls for much the same information, although it is rather more precise in its wording. It would be useful if the language used in the government's legislation is clear that lobbyists must record as precisely as possible the specific issue being lobbied on (such as identifying the particular Bill or regulation) rather than allowing lobbyists to simply record a broad policy area. In addition, the Labour Party would require disclosure of any funding received by the organisation from government. Neither text specified that the names of all policymakers with whom a lobbyist communicated should be disclosed, but this would certainly be helpful in meeting the objective of accountability and could usefully be inserted into the government's legislation. Similarly, neither text would have compelled lobbyists to disclose information about either their fee income (for consultancies) or their lobbying expenditures (for other organisations). As discussed above, this is clearly a topic on which genuine debate is possible. My own view on balance is that this sort of disclosure has not proved to be excessively commercially sensitive in the United States, and it is an area where perhaps the government could consider a range of options. Other items of information which could usefully be included in any list of the material to be disclosed include: listing any public offices the lobbyist has formerly held; listing any trade associations, professional bodies or advocacy coalitions through which the organisation undertakes any of its lobbying activities; a summary of the lobbyist's position on the policy item which was the subject of the lobbying; details of any expenditure by lobbyists on secondary bodies or individuals; copies of all submissions made to policymakers; and a record of all meetings and correspondence between lobbyists and policymakers (see the written evidence of the National Union of Journalists at PASC, 2009b, p. 220; and that of Spinwatch at PASC, 2009b, p. 221). One interesting proposal in the House of Commons Public Administration Select Committee report was that a register should go beyond providing the bare details of contacts between lobbyists and policymakers, by using "diary records and minutes of meetings" so that the public can "see what contacts are taking place, and to reach a reasonably informed judgement as to whether decision makers are receiving a balanced

	perspective from those they are meeting" (PASC, 2009a, p. 54). The Labour Party Bill included one particularly innovative proposal which does not appear in Fine Gael's draft Bill, but which has the potential to significantly expand the value of the information disclosed. It would have required lobbyists in Ireland to "identify any communication technique (including appeals to members of the public through the mass media or by direct communication that seek to persuade members of the public to communicate directly with a public official in an attempt to persuade the public official to endorse a particular opinion) that the person has used or expects to use in an attempt to influence that matter" (Labour Party, 2008, pp. 6-7). If such a proposal was actually enacted, it would throw considerable light on the process of grassroots lobbying and I urge the government to include this in the legislation it produces. I would particularly highlight one further idea which would significantly increase the value of disclosure. During the inquiry held by the House of Commons Public Administration Select Committee, the Association of Professional Political Consultants argued that comprehensive regulation would need to "cover people who lobby on an *ad hoc* basis, such as the company director who has a lunch with his local MP" (PASC, 2009b, p. 142). A corporate CEO may typically spend only a few days a year lobbying policymakers, but the APPC is correct to highlight the potential importance of such interactions. The opportunity exists now for Ireland to implement a truly original element of lobbying regulation. I would suggest that any organisation which is obliged to register its lobbying activities must record all such contacts between the organisation and policymakers. If anyone in an organisation meets the definition of a lobbyist, then all lobbying undertaken by everyone in that organisation ought to be recorded. In practice, this could be done quite simply: for those groups which register multiple lobbyists, one would be designated as the primary respondent (and naturally if an organisation only registers one lobbyist then he or she is by default the primary respondent) who has the responsibility of ensuring that all contacts between non-registered employees and policymakers are recorded in the register.
Issue - Cooling-off period:	
Submitter	Commentary
Chartered Institute of Logistics and Transport in Ireland	The proposal in the Programme for Government that no senior public servant or Minister can work in the private sector in any area involving a potential conflict of interest with their former area of public employment, until at least two years have elapsed, needs to be reconsidered. It raises a serious question as to whether it infringes personal rights under the Constitution. It is also unlikely that any private organisation could lawfully enforce such a restraint on trade on any of its former employees; a maximum period of one year is about the limit of what could be enforced under an employment contract. Why should public sector employees be treated any differently? Would a Minister who lost his or her seat at a General Election be precluded from returning to a former employment where there was a potential conflict of interest? Would a former Minister for Health be precluded from returning to work as a medical consultant or a former Minister for Transport be prevented from going back to a previous job as a director of a transport company? If public officials are to be precluded from working in the private sector for a period, that exclusion should also apply to

	commercial State companies, most of which are in competition with private companies. For example, if a former Minister for Energy were to be precluded from working for a private energy company, he or she should also be precluded from working for ESB or BGE. The proposals would also seem to make it very difficult for public officials to embark on a change of career. By contrast private sector employees can relatively easily do so. The Institute agrees with the comment in the Policy Paper that the wider the restriction, the more vulnerable to legal challenge it will be and supports the suggestion that the restriction should therefore be targeted at prohibiting direct involvement by a former public official in lobbying where that would involve a potential conflict of interest relating to their former public employment.
Commission for Communications Regulation	Recommendation 16 makes recommendations regarding 'cooling off' periods. It should be noted that some 'cooling off' provisions already exist in legislation e.g. for ComReg Commissioners in the Communications Regulation Act 2002 (Section 19).
Conor McGrath Public Affairs	One area of particular concern in most modern democracies – commonly referred to as the 'revolving door' – is the practice whereby an individual will move over the course of his or her career between a variety of public and private sector posts. In essence, the issue here is that of potential conflicts of interest. Stated at its baldest, there is a danger that a former politician or civil servant will be able to use the contacts and knowledge they have gained at taxpayers' expense in the official position and translate those assets into a valuable commodity when moving into a new role as a lobbyist. The main body of the *New Politics* document says that Fine Gael will "institute a one-year 'cooling-off' for former public officials in both local and central government, before they can join a private sector company that works for or with the State in a way that relates to the former official's work" (Fine Gael, 2010, p. 27). What the party's draft legislation actually states, however, is substantially more rigorous – "No person shall, during a period of three years after the day on which they ceased to be a public official, carry on any lobbying activities … whether as an individual or as an employee of a body corporate on behalf of that body corporate" (Fine Gael, 2010, p. 78). It is therefore unfortunate that the current consultation paper appears to retreat from this in three ways – 1) by suggesting a decontamination period of two rather than three years; 2) by mentioning that the restriction may apply to civil servants and Ministers but neglects to state that TDs, Senators and council members will also be subject to it; and 3) by saying that the restriction would apply only to the person's former area of public employment rather than to lobbying on all issues.
Department of Children and Youth Affairs	The Department would suggest, however, that category (v), "Senior Civil and Public Servants" may require further clarification. In that connection, regard might be had to the coverage of public servants envisaged in the Ethics and Public Office Act 1995 and 2001, as stated in the most recent Guidelines published by the Standards in Public Office Commission
Issue - Conflict of Interest:	
Submitter	Commentary
Alcohol Action Ireland	The principle I.1: *countries should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public bodies* goes on to state *"Allowing <u>all</u> stakeholders from the private sector and public sector at large, fair and equitable access to participate in the development of public policies is crucial to protect the integrity of decisions and to*

	safeguard the public interest by counterbalancing vocal vested interests." We would suggest that in the area of public policy development this principle referring to *all stakeholders* is inherently contradictory. It does not take into account conflict of interests on the part of vested commercial interests in the development of public policy since said commercial interests are primarily responsible to their shareholders with profits not public good the primary goal. Partnership in this case is a means of protecting commercial interests. Alcohol Action Ireland has specific concerns in relation to the involvement of commercial vested interests, affiliated industries and the not-for-profit/ social aspect organisations, established by commercial vested interests in public health policy-making.
Issue – Sanctions:	
Submitter	Commentary
Chartered Institute of Logistics and Transport in Ireland	It is not clear what specific sanctions are being proposed. ...... but most of Recommendation 12 uses very general language which is not helpful to an understanding of the Government's intentions. ... ... The Policy Paper refers to the Mahon Tribunal recommendation that administrative sanctions such as fines or temporary suspension of registration should be put in place. Fines are not generally regarded as administrative sanctions but as matters appropriate to a Court. The Institute would be opposed to fines being imposed other than by a Court. We would also urge that the creation of criminal offences should be reserved for serious breaches of the law which involve deliberate acts intended to deceive or conceal, such as providing information which the organisation knew was false or misleading. The regulatory impact assessment should assess the potential impact on volunteerism of any offences created under the legislation. This should include consideration of the matters which should be made criminal offences, the level of penalties and the persons liable to conviction. If volunteer officers of an organisation were to be potentially liable to the types of penalties set out in Canadian legislation (up to $200,000) or proposed in Private Members Bills (up to €10,000), many would question their continued involvement in the work of bodies such as the Institute. The assessment also needs to take account of the wider context where officers of bodies find themselves faced with ever increasing and onerous obligations across a range of matters from health and safety to child protection. Particular consideration has to be given to the cumulative effect of such measures. Presumably the purpose of temporary or permanent exclusion from the register is to preclude an organisation from lawfully lobbying public bodies. This is likely to be ineffective in practice since it will not be possible to prevent individual members of that organisation from lobbying. By encouraging that organisation to engage in indirect lobbying through its individual members, it may have the perverse effect of making such lobbying less transparent.
Conor McGrath Public Affairs	*The Promotion of Standards through Incentives as well as Sanctions.* I should like to take this opportunity to suggest that it would be useful if the government were to consider not just the stick of criminal sanctions, but also the carrot of practical incentives which might be offered to registered lobbyists. One interesting feature of Fine Gael's draft Bill (2010, p. 77) is that it states that, "Persons who have been admitted onto the register shall be furnished with an accreditation card". Left unspecified is precisely what such a card could be used for, but one obvious possibility is that it might serve as an access pass for entry to the parliamentary estate. This is an issue about which many Irish lobbyists appear to feel strongly. The

Submitter	Commentary
	Public Relations Institute of Ireland issued a statement in 2007 which called for linking the creation of a register with the introduction of an access pass allowing registered lobbyists to gain entry to parliamentary buildings: "Any attempt to regulate the lobbying profession must go hand in hand with improved access to Leinster House" (PRII, 2007). My own personal view that passes for lobbyists should not be necessary, but there is certainly room for genuine debate on this. What is essential is that all lobbyists should be treated equally in regard to the issuing of passes – either all should have a pass, or none. It is true that Leinster House is not a particularly public-friendly building. The most compelling rationale I know of in favour of giving lobbyists access passes is offered by Fallon (2011), who argues that if lobbyists were to operate on a more level playing field in terms of their physical access to policymakers then the industry could potentially open up from the closed shop it currently is.
Issue – International dimension:	
Submitter	Commentary
ASH Ireland	International agreements in regard to lobbying by major vested interests should be enshrined or noted in the context of Ireland's proposed legislative changes in this respect we refer in particular to the Framework Convention on Tobacco Control (FCTC).
Construction Industry Federation	The CIF also mirrors concerns expressed in some submissions by other groups that lobbying organisations not registered in Ireland would not be subject to this register. All lobbying activity that takes place in Ireland should be included and documented. If this was not included under the register there would be little to prevent lobbying groups from establishing 'off shore' operations as the mechanism for conducting their lobbying activity. That would ensure that they continued to operate away from public scrutiny, again undermining the purpose of the legislation. We also believe that lobbying activity conducted by embassies and foreign officials of a commercial nature should be included. While it would be prudent to exempt certain communications concerning security and other issues of national importance, we do not believe that lobbying activity on behalf of commercial interests should be protected in this fashion. Again this would only serve to undermine the purpose of this policy.
Issue - Funding:	
Submitter	Commentary
ASH Ireland	Those groups or individuals involved in lobbying should produce annual accounts detailing the sources of their funding and these accounts should be displayed at a web location

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM

List of Members

Chairman: Ciarán Lynch (LAB)********

Deputies:
Richard Boyd Barrett (PBP)
Michael Creed (FG)
Pearse Doherty (SF)
Regina Doherty (FG)***********
Stephen S. Donnelly (IND)
Timmy Dooley (FF)*
Alan Farrell (FG)************
Seán Fleming (FF)
Simon Harris (FG) *********
Joe Higgins (SP)
Heather Humphreys (FG)
Kevin Humphreys (LAB)
Mary Lou McDonald (SF)
Michael McGrath (FF)
Dara Murphy (FG)******
Kieran O'Donnell (FG)
Aodhán Ó Ríordáin (LAB)**********
Arthur Spring (LAB)
Brian Stanley (SF)*******
Liam Twomey (FG) (Vice-Chair)

Senators:
Seán D. Barrett (IND)
Thomas Byrne (FF)
Paul Coghlan (FG)*****
Michael D'Arcy (FG)
Aideen Hayden (LAB)
Tom Sheahan (FG)

Notes:
1. Deputies appointed to the Committee by order of the Dáil on 9 June 2011
2. Senators appointed to the Committee by order of the Seanad on 16 June 2011
3. *Deputy Timmy Dooley appointed on 21 June 2011 in place of Deputy Seán Ó Fearghaíl
4. Deputy Alex White elected as Chairman on 23 June 2011
5. Deputy Liam Twomey elected as Vice Chairperson on 23 June 2011
6. **Deputy Michael McNamara appointed on 8 December 2011 in place of Deputy Thomas P. Broughan
7. ***Deputy Pádraig Mac Lochlainn appointed on 14 December 2011 in place of Deputy Jonathan O'Brien
8. ****Senator Denis O'Donovan appointed on 10 May 2012 in place of Senator Katherine Zappone
9. *****Senator Paul Coghlan appointed on 14 June 2012 in place of Senator Denis O'Donovan
10. ******Deputy Dara Murphy appointed on 19 July 2012 in place of Deputy Olivia Mitchell
11. *******Deputy Brian Stanley appointed on 25 September 2012 in place of Deputy Pádraig Mac Lochlainn
12. ********Deputy Alex White promoted Minister of State 2 October 2012, Deputy Ciarán Lynch replaced Deputy White by order of the Dáil on 10 October 2012 and was elected Chairman 10 October 2012
13. *********Deputy Simon Harris appointed on 28 November 2012 in place of Deputy Jim Daly
14. **********Deputy Aodhán Ó'Ríordáin appointed on 28 November 2012 in place of Deputy Michael McNamara
15. ***********Deputy Regina Doherty appointed on 3 July 2013 in place of Deputy Peter Mathews
16. ************Deputy Paschal Donohoe appointed on 3 July 2013 in place of Deputy Billy Timmins and discharged on his appointment as Minister of State 12 July 2013 being replaced by Deputy Alan Farrell by order of the Dáil on 18 July 2013

Orders of Reference of the Joint Committee on Finance, Public Expenditure and Reform

a. Functions of the Committee – derived from Standing Orders [DSO 82A; SSO 70A]

(1) The Select Committee shall consider and report to the Dáil on—
- *(a)* such aspects of the expenditure, administration and policy of the relevant Government Department or Departments and associated public bodies as the Committee may select, and
- *(b)* European Union matters within the remit of the relevant Department or Departments.

(2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann to form a Joint Committee for the purposes of the functions set out below, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—
- *(a)* Bills,
- *(b)* proposals contained in any motion, including any motion within the meaning of Standing Order 164,
- *(c)* Estimates for Public Services, and
- *(d)* other matters

as shall be referred to the Select Committee by the Dáil, and
- *(e)* Annual Output Statements, and
- *(f)* such Value for Money and Policy Reviews as the Select Committee may select.

(4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies, and report thereon to both Houses of the Oireachtas:
- *(a)* matters of policy for which the Minister is officially responsible,
- *(b)* public affairs administered by the Department,
- *(c)* policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
- *(d)* Government policy in respect of bodies under the aegis of the Department,
- *(e)* policy issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
- *(f)* the general scheme or draft heads of any Bill published by the Minister,
- *(g)* statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
- *(h)* strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
- *(i)* annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas,

of the Department or bodies referred to in paragraph (4)(*d*) and (*e*) and the overall operational results, statements of strategy and corporate plans of such bodies, and

(*j*) such other matters as may be referred to it by the Dáil and/or Seanad from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 105, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, and

(d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) A sub-Committee stands established in respect of each Department within the remit of the Select Committee to consider the matters outlined in paragraph (3), and the following arrangements apply to such sub-Committees:

(*a*) the matters outlined in paragraph (3) which require referral to the Select Committee by the Dáil may be referred directly to such sub-Committees, and

(*b*) each such sub-Committee has the powers defined in Standing Order 83(1) and (2) and may report directly to the Dáil, including by way of Message under Standing Order 87.

(7) The Chairman of the Joint Committee, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee and of any sub-Committee or Committees standing established in respect of the Select Committee.

(8) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

(*a*) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(*b*) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(*c*) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees (as derived from Standing Orders [DSO 82; SSO 70]

(1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.

(2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 26. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

(4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Dáil Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.

(5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(a) a member of the Government or a Minister of State, or

(b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

Submissions received by the Department of Public Expenditure and Reform on the General Scheme of the Regulation of Lobbying Bill 2013 and formally referred to Joint Committee on Finance, Public Expenditure and Reform.

Action on Smoking and Health
Age Action
Alcohol Action Ireland
Association of Optometrists of Ireland
Barnardos
Birdwatch Ireland
Chambers Ireland
Chartered Accountants of Ireland
Conor McGrath Public Affairs
Cúram (Irish Parent & Carer NGO)
Dr. Elaine Byrne
Dublin International Insurance Management Association
Eve Rowan, Ciara O'Sullivan and Killian Keys (DIT Students)
Federation of Ophthalmic and Dispensing Opticians Ireland
Fianna Fáil
Free Legal advice Centres Ltd
GFC Consulting
Hume Brophy
Institute of Professional Auctioneers and Valuers
Irish Business and Employers Confederation
Irish Cancer Society
Irish Charities Tax Reform Group
Irish Congress of Trade Unions
Irish Council for Social Housing
Irish Farmers Association
Irish Heart Foundation
Irish Hospice Foundation
Irish Medical Organisation
Irish National Organisation of the Unemployed
Irish Pharmacy Union
Irish Property Owners Association
Irish Senior Citizens Parliament
Irish Small and Medium Enterprises Association
Irish Tax Institute
John Player
Law Society of Ireland
Mason Hayes & Curran
Nessa Childers MEP
Older & Bolder
One Family
Policy Action
PRCA-CMS
PRCA-Ltr
PRII-Ltr

Professional Insurance Brokers Association
Public Relations Consultants Association
Public Relations Institute Ireland
Restaurants Association of Ireland
Retail Grocery, Dairy and Allied Trade Association
Small Firms Association
Social Justice Ireland
Society of St. Vincent de Paul
TASC
The Advocacy Initiative
The Advocacy Statement Designed
The Alzheimer Society of Ireland
The Wheel
Transparency Ireland
Treoir
Valuation Office
Voice of Irish Concern for the Environment
Working Group of Irish Charity Law Practitioners
Bord na Mona Fuels Ltd
Chartered Institute of Logistics and Transport
Commission for Communications Regulations
Conor McGrath
Construction Industries Federation
Córus Iompar Éireann Group of Companies
Active and Passive Trading in Influence
Department of Communications, Energy & Natural Resources
Department of Children & Youth Affairs
Department of Foreign Affairs & Trade
Department of Jobs, Enterprise and Innovation
Department of Justice and Equality
Department of Transport, Tourism and Sport
Department of Health PQ 31073-12 Tobacco Control
Electricity Supply Board Group
Framework Convention on Tobacco Control Article 5.3
Framework Convention on Tobacco Control Extracts from Article 5.3
Guidelines on Article 5.3 of WHO FCTC
Irish Business and Employers Confederation
Irish Farmers Association
Irish Tax Institute
Mayson Hayes & Curran
Public Relations Consultants Association
Summary of Interactions between ITI and Revenue
Transparency International Ireland
Údarás na Gaeltachta
WHO Framework on Tobacco Control