SUMMARY

Most countries do not regulate the activities of lobbyists, but a few have longstanding regulatory regimes, while some others have introduced them recently. This paper outlines the regulatory regimes currently in place in Australia, Canada, the European Union, France and the United States. Together they illustrate a range of approaches to regulating lobbying. The paper concludes with an outline of the Organisation for Economic Co-operation and Development’s recommendation to its members on transparency and integrity in lobbying.

- Under Australia’s Lobbying Code of Conduct, third party lobbyists who wish to lobby government representatives must be listed in the Register of Lobbyists. Breaches of the Code may result in deregistration. Former ministers and senior public servants must observe a cooling off period before they may act as lobbyists.

- Canada’s Lobbying Act applies to lobbyists’ communications with executive and legislative public office holders. Lobbyists must file returns and observe a code of conduct. Breaches of the Act may incur fines and/or imprisonment. Certain former public office holders must observe a cooling off period before they may become lobbyists.

- The European Commission and the European Parliament expect lobbyists to register in the jointly maintained Transparency Register. Registrants may be granted long-term access to the premises of Parliament. Breaches of a code of conduct may result in deregistration and withdrawal of access to Parliament. Lobbying activities by former European commissioners are restricted during a cooling off period.

- Both Houses of the French Parliament maintain registers of lobbyists who have access to their premises. Failure to abide by a code of conduct may result in deregistration and withdrawal of access.

- The United States’ Lobbying Disclosure Act of 1995 requires lobbyists who lobby the executive or legislative branches to register and file returns. Failure to comply may incur fines and/or imprisonment. Under other legislation, cooling off periods apply to lobbying by former officers, employees and elected officials of the executive and legislative branches.
Introduction

Most countries do not regulate the activities of lobbyists, but a few have longstanding regulatory regimes, while some others have introduced them recently. This paper outlines the regulatory regimes currently in place in Australia, Canada, the European Union, France and the United States. Together they illustrate a range of approaches to regulating lobbying. The paper concludes with an outline of the Organisation for Economic Co-operation and Development’s recommendation to its members on transparency and integrity in lobbying.

For each of the regulatory regimes covered in this paper, the outline includes as applicable:

- a brief history of the current regulatory regime;
- definitions of lobbyists, clients, lobbying targets and lobbying;
- registration and reporting requirements;
- codes of conduct;
- enforcement mechanisms;
- cooling off periods for former office holders who become lobbyists.

These outlines are indicative only. Reference should be made to the official sources for each jurisdiction for full information on each of the regimes.

Overview

Lobbying of both the executive and the legislature in Canada and the United States is regulated by longstanding laws. More recently Australia has reintroduced a code of conduct for lobbying the executive, while both Houses of the French Parliament have introduced rules for lobbyists. The European Parliament and the European Commission have adopted an agreement for a joint register of lobbyists, based on registers previously kept independently by each institution.

At the heart of each regime is a register of lobbyists. In Australia the register is administered by the Department of the Prime Minister and Cabinet, and in Canada by the Commissioner of Lobbying, who is an officer of Parliament. The European Parliament and the European Commission have set up a joint secretariat to maintain the register. In France and the United States both Houses of the legislature maintain registers.

In Australia only third party lobbyists are required to register; the other regimes apply to both third party and in-house lobbyists. Lobbying activities or communications are the focus of registration in Australia, Canada and the United States. Registration with either House of the French Parliament gives the lobbyist access to all or part of that House’s premises. The joint register of the European Commission and European Parliament covers both lobbying activities and access to the premises of the European Parliament.

Lobbyists must observe codes of conduct or principles of engagement under all the regimes except that of the United States. Failure to comply with a code of conduct or registration or reporting requirements may incur penalties ranging from deregistration in Australia, the European Union and France to fines and/or imprisonment in Canada and the United States.

Australia, Canada and the United States all prescribe cooling off periods, mostly between one and five years, before former holders of certain positions are permitted to register as lobbyists. In Australia and Canada these cooling off periods are included in the lobbying code or law; in the United States they are covered by separate legislation. Former European Commissioners must observe a cooling off period before they may lobby the European Commission, and former members of the European Parliament face some restrictions on lobbying.
The essential elements of these regulatory regimes are summarised in the two tables below:

**Table 1**

<table>
<thead>
<tr>
<th>Regulatory regime</th>
<th>Type of regulatory regime</th>
<th>Lobbying target</th>
<th>Administrative responsibility</th>
<th>Cooling off periods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Code of conduct</td>
<td>Executive</td>
<td>Government department</td>
<td>Yes</td>
</tr>
<tr>
<td>Canada</td>
<td>Law</td>
<td>Executive, Legislature</td>
<td>Commissioner</td>
<td>Yes</td>
</tr>
<tr>
<td>European Union</td>
<td>Joint agreement</td>
<td>Executive, Legislature</td>
<td>Joint secretariat</td>
<td>Yes</td>
</tr>
<tr>
<td>France</td>
<td>Rules</td>
<td>Legislature</td>
<td>Legislature</td>
<td>No</td>
</tr>
<tr>
<td>United States</td>
<td>Law</td>
<td>Executive, Legislature</td>
<td>Legislature</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Table 2**

<table>
<thead>
<tr>
<th>Lobbyists</th>
<th>Type of lobbying</th>
<th>Principles/Code of conduct</th>
<th>Enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>3rd party</td>
<td>Lobbying activities</td>
<td>Yes</td>
</tr>
<tr>
<td>Canada</td>
<td>3rd party, in-house</td>
<td>Lobbying communications</td>
<td>Yes</td>
</tr>
<tr>
<td>European Union</td>
<td>3rd party, in-house</td>
<td>Lobbying activities/access</td>
<td>Yes</td>
</tr>
<tr>
<td>France</td>
<td>3rd party, in-house</td>
<td>Access</td>
<td>Yes</td>
</tr>
<tr>
<td>United States</td>
<td>3rd party, in-house</td>
<td>Lobbying activities</td>
<td>No</td>
</tr>
</tbody>
</table>
Australia

The Lobbying Code of Conduct was introduced in 2008. An earlier Lobbyist Registration Scheme had been in force between 1983 and 1996. The Code was amended in 2011 to require lobbyists to disclose previous employment as a government representative.

Tabling the Code in the Senate in May 2008, Senator Faulkner, Special Minister of State and Cabinet Secretary, said:

The government recognises that lobbying is a legitimate activity and part of the democratic process. ... However, there is a legitimate concern that ministers, their staff and officials who are the target of lobbying activities are not always fully informed as to the identity of the people who have engaged a lobbyist to speak on their behalf. The government believes that this information can be fundamental to the integrity of its decisions and should be freely available to those who are lobbied and to the wider public.

The public is also right to be concerned about politicians and others who leave office and immediately begin a career lobbying their former colleagues using contacts they developed and information they obtained while in office. ...

The Lobbying Code of Conduct will apply to third-party or consultant lobbyists. ... It does not apply to government relations staff employed in major companies or peak industry organisations as the very nature of their employment means that it will be clear to ministers and others whose interests they will be representing.

Lobbying Code of Conduct

The Lobbying Code of Conduct applies to contacts between third party lobbyists and government representatives. Third party lobbyists who wish to lobby government representatives must be listed in the Register of Lobbyists and must observe the principles of engagement set out in the Code. Breaches of the Code may result in deregistration. Former ministers and senior public servants must observe a cooling off period before they may act as lobbyists.

Lobbyists

A lobbyist is any person, company or organisation, or their employee, who conducts lobbying activities on behalf of a third party client.

Entities that are excluded from the definition of lobbyist include charitable, religious and non-profit organisations, and individuals making representations on behalf of relatives or friends about personal matters.

The Code does not apply to any person, company or organisation, or their employee, who engages in lobbying activities on their own behalf rather than for a client.

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3 What are the changes to the Register that took effect on 1 August 2011? http://lobbyists.pmc.gov.au/faq.cfm#1
Clients

Lobbyists’ clients are individuals, associations, organisations or businesses who have engaged the lobbyist to make representations to government representatives.

Government representatives

A government representative may be:

- a minister;
- a parliamentary secretary;
- a person employed or engaged by a minister or a parliamentary secretary under the Members of Parliament (Staff) Act 1984;
- an agency head or a person employed under the Public Service Act 1999;
- a person engaged as a contractor or consultant by a government agency whose staff are employed under the Public Service Act 1999;
- a member of the Australian Defence Force.

Lobbying activities

Lobbying activities comprise oral, written or electronic communications with a government representative in an effort to influence government decision-making, including:

- the making or amendment of legislation;
- the development or amendment of a government policy or programme;
- the awarding of a government contract or grant or the allocation of funding.

Included among the communications that do not constitute lobbying activities are:

- communications with a parliamentary committee;
- communications with a minister or parliamentary secretary in their capacity as a local member or senator in relation to non-ministerial responsibilities;
- petitions or communications of a grassroots campaign nature;
- statements made in a public forum;
- responses to requests by government representatives for information.

Registration

The Register of Lobbyists is maintained by the Secretary of the Department of the Prime Minister and Cabinet, and is published on the Department’s website.

The Register contains:

- the lobbyist’s business registration details;
- the names and positions of persons employed, contracted or otherwise engaged to carry out lobbying activities, whether these persons have been government representatives and, if they have, the date they ceased to be such;
- the names of clients on whose behalf the lobbyist conducts lobbying activities.

Principles of engagement

Lobbyists must observe the principles of engagement with government representatives set out in the Code. These include honesty and integrity, strict separation of lobbying activities from involvement with political parties, and identification of themselves as registered lobbyists, their clients and the matters to be raised.
Enforcement

A government representative must not knowingly and intentionally be a party to lobbying activities by an unregistered lobbyist. A government representative who becomes aware of a breach of the Code must report it to the Secretary of the Department of the Prime Minister and Cabinet. The Secretary may remove a lobbyist from the Register if, in the Secretary’s opinion, they have contravened the terms of the Code, or have supplied inaccurate information for the Register.

The Cabinet Secretary may, in their absolute discretion, direct the Secretary of the Department of the Prime Minister and Cabinet not to register a lobbyist, or to remove a lobbyist from the Register.

Cooling off periods

Ministers and parliamentary secretaries must not, for a period of 18 months after they cease to hold office, engage in lobbying activities relating to any matter with which they had official dealings in their last 18 months in office.

Senior staff employed in the offices of ministers or parliamentary secretaries, in the Australian Defence Force and in the public service must not, for a period of one year after they cease their employment, engage in lobbying activities relating to any matter with which they had official dealings in the last year of their employment.
Canada

The Lobbying Act was originally passed in 1988 as the Lobbyists Registration Act, which entered into force in 1989. It required professional and other lobbyists to file returns with a registrar when communicating with public office holders in an attempt to influence certain matters. The Act was amended several times. Changes included the introduction in 1995 of a requirement to establish a lobbyists' code of conduct, which came into effect in 1997, and in 2003 (entered into force in 2005) the replacement of the wording ‘in an attempt to influence’ by ‘in respect of’ a matter.  

In 2006 Parliament passed the Federal Accountability Act, which made further changes to the Act. These included the introduction of a ban on lobbying by former ministers, their staff and very senior public servants for five years after leaving office, and the establishment of the post of Commissioner of Lobbying. As well, the Act was renamed the Lobbying Act. These changes came into force in 2008.

Most recently, the Designated Public Office Holder Regulations, made under the Lobbying Act, were amended in 2010 to include parliamentarians and the staff of the Leaders of the Opposition of both Houses of Parliament among those subject to the five year ban on lobbying after leaving office. Currently the Lobbying Act is due for its next mandatory comprehensive review by a parliamentary committee.

Set out in the Lobbying Act’s preamble are the four principles on which the Act is based:

- free and open access to government is an important matter of public interest;
- lobbying public office holders is a legitimate activity;
- it is desirable that public office holders and the public be able to know who is engaged in lobbying activities;
- a system for the registration of paid lobbyists should not impede free and open access to government.

Lobbying Act

The Lobbying Act applies to consultant and in-house lobbyists' communications with public office holders. Lobbyists must file returns with the Commissioner of Lobbying and observe the Lobbyists' Code of Conduct. There are penalties for breaches of the Act. Certain former public office holders must observe a cooling off period before they may become lobbyists. The Act must be reviewed by a parliamentary committee every five years.

Lobbyists and clients

A consultant lobbyist is an individual who, on behalf of any person, organisation or corporation, undertakes for payment to communicate with a public office holder in respect of certain matters.

An in-house lobbyist is an individual employed by a corporation or organisation who, as part of their duties, communicates with public office holders on behalf of their employer in respect of certain matters. These duties constitute a significant part (20% or more in any one month) of the duties of one employee, or would do so if performed by only one employee.

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The organisations referred to above include:

- business, trade, industry, professional or voluntary organisations;
- trade unions or labour organisations;
- chambers of commerce or boards of trade;
- partnerships, trusts, associations, charitable societies, coalitions or interest groups;
- governments, other than the government of Canada;
- non-profit corporations, without share capital, with religious, philanthropic, scientific, artistic, sporting or other similar objectives.

When acting in their official capacity, those to whom the Act does not apply include members of provincial legislatures and their staff, provincial government employees, members and employees of local authorities, of aboriginal governments or institutions or of the councils of Indian bands, and official representatives of foreign governments.

**Public office holders**

Public office holders are any officers or employees of Her Majesty in right of Canada. They include:

- staff members of a senator or member of the House of Commons;
- persons appointed to any office or body by or with the approval of the Governor in Council or a minister of the Crown, other than a judge or the lieutenant governor of a province;
- officers, directors or employees of a federal board, commission or tribunal;
- members of the Canadian Armed Forces;
- members of the Royal Canadian Mounted Police.

Designated public office holders include:

- ministers of the Crown and certain ministerial staff;
- very senior executive personnel;
- chiefs of staff of the armed forces;
- certain senior advisers to the Privy Council;
- the Comptroller General of Canada;
- members of the House of Commons and senators;
- staff of the Leaders of the Opposition of both Houses of Parliament.

**Lobbying communications**

All lobbyists must file returns for communications in respect of:

- the development, introduction, passage or defeat of legislation;
- the making or amendment of regulations;
- the development or amendment of government policies and programmes;
- the awarding of grants or other financial benefits.

Consultant lobbyists must also file returns for communications in respect of:

- the awarding of contracts;
- arranging a meeting between a public office holder and any other person.

Communications to which the Act does not apply are:

- submissions to parliamentary committees, or to bodies or people with statutory jurisdiction or powers, in proceedings that are a matter of public record;
- communications by an individual to a public office holder on behalf of any person or organisation concerning the public office holder’s enforcement, interpretation or application of the law regarding that person or organisation;
- requests for information by an individual to a public office holder on behalf of any person or organisation.
Registration

Within ten days of undertaking to communicate with a public office holder on behalf of a client, a consultant lobbyist must file a return with the Commissioner of Lobbyists. The return includes:

- the name and business address of the lobbyist;
- the name and business address of the client, and of any person or organisation controlling or directing their activities and with a direct interest in the outcome of the lobbying;
- if the client is a corporation, information regarding parent or subsidiary corporations;
- if the client is a coalition, information regarding the member corporations or organisations;
- the name of any government or government agency providing funding to the client and the amount of the funding;
- the fact that no contingency payment is involved.

Employers of in-house lobbyists must file a return no later than two months after the employment of such a person. The return includes:

- the employer’s name and business address, and a description of their business or activities;
- if the employer is a corporation, information regarding parent or subsidiary corporations;
- if the employer is an organisation, a description of its membership;
- the amount of any government funding received, and the name of the government or government agency providing it.

Returns of both consultant and in-house lobbyists also include:

- the subject matter of a communication;
- identification of any relevant legislative proposal, bill, resolution, regulation, policy, programme, grant, contribution or financial benefit (consultant lobbyists must also identify any relevant contract);
- the name of any government department or institution to be communicated with;
- the communication technique to be used, including grassroots communication;
- if the lobbyist is a former public office holder or designated public office holder, the offices held and, if designated, the date such an office ceased to be held.

Reporting

All lobbyists must file monthly returns of any lobbying communications with designated public office holders, including the name of the office holder, the date and the subject matter.

Commissioner of Lobbying

The Commissioner of Lobbying is appointed by the Governor in Council after consultation with the leader of every recognised party in the Senate and House of Commons and approval of the appointment by resolution of each House. The term of the appointment is seven years, with provision for renewal.

The Commissioner maintains the Registry of Lobbyists, which is published on the Commissioner’s website, develops and implements educational programmes, issues advisory opinions and conducts investigations. They must submit an annual report to the Speakers of both Houses of Parliament.

Code of conduct

The Commissioner of Lobbying is required to develop a Lobbyists’ Code of Conduct. The Code sets out three principles: integrity and honesty, openness, and professionalism. It contains rules relating to transparency, confidentiality and conflicts of interest.\textsuperscript{10}

\textsuperscript{10} Lobbyists’ Code of Conduct \url{http://ocl-cal.gc.ca/eic/site/012.nsf/eng/h_00014.html}
**Enforcement**

The Commissioner of Lobbying may investigate a potential breach of the Lobbying Act or of the Lobbyists' Code of Conduct on their own initiative or on the basis of information received from a member of either House of Parliament. In conducting the investigation, the Commissioner has the powers of a Superior Court judge. Once an investigation is concluded, a report must be tabled in both Houses of Parliament.

If the Commissioner believes that an offence has been committed under the Act they will advise the police. Anyone convicted of an offence under the Lobbying Act may be prohibited by the Commissioner from undertaking a communication or arranging a meeting for a period of up to two years. Failure to file a return, or the provision of false or misleading information, may incur a fine of up to CAN$50,000 or up to six months’ imprisonment, or both, for a lesser offence, and a fine of up to CAN$200,000 or up to two years’ imprisonment, or both, for more serious offences.

**Cooling off periods**

Former designated public office holders are prohibited, for a period of five years after they cease to hold office, from becoming either consultant or in-house lobbyists.
The Agreement between the European Parliament and the European Commission on the establishment of a Transparency Register for organisations and self-employed individuals engaged in EU policy-making and policy implementation was signed and entered into operation in June 2011.\(^{11}\) Prior to the introduction of the Transparency Register, the European Parliament had maintained a Register of Accredited Lobbyists since 1996, while the European Commission had kept a Register of Interest Representatives since 2008. These formed the basis for the new common Register.\(^{12}\) The Agreement invites the European Council and the Council to join the Register, and encourages other EU bodies to refer to it. In its decision to adopt the Agreement, the European Parliament called for the mandatory registration of all lobbyists.\(^{13}\)

The Agreement acknowledges that European policy-makers do not operate in isolation from civil society, but maintain an open, transparent and regular dialogue with representative associations and civil society. The establishment and operation of the Register must respect the rights of members of the European Parliament (MEPs) to exercise their parliamentary mandate without restriction, and not impede access for members’ constituents to the European Parliament’s premises.

In April 2011 the European Commission adopted a revised Code of Conduct for Commissioners, which introduced restrictions on lobbying by former commissioners.\(^{14}\) The European Parliament, in December 2011, adopted a Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest, which also placed restrictions on lobbying by former members.\(^{15}\) This Code entered into force in January 2012.\(^{16}\)

**Transparency Register**

Organisations and individuals engaged in activities carried out with the objective of influencing the policies and decision-making processes of EU institutions are expected to register. Registrants may be granted long-term access to the European Parliament. They must observe a code of conduct, breaches of which may result in suspension from the Register and withdrawal of their access to Parliament. The Register must be reviewed by June 2013.

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\(^{12}\) The Agreement, art. 2, 29


Lobbyists

All organisations and self-employed individuals, irrespective of their legal status, engaged in activities falling within the scope of the Transparency Register are expected to register. These include:

- professional consultancies, law firms, self-employed consultants;
- in-house lobbyists and trade/professional associations;
- non-governmental organisations;
- think tanks, research and academic institutions;
- organisations representing churches and religious communities;
- organisations representing local and regional governments, other public or mixed entities;
- networks or other forms of collective activity constituting a source of organised influence.

Those not expected to register include:

- member state and third country governments;
- international intergovernmental organisations;
- churches and religious communities;
- political parties;
- local and regional governments.

Lobbying activities

The Register covers activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions, irrespective of the channel or medium of communication used, e.g. outsourcing, think tanks, forums, grassroots initiatives. Included among these activities are:

- contacting MEPs, officials or other staff of the EU institutions;
- preparing, circulating and communicating letters, information material or discussion and position papers;
- organising events, meetings or promotional activities and social events or conferences, to which MEPs, officials or other staff of the EU institutions are invited;
- voluntary contributions and participation in formal consultations on envisaged legislative or other legal acts and other open consultations.

Activities that are excluded from the scope of the Register include:

- provision of legal and other professional advice in specified circumstances;
- activities of the social partners as participants in the social dialogue (trade unions, employers’ associations, etc.);
- activities in response to direct and individual requests from EU institutions or MEPs, e.g. requests for factual information or expertise, individualised invitations to attend public hearings or participate in the workings of consultative committees.

Registration

The Secretaries-General of the European Parliament and the European Commission are responsible for the supervision and operation of the registration system. It is implemented by the Transparency Register Secretariat, which publishes the Register on its website.

The information that registrants must provide includes:

- name and contact details;
- the number of people involved in activities within the Register’s scope;
- goals, areas of interest, activities, countries operated in, affiliations to networks, other relevant general information;
- the main legislative proposals covered in the preceding year by activities within the Register’s scope;
- the amount and source of funding received from EU institutions in the most recent financial year.
• if a professional consultancy, law firm, or self-employed consultant, the turnover attributable to the activities falling within the Register’s scope;
• if an in-house lobbyist or trade or professional association, an estimate of the cost of activities falling within the Register’s scope;
• for all other organisations, the overall budget and a breakdown of the main sources of funding.

Badges affording long-term access to the European Parliament's buildings may be issued annually to individuals representing or working for registrants, but registration does not give rise to an automatic entitlement to a badge.

**Code of conduct**

The code of conduct requires lobbyists openly to identify themselves and to act with honesty and integrity in their relations with EU institutions. Individuals representing or working for entities that have registered with the European Parliament with a view to obtaining access badges must follow the procedure for avoiding possible conflicts of interest in relation to a member’s assistant.

**Enforcement**

Anyone may lodge a complaint about suspected non-compliance with the code of conduct to the Transparency Register Secretariat.

Deliberate non-compliance with the code of conduct will incur a temporary suspension from the Register for up to six months, or until the requested corrective action is taken. Persistent non-compliance with the code will result in removal from the Register for one year and withdrawal of any European Parliament access badges. Serious, deliberate non-compliance with the code will result in removal from the Register for two years, together with the withdrawal of any European Parliament access badges. Measures taken are recorded in the Register.

**Cooling off periods**

Former commissioners must not, for a period of 18 months after they cease to hold office, lobby or advocate with members of the European Commission and their staff on behalf of their own business, a client or an employer on matters for which they held portfolio responsibility during their mandate.

Former members of the European Parliament who engage in professional lobbying or representational activities directly linked to the EU decision-making process may not, throughout the period in which they engage in those activities, benefit from the facilities granted to former members.17

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France

In 2009 the National Assembly, Parliament’s lower House, adopted rules for transparent and ethical lobbying. The rules aim to recognise the role of lobbyists in keeping deputies informed, while ensuring that the lobbyists’ actions conform to rules of good conduct.\textsuperscript{18}

The Senate, Parliament’s upper House, also adopted rules in 2009 to regulate lobbyists’ activities.\textsuperscript{19} These entered into force in January 2010 and were augmented in December 2010 by a decree setting out lobbyists’ rights of access to the Senate’s premises. The decree entered into force in January 2011.\textsuperscript{20}

A committee appointed in 2010 by President Sarkozy to consider the prevention of conflicts of interest in public life suggested in January 2011 that the public sector should be encouraged to set up optional registers of lobbyists, drawing on the experience of the National Assembly and the Senate, and the European Commission.\textsuperscript{21}

National Assembly rules for lobbyists

The National Assembly rules apply to lobbyists who wish to gain access to certain public rooms in the National Assembly. They must register and abide by a code of conduct. Failure to abide by the code of conduct may result in access being withdrawn.\textsuperscript{22} Meetings between lobbyists and deputies outside the premises of the National Assembly are not covered by the rules.\textsuperscript{23}

Lobbyists

Lobbyists applying for access to the National Assembly may be representing their own interests or those of third parties. They may include government agencies, businesses, professional associations, trade unions, consultancy firms, associations and individuals.\textsuperscript{24}

Registration

The register is maintained by the General Secretariat of the Presidency of the National Assembly. It is published on the National Assembly's website.

The information contained in the register includes:

- lobbyist's name, nationality, position and contact details;
- name(s) of the organisation(s) whose interests the lobbyist represents;
- name, business details and nature of the activities of the lobbyist's employer;
- turnover and number of employees.

\textsuperscript{18} Communiqué de la Présidence de l'Assemblée nationale, le 2 juillet 2009 http://www.assemblee-nationale.fr/connaissance/representants-interets.asp#communique
\textsuperscript{19} Compte-rendu de la réunion du Bureau du Sénat du mercredi 7 octobre 2009 http://www.senat.fr/role/fiche/bur_cr_reunion071009.html
\textsuperscript{20} Arrêté de Questure définissant les droits d'accès au Palais du Luxembourg des représentants des groupes d'intérêt, Arrêté N°2010-1258 du 1er décembre 2010 http://www.senat.fr/role/groupes_interets_ag.html
\textsuperscript{21} Pour une nouvelle déontologie de la vie publique : rapport de la Commission de réflexion pour la prévention des conflits d'intérêts dans la vie publique, 2011, p. 85 http://lesrapports.ladocumentationfrancaise.fr/BRP/114000051/0000.pdf
\textsuperscript{23} Représentants d'intérêts à l'Assemblée nationale http://www.assemblee-nationale.fr/connaissance/instruction.asp
\textsuperscript{24} Formulaire à remplir par les représentants d'intérêts et leur employeur http://www.assemblee-nationale.fr/connaissance/representants-interets/fiche_renseignements.pdf
Registration enables named individuals to receive day passes giving access to three rooms close to the chamber in the National Assembly where they can mix with the deputies.

**Code of conduct**

The code of conduct requires lobbyists openly to identify themselves and the interests they represent, and to act with honesty and integrity. They must not take advantage of their presence on the register for commercial or publicity purposes.  

**Enforcement**

Failure to observe the code of conduct may result in the Bureau of the National Assembly suspending or cancelling a lobbyist's registration.

**Senate decree defining lobbyists' rights of access to the Palace of Luxembourg**

The Senate decree applies to those people who wish to have access to the Senate's premises for the purpose of lobbying. Applicants for registration must sign a code of conduct. Failure to abide by the rules of access or the code of conduct may result in access being suspended or withdrawn.

**Lobbyists**

Lobbyists may be representing their own interests or those of third parties.

**Registration**

The Senate register is maintained by the Hospitality and Security Directorate and is published on the Senate's website.

The information lobbyists must provide when registering includes:

- name and contact details of the lobbyist, and of their employer if applicable;
- reasons for the request for access;
- areas of lobbying interest;
- list of clients, if applicable.

Registered lobbyists receive an annual pass granting them access to the public galleries when the Senate is in session, to open committee meetings and to a public room in the Senate where they can mix with the senators. In addition, it allows them access to anywhere on the Senate's premises they may be invited by a senator, a parliamentary political party or a Senate staff member, and to meetings held in Senate meeting rooms by authorised external bodies.

**Code of conduct**

The code of conduct requires lobbyists openly to identify themselves and the interests they represent, to act with honesty and integrity, and to comply with the Senate's rules. They must report any foreign travel invitations they offer to senators or their assistants, or to Senate officials or bodies.

**Enforcement**

A breach of the rules of access or code of conduct may result in the Hospitality and Security Directorate suspending or cancelling the pass.

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25 Code de conduite applicable aux représentants d'intérêts adoptés par le Bureau le 2 juillet 2009
   [http://www.assemblee-nationale.fr/representants-interets/#code](http://www.assemblee-nationale.fr/representants-interets/#code)

26 Code de conduite applicable aux groupes d'intérêt au Sénat
The Lobbying Disclosure Act of 1995 was preceded by the Federal Regulation of Lobbying Act of 1946, which required third party lobbyists attempting to influence the passage or defeat of legislation by Congress to register with the House of Representatives and the Senate.\(^{27}\) The Lobbying Disclosure Act extended regulation to cover in-house lobbyists and lobbying to influence executive decision-making and actions, as well as considerably expanding the rules relating to registration and reporting.\(^{28}\)

Further changes to the reporting rules were made by the Honest Leadership and Open Government Act of 2007, which also increased the penalties for failing to comply with disclosure requirements. In addition, lobbyists were prohibited from making gifts or providing travel to Congressional members and staff that would contravene the rules of the House or the Senate.\(^{29}\)

The Honest Leadership and Open Government Act also extended the length of the ban on lobbying by former senators and very senior executive personnel. The ban on lobbying by former executive personnel had been introduced by the Ethics in Government Act of 1978 and on lobbying by former members and staff of Congress by the Ethics Reform Act of 1989.

In Section 2 of the Lobbying Disclosure Act, the Congress finds that –

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

Section 8(a) of the Lobbying Disclosure Act states that:

Nothing in this Act shall be construed to prohibit or interfere with –

(1) the right to petition the Government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the first amendment to the Constitution.

Lobbying Disclosure Act of 1995\(^{30}\)

Under the Lobbying Disclosure Act, lobbyists who lobby the executive or legislative branches on their own or a client’s behalf must register with, and provide quarterly and six monthly reports to, the Senate and the House of Representatives. Failure to comply with the Act’s provisions may incur penalties.


**Lobbyists**

A lobbyist is anyone who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, provided that lobbying activities constitute at least 20% of the time they spend in providing services to that client over a period of three months.

A lobbying firm is any person or entity that has one or more employees who are lobbyists on behalf of a client other than that person or entity. This also includes self-employed lobbyists.

**Clients**

A client of a lobbyist is any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on their behalf. A person or entity whose employees act as lobbyists on its own behalf is a client of such employees.

**Executive and legislative branch officials**

Executive branch officials covered by the Act are:

- the President;
- the Vice President;
- officers or employees in the Executive Office of the President;
- officers or employees serving in positions in designated levels of the Executive Schedule;
- members of the uniformed services whose pay is at or above a certain level;
- officers or employees serving in a position that the Office of Personnel Management has determined to be of a confidential, policy-determining, policy-making or policy-advocating character.

Legislative branch officials covered by the Act include:

- members of Congress;
- elected officers of either House of Congress;
- employees, or individuals functioning in the capacity of employees, of
  - members of Congress;
  - committees of either House of Congress;
  - the leadership staff of either House;
  - joint committees of Congress;
  - working groups or caucuses organised to provide legislative services or other assistance to members of Congress.

**Lobbying activities**

Lobbying activities comprise lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

Lobbying contacts comprise any oral or written communication (including electronic) to a covered executive or legislative branch official made on behalf of a client with regard to:

- the formulation, modification or adoption of federal legislation;
- the formulation, modification or adoption of a federal rule, regulation, executive order or any other federal government programme, policy or position;
- the administration or execution of a federal programme or policy, including the negotiation, award or administration of a federal contract, grant, loan, permit or licence;
- the nomination or confirmation of a person for a position subject to confirmation by the Senate.
Included among the communications that do not constitute lobbying contacts are:

- communications by a public official acting in their official capacity;
- communications made on behalf of a government of a foreign country or a foreign political party;
- a request for a meeting, the status of an action or other similar administrative request if it includes no attempt to influence a covered official;
- testimony given to a Congressional committee or task force;
- written information provided in response to a request by a covered official for specific information;
- communications made on behalf of an individual with regard to benefits, employment or other personal matters involving only that individual;
- disclosures protected under whistleblowing legislation;
- communications by a church or religious order.

**Registration**

Lobbyists, or their employers, must register with the Secretary of the Senate and the Clerk of the House of Representatives no later than 45 days after first making, or being employed or retained to make, a lobbying contact. A separate registration must be made for each client. Registrations and reports are published on the Senate’s and Office of the Clerk’s websites.

The information that registrants must provide includes:

- name and contact details and a general description of the business or activities;
- name and contact details and a general description of the client’s business or activities, if not the same as above;
- name and address of any organisation, other than the client, that contributes more than US$5,000 in a quarterly period to the registrant or the client to fund the registrant's lobbying activities and actively participates in planning, supervising or controlling those activities;
- name and address of any foreign entity whose involvement is of specified types;
- the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client and specific issues that have been or are likely to be addressed;
- the name of each employee who has or is expected to lobby on behalf of the client and, if they have been a covered executive or legislative official within the last 20 years, the position in which they served.

A person or entity does not need to register:

- if their total income from lobbying activities on behalf of a particular client does not, or is not expected to, exceed US$3,000 in a quarterly period; or
- if lobbying on their own behalf, their total expenses in a quarterly period do not, or are not expected to, exceed US$11,500.

**Reporting**

Every registrant must report quarterly on their lobbying activities, filing a separate return for each client. These reports include details about the client, the lobbyists involved, whom they contacted and the issues on which they lobbied. They also, if the registrant is a lobbying firm, contain a good faith estimate of the total lobbying-related income from the client or, if the registrant is lobbying on their own behalf, of the total lobbying-related expenses incurred.

Every registrant, and any lobbyists employed by them, must also file a six monthly report containing information on political committees they have established or control, and funds they or the committees have contributed or disbursed to federal candidates and officeholders, leadership PACs or political party committees, as well as certain other specified expenditure, e.g. paying the cost of an event held by or to honour a covered legislative or executive branch official. They must also certify that they have not knowingly violated the Senate or House rules relating to gifts, including travel, to members, officers and employees of Congress.
Enforcement

The Secretary of the Senate and the Clerk of the House of Representatives will notify the United States Attorney for the District of Columbia if a lobbyist or lobbying firm may not be in compliance with the Act. Anyone who knowingly fails to remedy a defective filing within 60 days of being notified of it, or fails to comply with any other provision of the Act, is liable for a fine of up to US$200,000. Anyone who knowingly and corruptly fails to comply with any provision of the Act is liable for up to five years in prison or a fine or both.

Cooling off periods

Restrictions apply to lobbying by former officers, employees and elected officials of both the executive and legislative branches. They may not knowingly make, with the intent to influence, any communication to or appearance before designated bodies or persons in specified circumstances, on behalf of any other person, for a set length of time after the termination of their service or employment. The specific details of the restrictions depend on the position formerly held.\(^{31}\)

The following are examples of these restrictions.

- All former executive branch officers or employees are permanently restricted from making such a communication to or appearance before a United States department, agency, court or court-martial in connection with a particular matter in which the United States is a party or has a direct and substantial interest, in which the former officer or employee participated personally and substantially as such officer or employee, and with which specific parties were involved at the time.
- Certain former senior executive branch personnel are restricted for one year from making such a communication to or appearance before the department or agency in which they served in their last year before the termination of their service or employment in connection with any matter on which they are seeking official action by that department or agency.
- Former senators and members of the House of Representatives are restricted, for two and one years respectively after leaving office, from making such a communication to or appearance before any member, officer or employee of either House of Congress or any employee of any other legislative office of the Congress in connection with any matter on which the former senator or member is seeking action by a member, officer or employee of either House of Congress.
- A former employee of a member of the House of Representatives is restricted for one year from making such a communication to or appearance before the member by whom they were formerly employed, or any employee of that member, in connection with any matter on which the former employee is seeking action by a member, officer or employee of either House of Congress.

A breach of these restrictions may incur a fine of up to US$50,000 or up to one year’s imprisonment, or both, and a willful breach a fine of up to US$50,000 or up to five years’ imprisonment, or both.\(^{32}\)

An executive order issued by President Obama on 21 January 2009 requires all executive branch appointees appointed on or after 20 January 2009 to sign an ethics pledge. This pledge includes an agreement by appointees leaving government not to lobby any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.\(^{33}\)


In 2010 the Organisation for Economic Co-operation and Development recommended to its members a set of *Principles for Transparency and Integrity in Lobbying*. In making this recommendation the OECD recognised that:

- lobbying may support informed decision making by providing valuable data and insights for effective public policies;
- transparency, integrity and fairness in the decision-making process are crucial to safeguard the public interest and promote a level playing field for businesses;
- public officials and lobbyists share responsibility to apply the principles of good governance, in particular transparency and integrity, in order to maintain confidence in public decisions.

The *Principles* define lobbying as oral or written communication with a public official to influence legislation, policy or administrative decisions. Public officials include employees and holders of public office in the executive and legislative branches, whether elected or appointed.

The ten principles are:

1. Countries should provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies.
2. Rules and guidelines on lobbying should address the governance concerns related to lobbying practices, and respect the socio-political and administrative contexts.
3. Rules and guidelines on lobbying should be consistent with the wider policy and regulatory frameworks.
4. Countries should clearly define the terms ‘lobbying’ and ‘lobbyist’ when they consider or develop rules and guidelines on lobbying.
5. Countries should provide an adequate degree of transparency to ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities.
6. Countries should enable stakeholders – including civil society organisations, businesses, the media and the general public – to scrutinise lobbying activities.
7. Countries should foster a culture of integrity in public organisations and decision making by providing clear rules and guidelines of conduct for public officials.
8. Lobbyists should comply with standards of professionalism and transparency; they share responsibility for fostering a culture of transparency and integrity in lobbying.
9. Countries should involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance.
10. Countries should review the functioning of their rules and guidelines related to lobbying on a periodic basis and make necessary adjustments in light of experience.

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