

Vice President Siim Kallas
European Commission
Rue de la Loi 200
B-1049 Brussels



3 June 2009

Dear Commissioner,

European Transparency Initiative review

1. The Society for European Affairs Professionals (SEAP) is a professional association for European affairs practitioners. SEAP's goals when it was set up in 1997 were:
 - a. Setting high ethical standards for European affairs professionals;
 - b. Improving access to the EU institutions; and
 - c. Improving relations between the profession and EU policymakers.
2. These goals are just as valid today as twelve years ago. This is why SEAP is keen to participate in the dialogue with the European Commission regarding interest representation, and in particular on the review of the European Transparency Initiative and the register of interest representatives.
3. SEAP currently has over 300 members, who join on an individual basis. Members are active as European affairs practitioners in consultancies, law firms, trade associations and individual companies with representations in Brussels. SEAP also has members from other non-governmental organisations (NGOs) and think tanks, and is open to representatives of the EU trade unions or any other organisation of interest representatives seeking to sign up to its Code of Conduct. Each SEAP member must participate in a workshop on the SEAP Code of Conduct and personally sign the Code as part of the membership requirements.

Review of the ETI register

4. SEAP has undertaken to participate actively in the review of the register. As we have noted in the past, we are committed to ensuring transparency and, more importantly, high standards of ethical behaviour in the sphere of EU decision-making.
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5. We note the number of organisations registered to date. We note that it will be difficult to assess what proportion of the purported thousands of lobbyists in Brussels this actually represents and are thus covered by the register. In reviewing the success of the register, however, we would ask the Commission to assess the extent to which the creation of the register has led to an improvement in the standards or “culture” of lobbying or interest representation towards the EU institutions, and in particular the Commission. While the number of registrants might be used as a measure of success, the real measure of success should also be qualitative.

Membership survey

6. In the period leading up to the review of the Commission’s register, SEAP carried out a survey of its members to gauge their thoughts and experience on the ETI register. The following paragraphs highlight the key findings of the survey and suggestions for change, based on the feedback we have received.
7. We would also note at this point that many of the suggestions in previous SEAP submissions remain valid and we would commend them to the Commission for consideration again. For ease of reference, we have annexed SEAP’s Comments on the Draft European Commission Code of Conduct for Interest Representatives (11 February 2008) and the response to the follow-up to the Green Paper (8 May 2007).

Experience of registration

8. Broadly speaking, a high proportion of respondents had registered with the Commission’s register. Reasons for non-registration included problems with VAT liability in Belgium, the time and resources involved in registration and the fact that the need to register was not evident. Such issues were also highlighted as difficulties that had been experienced with registration. Concerns surrounding financial disclosure and a reluctance on the part of clients (for those that have them) were cited as a difficulty.
 9. SEAP would ask the Commission to use its best efforts to resolve with the Belgian authorities the concerns that continue to exist with respect to the VAT status and liability of certain registrants. Problems encountered to date, in particular by trade associations, continue to be detrimental. The Belgian Court ruled recently that an aisbl that does not restrict itself to scientific activities on behalf of its members, but mainly represents the interests of its members with the EU institutions (as is demonstrated by the registration as lobbyist with the European Parliament) loses the right to deduct VAT. Since the listing in the register on the Commission website would presumably have the same consequences (causing the loss of VAT deduction possibilities for an aisbl) some trade associations might refrain from registering with the Commission.
 10. Similarly we are aware of the low rates of registration among law firms and think tanks. We note the ongoing concerns of the legal sector and of bar associations in relation to the legal obligations of confidentiality incumbent on lawyers by virtue of their professional duties, which cannot be dispensed with.
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11. We wish to ensure that the Commission understands the sometimes considerable formalities that some organisations need to go through before registering. Registration may involve the collation of information from various departments in a company and a lengthy approval process because of internal compliance rules. SEAP has already proposed that a document should be made available that replicates the registration forms. This would allow circulation of the form within an organisation prior to registration, thus facilitating the ability of organisations to consider what information needs to be collated and provided before the registration is actually undertaken. Simplifying the registration process might improve further the take-up in terms of the number of registrants.

Definitions & financial disclosure

12. There remains confusion as to the activities that are covered by the register and the definitions of “interest representation” and “direct lobbying” and indeed there are differing interpretations of these concepts. We would ask the Commission to improve the guidance it provides in line with SEAP’s own guidance. SEAP would be happy to provide further input in this respect.
13. Difficulty with the definition of “direct lobbying” was also cited as problematic in relation to financial disclosure, and in that respect, respondents did note that SEAP’s guidance had been helpful. It was thought that further examples could be provided as to what activities should be considered direct lobbying for the purposes of financial disclosure, for instance in relation to hosting meals and receptions or the lobbying activities of trade associations.
14. The question of double counting was not raised as a problematic issue in our survey. We believe however that clarification should also be given as to how this is to be avoided, as it is an issue that relates to many of the categories of interest representative.

Incentives to register

15. SEAP has been keen to ensure that the ETI initiative should not have the effect of damaging the transparency of the EU institutions or limiting involvement in the democratic process. Indeed the Commission has stated itself that, for instance, responding to direct requests for information or views by the Commission should not be considered interest representation.
 16. For that reason we do not believe that registrants should necessarily be given priority when invited to participate in expert groups or similar events. The expertise sought might not be that of those registered as interest representatives themselves, but instead individuals and organisations with firsthand experience of a specific issue.
 17. SEAP asked its members, however, whether the incentives to register were currently sufficient. A number of respondents felt that improved, faster access to Commission buildings should be provided to registrants. Similarly, if a joint register with the Parliament is agreed, a badge could be given to registrants ensuring access to the buildings of both institutions. We do recognise, however, that there are security concerns on the part of the institutions that would need to be balanced.
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Codes of conduct

18. A number of respondents stated that they did not declare their organisation to be bound by an alternative code of conduct (such as that of SEAP) because they were uncertain about how to do so. We would ask that the registration process be clarified in this respect, by adding a specific field for subscription to other codes.
19. Indeed, we also believe it should be made clear on the register when a registrant has actually stated that it is bound by an alternative code and, if possible, this code should be made available.
20. As to the content of the Commission's Code of Conduct, the only aspect that was raised as a point of concern was point (4) relating to the information provided. As noted previously, the Code should state that reasonable endeavours be taken to ensure that information is accurate, complete and up-to-date. The duty to provide "unbiased" information is unclear. It is also in potential conflict with the advocacy role undertaken by interest representatives.

Functionality of the register

21. As to the functionality of the register, it was felt that the search function could be improved, enhancing the search by name function and the ability to search according to multiple criteria.

Breaches of the code & sanctions

22. We believe that, when a registrant has cited that it is bound by another ethical code, such as SEAP's, it is for the code owner rather than the Commission to determine whether there has been a breach of the behavioural standards in question. SEAP is best placed to interpret, and deal with breaches of, its own code by its members.
23. Only a very small number of problem cases or suspensions from the register have been publicised. SEAP remains of the view that the process for deciding to suspend a registrant should be clear and transparent. This is not the case currently. SEAP suggests the establishment of a review committee to consider potential suspensions. This committee could include European affairs professionals who are members of organisations such as SEAP.

Inter-institutional register

24. If only for the sake of procedural simplicity, SEAP supports the development of a joint register between the institutions. We are concerned however that the two registers differ in their approach – one based on individual registration is primarily focused on access to the Parliament while the Commission register concerns organisations and requires the disclosure of considerably more information. We are concerned to ensure that moves to integrate them do not simply complicate the two individual processes.
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As always, SEAP and its members remain at your disposal, should we be able to assist further in your work. Similarly in relation to the ongoing work to establish a common register with the European Parliament, we would be happy to provide comments on ongoing work. Thank you in advance for your kind attention.

Yours sincerely,



Lyn Trytsman-Gray
President of SEAP

Encl: SEAP's Comments on the Draft European Commission Code of Conduct for Interest Representatives (11 February 2008)

SEAP response to the European Commission Communication follow-up to the Green Paper 'European Transparency Initiative' (10 May 2007)
