

The EU's initiatives to regulate lobbyists: good or bad administration?*

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Abstract: The Joint Transparency Register (JTR) represents a positive change from its predecessors, which can be explained based on ‘policy learning’. We support this argument by providing findings on two dimensions: First, we measure the strength of EU’s lobbying law compared to other political systems that have enacted such. We find that the EU’s initial attempts to regulate lobbying at the EP (1996) and Commission (2008) are less robust and efficacious. Second, we analyze the evolution of registrations of lobbyists from 2008 to 2013. We also consider developments in the automobile, airline and electricity sectors and highlight the corporations’ willingness to register and fully disclose lobbying costs. The paper closes by considering future challenges the JTR needs to address, before it can be considered an example of ‘good administration.’

Keywords: Lobbying regulation, European Union, Joint Transparency Register.

Resumen: *El Registro conjunto de transparencia (JTR) representa un cambio positivo con respecto a sus predecesores que puede explicarse basándose en el “aprendizaje de normas/legislaciones”. En este artículo apoyamos dicho argumento, proporcionando resultados en dos dimensiones: en primer lugar, midiendo la fuerza de la ley de ‘lobbying’ en la UE en comparación con otros sistemas políticos donde se ha promulgado dicha ley. Nuestro estudio indica que los intentos iniciales de la UE para regular el ‘lobbying’ en el Parlamento Europeo (1996) y en la Comisión (2008) son menos robustos y eficaces. En segundo lugar, analizando la evolución de los registros de grupos de presión entre 2008 y 2013, así como la*

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de los sectores del automóvil, líneas aéreas y electricidad, poniendo de relieve la voluntad de las distintas compañías para registrar y dar a conocer abiertamente los gastos asociados al 'lobbying'. El artículo concluye considerando los desafíos futuros que el JTR necesita afrontar, antes de que pueda ser considerado como un ejemplo de "buena administración".

Palabras clave: Regulación de los lobbies, Unión Europea, Registro conjunto de transparencia.

I. Introduction

Recent debates in the literature on EU politics have focused on the decision making role of interest groups (or lobbyists, terms which we use interchangeably throughout the paper). The standard literature has identified three main roles of interest groups at the European level. First, interest groups offer EU institutions, in particular the Commission, specialist knowledge that is required to formulate policy¹. This argument derives from the analysis of interest group participation in the formulation stage of policies such as the Single European Act and the Merger Control Regulation. An example is provided by Chari and Kritzinger² which shows the involvement of the European Round Table of Industrialists in the negotiation of the 1992 Program. This argument is supported by the fact that the Commission, with its power in policy initiation and implementation, is composed of a relatively small bureaucratic apparatus (approximately 38,000 civil servants). Consequently the Commission is encouraged to seek specialized information from interest groups in exchange for access. A second role for interest groups is to offer legitimizing support for policy. This works as a sort of popular constituency. A good example is seen in procedures of social dialogue, encouraged by the Commission President Delors at the time in order to seek the support of labor and business for the Single Market. In this occasion ETUC, Business Europe and UEAPME represented a wide basis of support given their basin of representation. A third role is to access EU institutions with the aim of gaining visibility rather than influencing outcomes *per se*. Or, as Lowery states, "it is not always about winning."³ Interest groups can decide to lobby institutions in

¹ CHARI, R. and O'DONOVAN, D.H., "Lobbying the European Commission: Open or Secret", *Working papers series in economics and social sciences* 2011/11; GREENWOOD Justin. *Interest Representation in the European Union*. Palgrave MacMillan, London, 2011.

² CHARI, R. and KRITZINGER S., *Understanding EU policy making*. London, Pluto Press. Chapter 4, 2006, p. 30.

³ LOWERY, D., "Lobbying Influence: Meaning, Measurement and Missing", *Interest Groups & Advocacy*, Vol. 2(1), 2013, p. 14.

order to mobilize members and secure resources. This is achieved by using institutions as a platform, rather than as the target of pressure activity.

Given these roles of interest groups in European policy-making, earlier studies have focused on different aspects of the EU system of interest representation, demonstrating at least three salient features. First, a broad range of interest groups “types” operate. Evidence from the Joint Transparency Register suggests that approximately 12 % of all lobbyists are professional consultancies, 51 % are in-house lobbyists of trade or professional associations and 24 % are NGOs⁴. However the data extracted from the EU Transparency Register does not represent a definitive list of which groups are active in EU institutions, given the voluntary nature of the Register. A second feature is that certain interest groups, in particular corporate actors, have seen themselves being particularly successful at the EU.⁵ And a final feature is that interest groups are more successful in Brussels when compared to Washington. This is because EU policy-making is more consensus oriented, void of a ‘winner takes all’ logic that permeates US lobbying.⁶

In the 1950s, Easton defined a political system as a complex system formed by inputs, outputs and a feedback mechanism linking them.⁷ In this system, institutions are typically in charge of formulating policy (outputs). Political parties and interest groups feed into the political system with demands for policy (inputs). In representative democracies, political parties are held accountable through elections. Accountability therefore represents a fundamental feature of representative democracy.⁸ In participatory democracy as discussed by authors such as Pateman, conversely, one may see that citizens and interest groups participate in the policy-making process where there is a pluralistic environment of fair bargaining over policy options.⁹ In principle, the involvement of such groups should

⁴ GREENWOOD J. and DREGER J., “The Transparency Register: A European Vanguard of Strong Lobby Regulation”, *Interest Group & Advocacy*, Vol. 2(2), 2013, pp. 139-162.

⁵ COEN, D., “The European Business Interest and the Nation State: Large-Firm Lobbying in the EU and Member States” *Journal of Public Policy*, Vol.18(1), 1998, pp. 75-100; *EU Lobbying: Theoretical and Empirical Developments*, Routledge, London, 2008; *Lobbying the European Union: Institutions, Actors and Policy*. Oxford, Oxford University Press, 2009; and COEN, D. and RICHARDSON J., *Lobbying the European Union*, Oxford University Press, Oxford, 2009.

⁶ MAHONEY C., *Brussels versus the Beltway: Advocacy in the United States and the European Union*, Georgetown University Press, Washington DC, 2008.

⁷ EASTON, D., An Approach to the Analysis of Political Systems. *World Politics* 9(3), 1957: pp. 383-400.

⁸ SARTORI, G., *Elementi Di Teoria Politica*, Soc. Ed. Il Mulino, Bologna 1995, p. 48.

⁹ PATEMAN, C., *Participation and Democratic Theory*. Cambridge University Press, Cambridge, 1976, pp. 22-44.

be based on alternative conceptions of the public good.¹⁰ However, the reality often sees that particular or sectoral interests often dominate inputs, given their relatively high levels of resources. From this perspective, institutions that allow participation and deliberation of all groups are necessary conditions for the correct functioning of democracy. Regulating lobbying thus represents setting up an institutional framework for effective and transparent participation in policy-making, with the end goal to foster a level playing field for all who seek to participate. With this idea in mind, scholars and members of civil society organizations have highlighted the lack of such an institutional framework in the EU.

As an example, organizations such as the Corporate European Observatory and ALTER-EU (2014) have lamented on the lack of accountability and transparency associated with EU lobbying. One specific concern relates to the difficulties encountered in identifying “who” the active interest groups really are, and “who” they are lobbying. “The lack of transparency which characterizes the relations between EU institutions and interest groups aggravated the already embarrassing democratic deficit of the EU”.¹¹ In addition, studies have suggested that the lack of transparency leads to the emergence of interest niches, namely policy issues dominated only by a small set of actors.¹² Similarly, Greenwood’s work on the EU’s democratic deficit suggests that “representative democracy has election results as a means to aggregate popular preferences, whereas there is no equivalent in participatory democracy, leading to the danger that well-organized, knowledgeable, and resourced groups might dominate public policy agendas”.¹³

This has led to big concerns about the quality of the system of the interest representation. Legislators, not only in the EU, considered the introduction of “sunshine” laws such as lobbying regulations, whose aim is to promote competition between groups by increasing transparency and adding mechanisms of accountability to the political system.

With these concerns in mind, this paper examines the lobbying regulation of the EU as a mechanism of transparency and accountability capable of increasing citizens’ knowledge about interest groups activity, and encouraging competition and participation in EU politics. By focusing on

¹⁰ Deliberation and Democratic Legitimacy, in COHEN, J.. *Philosophy, Politics, Democracy: Selected Essays*, MA: Harvard UP, Cambridge, 2009, p. 68.

¹¹ CHARI, R. and O’DONOVAN, *op. cit.*, fn 1 p. 3

¹² BAUMGARTNER F.R., LEECH B.L., BERRY J.M., HOJNACKI M. and KIMBALL D.C., *Lobbying and Policy Change: Who Wins, Who Loses, and Why*, Chicago University Press, Chicago, 2001.

¹³ GREENWOOD, J., *op. cit.*, fn 1, p. 3.

the EU institutions which have regulated lobbying, namely the Parliament and the Commission, we want to show what Europe has done in terms of promoting transparency in lobbying and how this fits in the ongoing international phenomenon of regulating lobbying. Further, we address the latest positive institutional changes in lobbying regulation with the aim of identifying the improvements undertaken by EU institutions in providing disclosure of the interest groups' activity.

To address these problems, the next section of the paper introduces the issue of regulating lobbying and analyses the development of the extant EU regulations from a comparative perspective. Thereafter, we analyze the evolution of registration of lobbyists in the EU between 2008 and 2013. We do, first, at the aggregate level and then turn to more specific sectoral dynamics in the automobile, airline and electricity sectors. These sectors represent some of the biggest revenue generating ones in European space, where tens of thousands of workers are employed. By analyzing firms in these sectors this allows us to gauge if changes in the Joint Transparency Register have impacted on firm lobbying in Brussels and has fostered transparency. This paper argues that in order to understand why the JTR has had a positive impact, a main explanatory factor relates to 'policy learning' that has taken place in Brussels over the last 15 years especially in context of the 'cash for laws' scandal in the EP, reflective of a desire to add more transparency and accountability when supranational policy is formulated.

II. The EU Lobbying Regulation in Comparative Perspective

1. *Regulating Lobbying: Definitions and Objectives*

According to Chari, Hogan and Murphy, regulation of lobbyists' refers "to the idea that political systems have established rules which lobby groups must follow when trying to influence government officials and public policy outputs".¹⁴ Such rules involve, for example, registering in a public register held by an independent agency before contact can be made with political and administrative officials. Registration involves the disclosure of information regarding the lobbying activity, such as the purpose, the spending involved and the targets of the activity. In some cases, these rules establish sanctions for misbehavior or non-compliance with the registering rules, which vary from ban from exercising lobbying activity, to a fine or even imprisonment.

¹⁴ CHARI R., HOGAN J. and MURPHY G., *Regulating Lobbying: A Global Comparison*, Manchester University Press, Manchester, 2010, p. 4.

Some regulations also involve revolving-door provisions which prevent politicians and former civil servants from engaging in lobbying before a specified number of years after the termination of their mandate.

Deep research on the reasons leading to the emergence of lobbying regulations is not fully addressed in the literature. That said, it is generally accepted that introduction of lobbying regulations stems from the need to fight against corruption. Other reasons are related to the promotion of instruments of participatory and deliberative democracy. By defining standards of lobbying and making the activity of lobbyists transparent, these regulations legitimize lobbying and allow citizens, politicians and interest groups to see what lobbyists are doing in terms of influencing the policy making.

Which political systems have lobbying laws? Throughout the 1990s, four main political systems acted. The first country to pass lobbying regulation is the US in 1946 (with later amendments to the regulation in 1995, 2007 and 2010.) Germany regulated the access of interest groups to the parliament in 1951. Canada then introduced a lobbying law in 1989 (with amendments in 1995, 2003 and 2008.) Analogous to the German case, the European Parliament then regulated the access of interest groups to the Parliament building in 1996.

If only four political systems enacted laws in the 1990s, exponential growth has so far been manifest in the 2000s: 12 countries introduced such rules, making lobbying regulations the most popular transparency policy over the last 15 years. The political systems/institutions that passed such rules include: Lithuania (2001), Poland (2005), Hungary (2006 and abandoned in 2011), Australia (2008), the EU Commission (2008), Israel (2008 and amended in 2010), France (2009), Slovenia (2010), Mexico (2010), the Netherlands (2012), Austria (2012), Chile (2013) and the UK (2014). In addition, lobbying regulations are in process of being introduced or revised in Ireland, Spain, Italy, and Germany. In terms of the EU, after the EP's initiatives in 1996, the Commission introduced rules in 2008, followed by the Joint Transparency Register (JTR) between the Commission and EP in 2011. We thus now turn to a discussion of developments in the EU, focusing on the evolution of rules since 1996.

2. Regulating Lobbying in the European Union: The EP and Commission Initiatives - 1996-2011

The first request for the introduction of lobbying regulation came from the EP. The idea behind it was to create a controlled access to the European institution by introducing yearly passes for lobbyists who wished to enter

the Parliament. In order to receive the pass each lobbyist was required to provide personal information and details about the organization and the activity pursued by it. The successful registration implied the acceptance of a “code of conduct” setting a behavior standard for the lobbying activity. Yet, the EP rules represented an example of minimalist regulatory system. It lacked in providing information about spending disclosures, setting revolving door provisions, or sanctions for misbehavior. Its greatest loophole was the uncontrolled lobbying activity outside the Parliament building: the requirement to register only involved lobbying *inside* the Parliament.¹⁵ Many lobbyists employing influence strategies outside EU institutions were therefore able to avoid registration.

While the EP introduced its regulation in 1996, the Commission —ostensibly the ‘hot-bed’ of EU lobbying—remained unregulated until 2008. Transparency and openness in government were the keywords of the White Paper adopted by the European Commission in 2006 when it launched the European Transparency Initiative (ETI). ETI represented an institutional response of the Commissioner for Administrative Affairs, Audit and Anti-Fraud, Siim Kallas, to an open letter of the Corporate Europe Observatory (CEO) and other interest groups representing civil society.¹⁶ The Commission responded to these demands by developing the idea of a lobbying regulation capable of establishing an open dialogue between politicians, employers’ organizations, civil society organizations, and citizens.¹⁷ The Green Paper of 2006 launched a consultation process between the Commission and interest groups which subsequently established of a voluntary register of lobbyists in 2008.

Such a voluntary register reflected the Commission’s historical preference for “self-regulation”¹⁸ in contrast to mandatory registration which was strongly promoted by non-lucrative organizations.¹⁹ Interestingly this position of the Commission in defense of “self-regulation” lay in contrast to the preferences of the majority of politicians, civil servants and lobbyists in

¹⁵ *Ibid.*, p. 53.

¹⁶ WASSELIUS E., “High Time to Regulate EU Lobbying” *Consumer Policy Review*, Vol. 15(1), 2005, pp. 13-18.

¹⁷ KALLAS, S., Commissioner for Administrative Affairs, Audit and Anti-Fraud, “The need for a European transparency initiative” Speech at the European Foundation for Management, Nottingham Business School, Nottingham, 3 March 2005, SPEECH/05/130, http://europa.eu/rapid/press-release_SPEECH-05-130_en.htm?locale=EN (last accessed 31 March 2014).

¹⁸ CHARI, R. and O’DONOVAN, *op. cit.*, fn 1, p. 5.

¹⁹ MICHEL, H., “EU Lobbying and the European Transparency Initiative: A Sociological Approach to Interest Groups”, in KAUPPI, N. (ed.), *A Political Sociology of Transnational Europe*, University of Essex, ECPR Press, 2004, pp. 53-78.

the Brussels. This is shown by a survey performed on these actors in 2005 and 2006 by Hogan *et al.*²⁰ In its lifetime, the voluntary system between 2008-11 experienced a modest registration rate which peaked to around 4000 by June 2011 (as we will be examined in more detail below), a far cry from the supposed 15,000 lobbyists estimated to be active in Brussels.²¹

Under the leadership of Commissioner Šefčovič, in 2011 a formal inter-institutional agreement between the EP and the Commission launched the Joint Transparency Register (JTR), whose “establishment and operation shall build upon the existing registration systems set up and launched by the European Parliament in 1996 and the European Commission in June 2008, supplemented by the work of the relevant European Parliament and European Commission joint working group” (Art.2). Despite the promotion by the EP of a mandatory register, the Commission was able to maintain the “voluntary nature” under this revision. We thus turn to the main features of the JTR and its robustness from a comparative international perspective.

3. *The JTR (2011- present) and the Robustness of the Regulation in Comparative Perspective*

The JTR emerged in the wake of a turbulent lobbying scandal which hit EU institutions. The *Cash-for-Law* scandal erupted in March 2011 involving MEPs caught promoting and passing amendments in European legislation in exchange for bribes. The scandals led to a wave of demands for reform, in particular from the EP President Jerzy Buzek, who established a working group in charge of reforming the lobbying regulation.²² The revision of the lobbying rules arrived with perfect timing allowing both the EP and the Commission to take credit for the creation of the JTR and its Secretariat (JTRS) as a more efficient monitoring mechanism over lobbying activity. The new system is still voluntary, although it enhances the regulation in terms of the quality of disclosure and accessibility of data. The JTR was also formulated in the wake of other west European states, notably France and Slovenia, pursuing lobbying laws. From this perspective, one may

²⁰ HOGAN, J., MURPHY, G. and CHARI, R., “Next Door They Have Regulation but Not Here...: Assessing the Opinions of Actors in the Opaque World of Unregulated Lobbying”, *Canadian Political Science Review*, Vol. 2(3), 2008, pp. 125-152. pp. 133-140.

²¹ The so-called ‘15,000’ lobbyists in Brussels was a figure mentioned by the Commission since the 1990s, and was also declared by Kallas in *op. cit.* fn 13. As registration is not mandatory (even with the JTR), it is all but impossible to know the specific number of active lobbyists.

²² HOLMAN C. and LUNEBERG W., “Lobbying Transparency: A Comparative Analysis of Regulatory Reform”, *Interest Group and Advocacy*, Vol. 1, 2012, pp. 75-104, p. 19.

argue that ‘policy learning’ was manifest in established of the JTR: the EU had learned from its past mistakes that led to scandal; and as other major EU states were pursuing lobbying laws, it made sense for the EU to revisit and revise the JTR.

With respect to the different dimensions considered by Chari et al.²³ that characterize lobbying regulations the main features of the JTR are:

- **Defining lobbying:** Lobbying is defined as every activity “carried out with the objective of directly influencing the formulation or implementation of policy and the decision-making process of the EU institutions, irrespective of channel or medium of communication used” (IA 2011: Art. 8). In addition, Art. 9 and 10 define the organizations which fall under the provisions of the JTR. This definition clearly defines the scope of the register. This is further visible in the structure of the register which organizes lobbying consultancies/law firms, in-house lobbyists, NGOs, think thanks, religious groups and territorial groups in independent sections.
- **Registration:** When registering, lobbyists have to provide personal information and details regarding the organization they are representing. This includes: name and contacts of the lobbyist; name and contacts of the organization including the person legally responsible for the organization and the number of lobbyists working for it. In addition, the lobbyist has to provide information about the organization’s interests and the field of activity. Registration also includes the acceptance of the code of conduct. Additional personal information has to be disclosed in order to receive the yearly pass for accessing the EP. However, registration is still voluntary. The Commission encourages groups to register in order to gain email invitations to meetings with registered interest groups and the Commission/EP when policy is discussed. But, this is considered to be little incentive since established interest groups already hold a considerable amount of information, access and knowledge about who to target in the lobbying process.
- **Financial Information:** Lobbyists are not required to submit regular spending reports. However, at the moment of registration, lobbyists have to provide financial information about the organization and its activities. Professional consultancies and law firms have to disclose the turnover of the lobbying activities as well as remuneration from lobbying contracts with the clients. In-house lobbyists have to provide an estimation of EU lobbying costs. NGOs and other groups

²³ CHARI R., HOGAN J. and MURPHY G., *op. cit.* fn 14, pp. 99-115.

- have to specify the overall budget with a breakdown of the main sources of funding. All registered organizations have to disclose the amount of funding received by EU institutions.
- **Electronic filing and access:** The Joint Transparency Register Secretariat (JTRS), the monitoring agency composed of EP and Commission officials and dependent on the Secretariat General of the Commission established by the inter-institutional agreement between EP and Commission, allows for online registration. All the information disclosed is searchable on the website of the register and organization files are downloadable.²⁴
 - **Revolving Door Provisions:** The JTR does not establish revolving door provisions for former MEPs, Commissioners or high rank civil servants. However, both the EP and Commission have internal codes of conduct which regulate the issues of role-accumulation, gift acceptance and cooling off periods. In particular, a cooling off period of 18 months applies to former Commissioners²⁵ and a 12 month period to senior officials.²⁶
 - **Enforcement:** The JTRS, in charge of running the register and monitoring compliance to its rules, has monitoring powers only over registered organization, since registration is voluntary. This makes the enforcement of the rules problematic. However, when it comes to episodes of misbehavior or non-compliance with the register rules or the code of conduct, the JTRS can suspend or remove the organization from the register and withdraw EP-passes. The JTRS can decide to name and shame the organization by publishing the decision on the register's website. These powers highlight a significant improvement compared to past enforcement of rules at the EU level. But, in contrast to the US and Canada, EU rules do not involve penalties such as fines or even imprisonment for non-compliance.

In comparison to the previous systems of the EP and the Commission, and in the context of its having 'policy learned,' this revised regulation increases the quality of the disclosure of information. The JTR clearly set its scope by minimizing loopholes in the system. In addition, separate regulations on 'cooling off periods,' found in internal codes of conduct of the EP and the Commission, fill the gap left open by the JTR.

²⁴ See: <http://ec.europa.eu/transparencyregister/public/consultation/search.do?locale=en&reset=> (last accessed March 31, 2014).

²⁵ See: http://ec.europa.eu/commission_2010-2014/pdf/code_conduct_en.pdf (last accessed March 31, 2014).

²⁶ See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:287:0015:0062:EN:PDF> (last accessed March 31, 2014).

How does the JTR compare to other lobbying regulations found throughout the world? Chari, Hogan and Murphy used an index developed by the Centre for Public Integrity (CPI) as measurement of the robustness to the existing regulated systems, providing the first global comparative perspective on lobbying regulations.²⁷ By robustness the authors mean the capacity of the regulation to increase transparency and accountability.²⁸ The scores are derived from a textual coding procedure which applies different scores to the legislation following the methodology developed by the CPI.²⁹ The different scores sum up to an Index, namely the CPI index, which measures the total robustness of the legislation. The CPI index is constructed by applying a point score on 48 questions under the eight dimensions discussing for example, the definition of lobbyists, registration details, spending disclosures, electronic filing, and cooling off period. The index results in a point scale ranging from 1 (minimal robustness) to 100 (maximum robustness). In other words, the closer the lobbying law is to 100, the more robust is the legislation. Based on this analysis the authors created a theoretical classification assigning regulatory systems to three categories: low regulated systems (systems that attain 1-29 points on the CPI scale), medium regulated systems (30-59 points), and highly regulated systems (60-100 points).

Using this method of analysis, this paper updates previous work significantly by providing scores for countries which have recently introduced laws, such as Slovenia, Austria, France, the UK, and the EU's JTR. This information, plus previous countries' scores, is found in Table 1, while Appendix A details how the score for the JTR was calculated.

Table 1 demonstrates that when compared to the previous regulations of the EP and the Commission, the JTR has taken some steps forward towards more robustness. However, the score also shows that the JTR is still categorized on the lower end of medium-regulated systems, meaning that the lobbying law provides basic and fundamental provisions on registration lacks in teeth compared to the regulations of other countries when it comes to spending reports, enforcement and sanctions. Among the most recent ones (Slovenia and Austria), the JTR shows the lowest level of robustness. In addition, registration is still voluntary, offering little incentives to register. This lack of strong enforceable provisions has been the focus of recent debates on the revision of the JTRS launched in late 2013, where the Commission and EP are working together with interest groups with the aim of revising the regulation before 2015.

²⁷ CHARI R., HOGAN J. and MURPHY G., *op. cit.* fn 14, pp. 99-115.

²⁸ *Ibid.*, 23.

²⁹ See: <http://www.publicintegrity.org/hiredguns/default.aspx?act=methodology>

Table 1
The Robustness of Lobbying Regulations

Regulatory System	CPI Score	Classification
US (2007)	62	high-regulated
Canada (2008)	50	medium-regulated
Slovenia (2010)	49	medium-regulated
Hungary (2006 and abandoned in 2011)	45	medium-regulated
Lithuania (2001)	44	medium-regulated
Australia (2008)	33	medium-regulated
Austria (2012)	32	medium-regulated
JTR - European Union (2011)	31	medium-regulated
Poland (2005)	27	low-regulated
UK (2014)	26	low-regulated
France (2009)	25	low-regulated
Commission (2008)	24	low-regulated
Germany (1951)	17	low-regulated
EP (1996)	15	low-regulated

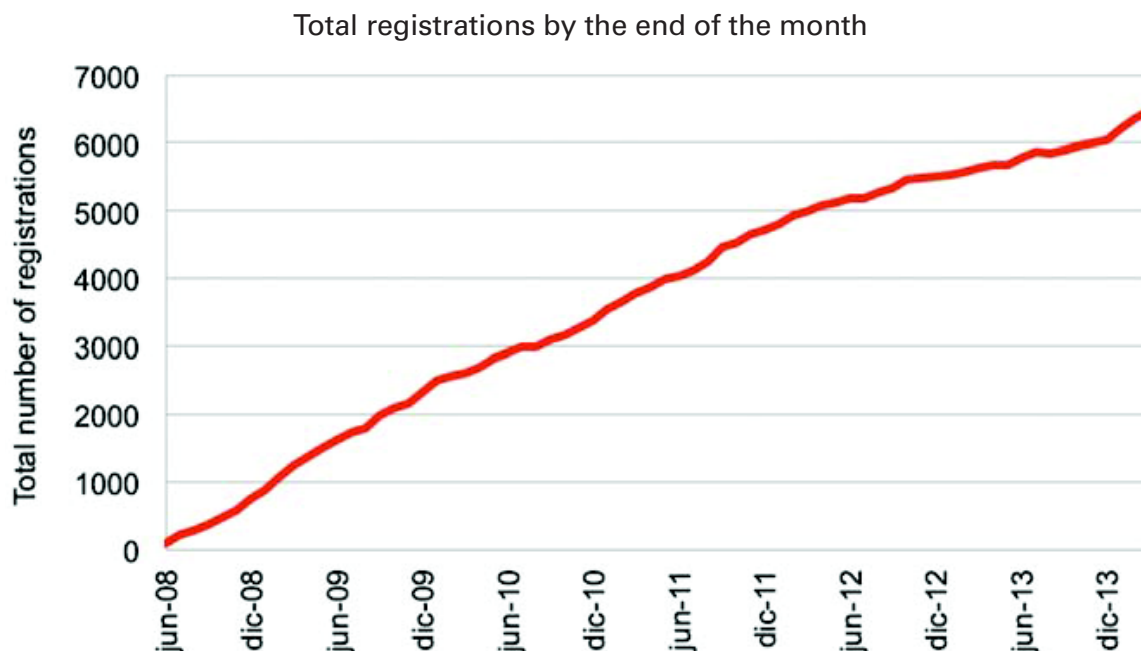
Source: Chari, Hogan, and Murphy (2010); Crepaz (for Austria, Slovenia, France, UK and EU JTR). Israel (2010), Mexico (2010), Netherlands (2012) and Chile (2013) have to be coded.

The discussion now turns to the development of overall levels of registration in the EU between 2008 and 2013. It first considers the aggregate level data. It then turns to sectoral level analysis with particular attention to automobiles, airlines and electricity companies. This will allow for further insights regarding how the JTR has promoted more lobbying transparency (by way of increased registrations compared to the Commission's initiatives of 2008) and accountability (in terms of reliable information that is being disclosed, which can be used by consumers that consult the registry.)

4. *The Evolution of the Register from 2008 to 2014*

Figure 1 analyzes the evolution of the number of registrants (y axis), over time. In terms of dates, the Commission registry functioned between June 2008 and June 2011, at which time the JTR came into effect.

Figure 1 highlights that there is overall positive linear growth over the series. In other words, the number of registered lobbyists is correlated to time: as time continues, the number of lobbyists that are registering increases. However, it is safe to hypothesize that with time this linear relationship will level off—if we assume that with time all lobbyists would have registered (at least theoretically), the number will therefore approximate a constant. In this regard, as mentioned before, if the total number of lobbyists actually present in Brussels is actually 15,000, then this would mean that it would approximate a constant of 15,000. However, the fact that the last year of the time series sees a slight slowing down, the actual number of lobbyists present may well be below this limit.



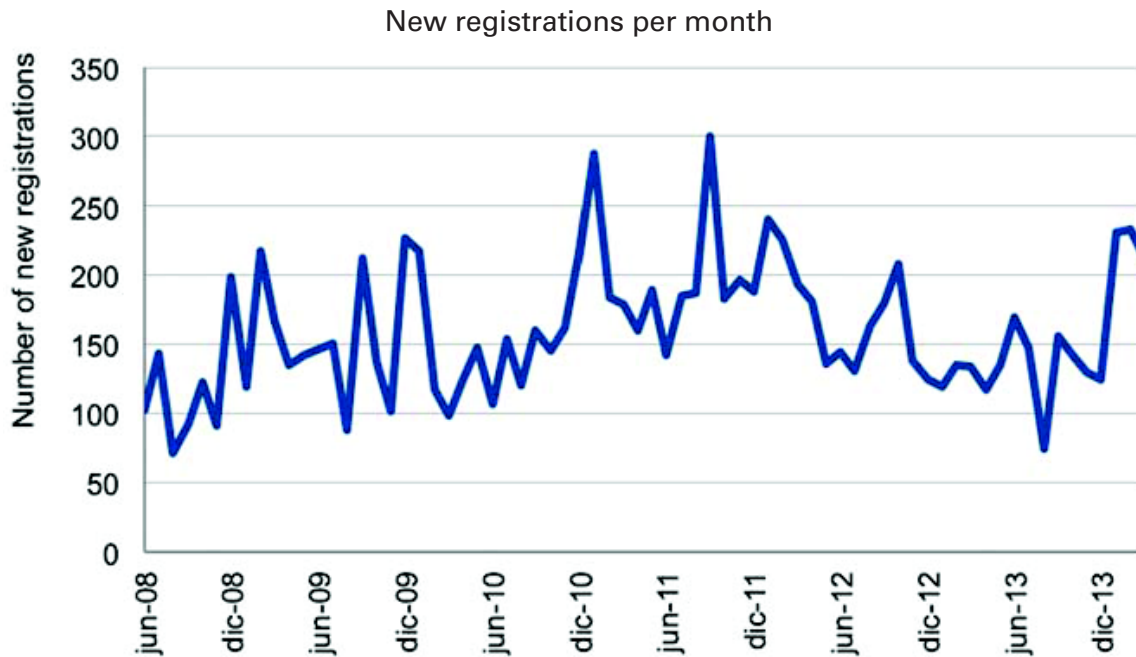
Source: Transparency Register Data 2014.

Figure 1

The evolution of the Register from 2008 to 2014, number of registrations

Figure 1 also highlights as the JTR continues, the overall number of lobbyists registering has significantly increased. At the end of the Commission's registry in June 2008, 4054 lobbyists had registered. By March 2014, 6475 lobbyists were registered. The time period that the JTR has been in effect thus sees an increase of around 60% of registered lobbyists, highlighting the effectiveness of the policy.

The number of new registrations per month is seen in Figure 2.



Source: Transparency Register Data 2014.

Figure 2

The evolution of the Register from 2008 to 2013, number of new registrations

One may take three main observations from Figure 2. First, it suggests that the last two years have seen generally fewer peaks than during earlier in the time series, although some notable peaks are seen in 2014. Secondly, taken as a whole, local maxima are generally found in December of every year (save 2012). Although there is no obvious explanation for this, this may be understood in the context of spending disclosures being based on figures at the end of the fiscal year. Third, and particularly important for this paper, an absolute maximum on the graph was obtained slightly after June 2011, when the JTR came into effect. Thus further demonstrates its importance: more lobbyists were taking it seriously and signing up.

In order to judge the efficaciousness of the JTR compared to the Commission's registry, we now pay specific attention to firms in specific sectors.

5. The Evolution of the Register in the Automobile, Airline and Electricity Sectors

The previous section showed a considerable increase in terms of the overall number of registrations from 2008 to 2014. This suggests that an increasingly large number of lobbyists are willing to register as the lobbying

regulation develops despite its voluntary nature. But the data is aggregate and does not consider spending disclosure of firms in specific sectors. In order to better understand if the EU's institutional changes are more likely to have led to improvements on efficiency of the European voluntary system, it is thus useful to see the impact of the JTR on firms operating in major sectors of the European economy. We therefore present an analysis of the development of the registrations first in the sector of automobile, then in that of airlines and electricity. We selected these sectors because they are a representative example of a range of lobbying strategies, which vary from "in-house" lobbying performed by individual companies to lobbying undertaken by peak-level trade.

Turning to the automobile sector, we consider the main trade organization Association des Constructeurs Européen d'Automobiles (ACEA) and its members.³⁰ The reason for selecting the ACEA is that it brings together the most important European and global automotive companies, such as BMW, Daimler and Volkswagen, or Nissan, Toyota and Ford.

In order to better understand compliance with the lobbying register over time, we compare the data on the registrations of ACEA and its 15 members from the Commission's register of 2008 to that found in the JTR in 2013. We also examine the estimated costs related to representing interests in the EU declared by these organizations. The aim of this comparison is to assess the presence (or lack) of improvements in both, registration rates and values reported in spending disclosure.

Given its improved robustness, we hypothesize that the JTR improved the efficiency of lobbying regulation. Consequently we expect the companies which were not registered in 2008 to be registered in 2013. In addition, the umbrella organization and its members are expected to declare higher amounts of expenditures compared to 2008, since the companies became more "honest" in disclosing the costs of their lobbying activity.

The data presented in Table 2 verifies our hypotheses. The table is structured on three main dimensions: the first column lists ACEA and the companies that are members of it. This allows us to distinguish lobbying costs associated with "in-house" lobbying of individual firms from the lobbying performed by trade associations. Columns 2 and 3 consider the registration and the estimated costs of lobbying under the Commission's register of 2008. Columns 4 and 5 consider the registration and the estimated costs of lobbying under the JTR in 2013.

³⁰ With the exception of Hyundai which is not a member of ACEA nevertheless is found within the top 20 percent of the world's leading 2000 firms.

Table 2
Money and Lobbying in the Automobile Sector

Company Name	Registered with European Commission (2008)	Lobbying Costs Declared on Commission Register	Registered in Joint Trans. Register (2013)	Lobbying Costs Declared in Transparency Register
ACEA	Yes	€550 – 600,000	Yes	€2,000 – 2,250,000
BMW Group	Yes	€200 – 250,000	Yes	€700 – 800,000
DAF Trucks	No	N/A	No	N/A
Daimler AG	Yes	€300 – 350,000	Yes	€2,834,700
Porsche	No	N/A	No	N/A
Fiat Group	Yes	€200 – 250,000	Yes	€400 – 450,000
Ford Motor	Yes	€100 – 150,000	Yes	€500 – 600,000
Opel	Yes	€350 – 400,000	Yes	€800 – 900,000
Hyundai	Yes (but not ACEA member)	€100 – 150,000	Yes	€350 – 400,000
Jaguar Land Rover	No	N/A	Yes	€150 – 200,000
MAN	Yes	€80	Yes	€80,000
Peugeot Group	Yes	€150 – 200,000	Yes	€300 – 350,000
Renault	Yes	€25 – 300,000	Yes	€400 – 450,000
Scania	Yes	Less than €50,000	Yes	€450 – 500,000
Toyota Motor	Yes	€200 – 250,000	Yes	€300 – 350,000
Volkswagen	Yes	€200 – 250,000	Yes	€800 – 900,000
Volvo Group	Yes	€250 – 300,000	Yes	€350 – 400,000

Source: Conceptualization developed by Stacey (2010); Columns 2-3, Chari and O'Donovan (2011); Columns 4-5, Transparency Register Data (May 2013). Lobbying costs declared on the Commission register are those reported for financial year 2009 (unless otherwise noted). Data for lobbying costs declared in JTR registrations are for financial year 2012.

One of the first observations is that most of the companies were already registered in 2008. Exceptions are DAF Trucks, Porsche and Jaguar Land Rover. Although DAF's lack of registration cannot be explained, Porsche's lack of registration can be explained because the firm is a member of the Volkswagen Group, which is registered. Jaguar Land Rover finally did register in 2013, reflective of the view that the firm is taking the JTR more seriously than the previous Commission registry (for which it did not sign up).

Considering spending declarations, Table 2 shows that the amount of disclosed spending on lobbying activity considerably increased. All companies

registered with the Commission tended to declare roughly the same amount in 2008, almost reflective of a view that a general figure was arrived at together, without much variation. However, these values increased in 2013 and notably varied across firms. By taking the sum of the declarations of 2008 and comparing them with the ones of 2013 we observe that disclosures by the ACEA and its members increased by 72 % in 5 years.

In more detail, some actors declared more expenditures than others. ACEA in 2013 declared 1.5 million more than in 2008. Among the individual firms, Daimler AG registers the highest increase (2.5 million which represents an increase of almost 90 %). Also the other prominent European automobile firms such as BMW, Opel, Volkswagen, Fiat, Renault and Volvo—which all declared around €200,000-300,000 in 2008—declare between €350,000 and €600,000 in 2013 with a peak of BMW, Opel and Volkswagen falling in the range between €700,000-900,000. Even smaller firms or non-European firms, such as Scania, Peugeot (with the only exception of MAN which declares the same amount in 2008 and 2013), Ford, Hyundai and Toyota declare on average €250,000-300,000 more in 2013 than in 2008.

The trends of spending disclosures in the automobile sector are also generally found in the airline sector. Table 3 displays the comparison between registrations and the disclosure of estimated costs of lobbying under the Commission register of 2008 and the JTR in 2013. For our analysis we consider the four main European airline-companies, which are members of the umbrella organization AEA (Association of European Airlines).

Table 3
Money and Lobbying in the Airline Sector

Company Name	Registered with European Commission (2008)	Lobbying Costs Declared on Commission Register	Registered in Joint Transparency Register (2013)	Lobbying Costs Declared in Transparency Register
AEA	Yes (2010)	€150-200,000	Yes	€ 100 – 150,000
Air France	Yes	€50–100,000	Yes	€100 – 150,000
Alitalia	No	N/A	Yes	N/A
British Airways	Yes	€ 100,000 – 150,000 (data from 2010)	Yes	€ 1,250 – 1,500,000
Lufthansa	Yes	€ 350,000 – 400,000 (data from 2008)	Yes	€ 350 – 400,000

Source: European Commission, JTRS. Lobbying costs declared on the Commission register are those reported for financial year 2009 (unless otherwise noted.) Data for lobbying costs declared in JTR registrations are for financial year 2012.

The table demonstrates that all airlines (with the exception of Alitalia) were already registered under the Commission's regulation in 2008. Air France, British Airways and Lufthansa were all earmarking costs towards Brussels' lobbying. In the case of Air-France, its JTR registration shows how lobbying costs doubled, while the estimated amount of money spent by British Airways incremented tenfold.

Table 4 finally displays the registration and the estimated lobbying costs of four European giants of the electricity supply, namely E.On, Electricité de France, ENEL (which is the ultimate owner of the Spanish giant Endesa) and Scottish and Southern Energy (SSE). While ENEL's and SSE's values remain largely unchanged, E.On continues to lead European firms in the sector by earmarking around €2 billion to its lobbying efforts in Brussels. EDF's lobbying costs, not dissimilar to British Airways, has increased almost ten-fold.

Table 4
Money and Lobbying in the Electricity Sector

Company Name	Registered with European Commission (2008)	Lobbying Costs Declared on Commission Register	Registered in Joint Transparency Register (2013)	Lobbying Costs Declared in Transparency Register
E.On	Yes	€2,119,000 (data from 2011)	Yes	€ 2,032,000
ENEL	Yes	€350-450,000	Yes	€ 350,000 – 450,000
EDF	Yes	€ 250,000 – 300,000	Yes	€ 2,000,000 – 2,500,000
SSE	Yes	€ 200,000 – 250,000	Yes	€ 200,000 – 250,000

Source: European Commission, JTRS. Lobbying costs declared on the Commission register are those reported for financial year 2009 (unless otherwise noted). Data for lobbying costs declared in JTR registrations are for financial year 2012.

In summary, taking all of the sectors together shows that generally all firms have registered, and those that did not do so with the Commission in 2008, did so with the JTR. Another main observation is that amounts disclosed in the Commission registry were generally lower than those for the JTR. In other words, firms are taking the JTR more seriously by giving more detailed, and robust disclosures. A main explanation for this is that by having 'policy-learned' and having enacted an institutional structure that allows the JTRS power to verify or falsify disclosures—and potentially

name and shame—means that firms have responded with more accurate disclosures. Related to this, as the JTR is being consumed by more and more who consult the database, including the press, firms do not want to run the risk of being accused of ‘fudging their numbers.’ Finally, the high amounts of funds disclosed by firms may also be a function of their increased political activity in Brussels. While the JTR at this stage still does not allow us to fully know what amounts of funds were earmarked to any specific lobbying initiative, one can correlate the increases in some firms spending to major Mergers and Acquisitions (M&A) they have pursued. In such deals, heavy lobbying of DG Competition takes place in order to get merger regulatory approval. Specific 2012 deals that may be noteworthy in this regard which resulted in the firms having to increase their overall lobbying expenditure include: Volkswagen’s acquisition of Ducati; British Airways (and its parent company International Consolidated Airlines Group) acquisition of BMI; and EDF’s purchase of the Italian giant, Edison.

III. Conclusion

This analysis of European lobbying legislation showed that the regulation of lobbying in EU institutions has improved. From the first rules introduced by the European Parliament in 1996, to the regulation of the Commission in 2008 and finally the JTR in 2011, EU lobbying legislation has progressed. We provided evidence of this progress in two ways. First, we analyzed the robustness of the regulation from a comparative perspective. According to the method of classification by Chari et al.³¹, the JTR is a medium-regulated system, which represents an improvement considering the previous regulation of the EP and the Commission were both classified as low-regulated systems.

Second, our analysis also provided evidence of improvement in terms of the efficiency of the regulation. We analyzed the registration rates from 2008 to 2013, first in terms of overall number of registrations, then by considering specific developments in the automobile, airline and electricity sectors. This latter analysis showed two trends which underline the improvement from the previous systems. On the one hand, companies are more willing to register. On the other, registered companies tend to provide more accurate estimations of their lobbying expenses. With this

³¹ CHARI R., HOGAN J. and MURPHY G., 2010. *Regulating Lobbying: A Global Comparison*, Manchester University Press, Manchester, Chapter 4.

idea in mind, we suggested that the main reason for this improvement relates to processes of “policy learning.” The EU has given more powers to its institutional structure to investigate registration through its spot checks. In response to this, firms are taking the registration process more seriously, with the view to keep the JTRS happy and also prevent any questions from consumers who may consult the registry.

However, as much as the lobbying laws have resulted in an overall ‘positive evolution’ of the EU and its administrative structure, the EU’s initiatives from an international comparative perspective still pale. That is, compared to laws in the US, Canada, Slovenia, Lithuania, Australia, and Austria, the EU’s rules are not particularly robust. This thus makes it difficult to consider the EU as an example of “good administration”: the JTR still lacks in teeth compared to the regulations of other countries when it comes to spending reports, enforcement and sanctions. In addition, registration is still voluntary, offering little incentives to groups to sign in the register.

Indeed, this lack of strong, enforceable provisions has been the focus of recent debates on the revision of the JTR launched in late 2013. Again, the Commission and the EP are working together with interest groups with the aim of revising the regulation before 2015. At the time of writing, the revision reached the stage of having a draft inter-institutional agreement between EP and Commission. As reported by ALTER-EU, however, the result of the consultation phase seems disappointing.³² In terms of robustness, the newest draft regulation does not address the issue of establishing a mandatory register. In addition, the regulation does not introduce new incentives with the aim of fully encouraging registration. Despite these deficiencies, the draft legislation shows some signs of improvement. Positive aspects include, for example, new proposed rules on spending disclosures: interest groups are now required to provide more precise estimates of their costs related to lobbying. This is done by introducing narrow expenditure band-widths. In addition, registered lobbyists are now required to provide “concrete details and information on the main legislative proposals or policies covered by activities of the registrant falling within the scope of the register.”³³ While these aspects may represent improvements, time will only tell if they approximate an ideal.

³² ALTER_EU 2014. ALTER-EU scorecard on EU Transparency Register review recommendations. <http://www.alter-eu.org/documents/2014/01/alter-eu-scorecard-on-lobby-register-review>.

³³ Draft IIA 2014: Annex 2.

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V. Annexes

Appendix A

CPI Scoring for the Joint Transparency Register

Question			Score
Definition of lobbyist			
1	In addition to legislative lobbyists, does the definition recognise executive branch?	yes	3
2	How much does an individual have to make/spend to qualify as a lobbyist or to prompt registration as a lobbyist, according to the definition?	0	4
Individual registration			
3	Is a lobbyist required to file a registration form?	yes	3
4	How many days can lobbying take place on before registration is required?	0	0
5	Is the subject matter or bill number to be addressed by a lobbyist required on registration forms?	no	0
6	How often is registration by a lobbyist required?	annual	2
7	Within how many days must a lobbyist notify the oversight agency of changes in registration?	+ 16	0
8	Is a lobbyist required to submit a photograph with registration?	yes (pass)	1
9	Is a lobbyist required to identify by name each employer on the registration form?	yes	1

Question			Score
10	Is a lobbyist required to clearly identify on the registration form any additional information about the type of their lobbying work?	no	0
Individual spending disclosure			
11	Is a lobbyist required to file a spending report?	at the moment of registration	1
12	How often during each two-year cycle is a lobbyist required to report spending?	annual	1
13	Is compensation/salary required to be reported by a lobbyist on spending reports?	no	0
14	Are summaries of spending classified by category types?	no	0
15	What spending must be itemised?	none	0
16	Is the lobbyist employer/principal on whose behalf the itemised expenditure was made required to be identified?	no	0
17	Is the recipient of the itemised expenditure required to be identified?	no	0
18	Is the date of the itemised expenditure required to be reported?	no	0
19	Is a description of the itemised expenditure required to be reported?	no	0

Question			Score
20	Is the subject matter or bill number to be addressed by a lobbyist required on spending reports?	no	0
21	Is the spending on household members of public officials by a lobbyist required to be reported?	no	0
22	Is a lobbyist required to disclose direct business associations with public officials, candidates or members of their households?	no	0
23	What is the statutory provision for lobbyists giving/reporting gifts?	subject to approval and reported over 150€ (code of conduct EP and Commission)	2
24	What is the statutory provision for a lobbyist giving/reporting campaign contributions?	none	0
25	Is a lobbyist who has done no spending during a filing period required to make a report of no activity?	no	0
Employer spending disclosure			
26	Is an employer/principal of a lobbyist required to file a spending report?	no	0
27	Is compensation/salary required to be reported on employer/principal spending reports?	no	0

Question			Score
Electronic filing			
28	Does the oversight agency provide lobbyists/employers with electronic/online registration?	yes	1
29	Does the oversight agency provide lobbyists/employers with electronic/online spending reports?	no	0
30	Does the oversight agency provide training about how to file registrations/spending reports electronically?	yes (art.24)	1
Public access			
31	Location/format of registration or active lobbyist directory	searchable database	3
32	Location/format of spending report	none	0
33	Cost of copies	free	1
34	Are sample registration forms/spending reports available on the web?	yes	1
35	Does the agency provide an overall lobbying spending total by year?	no	0
36	Does the agency provide an overall spending total by spending report deadlines?	no	0
37	Does the agency provide an overall lobbying spending total by industries lobbyists represent?	no	0
38	How often are lobby lists updated?	monthly	3

Question			Score
Enforcement			
39	Does the agency have statutory auditing authority?	no (JTRS)	0
40	Does the agency conduct mandatory reviews or audits?	Random quality checks	1
41	Is there a statutory penalty for late filing of a lobby registration form?	no	0
42	Is there a statutory penalty for late filing of a lobby spending report?	no	0
43	When was a penalty for late filing of a lobby spending report last levied?	NA	0
44	Is there a statutory penalty for incomplete filing of a lobby registration form?	no (rule of procedure)	0
45	Is there a statutory penalty for incomplete filing of a lobby spending report?	no	0
46	When was a penalty for incomplete filing of a lobby spending report last levied?	NA	0
47	Does the state publish a list of delinquent filers either on the web or in printed document?	no (JTRS could)	0
Revolving-door provisions			
48	Is a cooling-off period required before legislators can register as lobbyists?	18 month commissioners 12 month senior officials (code of conduct EP and Commission)	
Total CPI score			31

Source: Chari et al. (2010).