

Template submission response

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What are the positive features of the Act?

- Recent research has classified the Irish lobbying regulation as one of the most robust regulatory systems in Europe. By robustness is meant the level of transparency and accountability a regulation can guarantee (Crepaz 2016). Chari et al. (2019) classify Ireland as a medium-robustness system; Crepaz and Chari (2018) show that different measurements of robustness score the Irish legislation in the upper end of the spectrum.
- The legislation is fairly comprehensive, covering almost all important dimensions of regulation identified by both academics and international organizations, such as the OECD (see 10 principles of transparency and integrity in lobbying).
- The rules target a wide scope of interest group categories (ranging from firms, associations, consultants and non-governmental organisations). This approach is in line with practices in other political systems with medium-robust rules in place (e.g. Canada, European Union).
- The legislation regulates a wide range of lobbying activities. This includes attempts of direct influence (through direct communication) targeting the executive and legislative branch of government and even local government institutions. This approach goes beyond general practices found in other European countries.
- The amount of information disclosed is quite rich and provides a fairly accurate idea of 'who is lobbying whom and for what purpose'. This is adequate considering that 'to provide information to the public about who is

lobbying whom and for what purpose' is claimed to be the regulation's main goal.

- The cooling off period of 1 year is adequate and does not impede a person's right to earn a living. In addition, information about revolving doors between politics and the private industry is disclosed on the register with activity returns. Information about revolving doors in the lobbying industry is therefore easy to retrieve in case of actual or potential conflict of interest.
- The introduction of the Code of Conduct in 2018 testifies to the activism of the registrar in pursuing higher standards for a responsible and ethical lobbying.
- The website of the register is user-friendly, regularly updated and open to public scrutiny. The enforcement powers of the registrar are adequate and sanctions appropriate. Compliance levels, at least compared to other examples in Europe, seem to be high with more than 30,000 reports submitted since 2015 and more than 1,800 registered organisations. This represents a fairly accurate representation of the "real" numbers of politically active civil society organisations and interest groups in Ireland (Murphy 2017).
- Overall, the Irish lobbying law is a good foundation to build upon.
- According to our research and interviews with European regulators, the Irish legislation has been taken as an example of best practise in Europe. Regulated and unregulated political systems (that are, however, in the process of introducing similar laws) are looking at Ireland with interest. The Irish regulator seems to have welcomed such attention promoting the creation of European networks of knowledge and best practices.
- The implementation of the rules is managed by SIPOC, who has authority over other transparency policies, such as the disclosure of political donations to TDs and the private and public funding of political parties. This centralisation of responsibility gives to SIPOC not only the authority to deal with matters of transparency in politics, but also the possibility to cross-reference and triangulate data potentially increasing the accuracy of audits and investigations.

Does the Act fulfil the objectives it set out to achieve?

- A declared objective of the legislation is to provide information to the public about ‘who is lobbying who and for what purpose’. The current regulation certainly meets this goal, which remains however rather narrow. Over the years, the activism of the registrar has increased the scope of the objectives of the legislation. The recently introduced code of conduct, for example, had the objective of promoting ethical and responsible lobbying. It might be time to clearly define new goals and objectives of the new lobbying regulation coming into place in September 2019.
- It might be difficult to evaluate to which extent the public actually makes use of the information published on lobbying.ie. From a quick content analysis of the Irish Times archives, 60 articles appear to mention ‘lobbying register’ or ‘lobbying regulation’ since 2016. Of course, journalists might be using the lobbying.ie portal every day. However, it remains difficult to evaluate how much information on lobbying.ie is ‘consumed’ and it is therefore hard to say to which extent the regulation meets its goals.
- From recent data collected through a survey of a representative sample of registered organizations, we observed that 40% of the registered lobbyists accesses lobbying.ie for purposes related to their profession (other than for filing reports). From this data we concluded that, a large proportion of ‘users’ of the register are lobbyists themselves. It might be concluded that the goals and objectives of the new regulation need to be adapted to this new reality (more comments in the next section).
- The registrar might consider carrying out a study (or commissioning a report to a research institution) that evaluates the public’s knowledge about the Irish lobbying regulation and the frequency of access to lobbying.ie by journalists and media in their profession. This might be included in Section 25 of the Act in relations to the reports by the Commission. Transparency rules are claimed to help improve accountability and improve public scrutiny of politics. Such a study might provide an additional impact assessment of this type of rules.

Have any unintended consequences occurred, in your view?

- Our recent survey and our past research in this area outline three problems that might be addressed in the new regulation:
 1. The results of our survey reveal that local organisations with low levels of resources and organisational capacity are not always sure about their registration obligations. Informal exchanges reveal that organisations sometimes are not sure if they need to register (if they fall in the category of lobbyist or not). The registrar has already worked on this in the past by publishing accurate guidelines. However, it seems that there is continuous work to be done on this matter (especially for new organisations).
 2. Local and small organisations (especially no-profit organisations and unions) do not seem to associate their political activities with 'lobbying'. Despite the past attempts to clarify the meaning of the term, the word '*lobbying*' still carries negative connotations. This problem should be addressed (see more comments below).
 3. While surveyed lobbyists believe that the act has helped to promote transparency and accountability in lobbying, they do not believe that it supports their profession. The results of our study shows that lobbyists do not perceive registration as 'helpful' in terms of offering reputational advantages, professional opportunities or information to be used during the advocacy process. Already in 2012 (during the first public consultation of the Government Reform Unit), many organisations suggested to introduce an incentive structure related to registration (similar to what is in place in the European Union). The idea behind these demands is that lobby regulations can both promote public scrutiny and support to the lobbying profession if it is carried out in line with ethical standards. The Transparency Register of the European Commission and the European Parliament offers access incentives (to meetings with Commissioners, alerts for public consultations, membership in expert groups etc.) in exchange for registration. This system is in place because compliance with the EU regulation is voluntary.

However, nothing refrains mandatory systems from introducing incentive structures. Such a structure might increase the overall legitimacy of the act. Some examples of how this could be achieved are discussed in the next sections.

Do you think the Act can be improved in any way and, if so, how?

- The Act should redesign its aims and objectives. Currently, the act is designed in a way to provide the public with information about:
 - *Who is lobbying*
 - *On whose behalf is lobbying being carried out*
 - *What are the issues involved in the lobbying*
 - *What is the intended result of the lobbying*
 - *Who is being lobbied*
 - *What is the extent of the lobbying activities*

However, given the scope of the new code of conduct and the examples of best practises promoted by the regulator, new goals and objectives could be added to the above:

- 1) Encourage the use of the information to provide a better understanding of how lobbying works in Ireland
- 2) Promote responsible and ethical lobbying
- 3) Provide registered lobbyists with a platform that can be used in their profession (in other words, introduce an incentive structure based on registration and ethical standards of disclosure)

There are several ways of putting point 3) into place. Our research shows that lobbyists 'consume' the information on lobby registers for four purposes: 1) To collect information about the policy making process. 2) To define their advocacy strategy. 3) To see what competitors are doing. 4) To see what (potential) collaborators are doing. If designed in a way to serve these purposes (together with public scrutiny) the lobby register can increase the scope of its function to 'platform of participation'. This could help improve the quality of participatory democracy, the legitimacy and the competitiveness of lobbying, at the same time promoting

standards of responsible and ethical lobbying. A rough description of a possible incentive structure could be based on the following:

- Similar to what designed with the EU register, registration could be linked to access incentives (see [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014Q0919\(01\)&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014Q0919(01)&from=en))
- Registrations could be linked to tags, which would allow registrants and users to easily follow the activities of private and public interests. This would facilitate access for journalists and citizens and would, at the same time, allow registered actors to follow competitors and find potential advocacy collaborators.
- Tags would in theory make the publication of summary statistics easier to retrieve.
- The financial disclosures of lobbyists and their employers could be sought in returns to the register. The register could include also an item on the disclosure of political donations (including gifts) from lobbyists to elected and non-elected officials; this is a requirement in the US and some European countries. The voluntary system in place in the European Union, and the mandatory systems in France and Austria are leading the path on this. The disclosure of lobby expenditures helps to increase overall transparency and accountability. This would also show to the public that monetary resources are integral part of lobbying and advocacy (and this includes also NGOs, charities, professional associations). The disclosure of political donations provides an additional source of information in support of SIPOC's investigation over irregular donations. An article of the Irish Independent published back in 2012¹ showed that there is often a mismatch between donations received and donations declared. The introduction of the disclosure of political donations in the lobby register offers an additional source of information allowing investigators to triangulate the data. This would require the formation of a task force within SIPOC (even ad hoc), which in cases of irregularities has the power of conducting audits for all

¹ <https://www.independent.ie/irish-news/revealed-corporate-donations-the-parties-didnt-tell-you-about-26822168.html>.

transparency rules currently under SIPOC's responsibility. This requires a redesign of the Commission's responsibility in the Act (Section 19).

- Given the negative attitudes carried by the word 'lobbying', more could be done to define the term in the Act. Currently, only this paragraph describes the approach taken by the legislation on the matter:

Lobbying is an essential part of the democratic process through which citizens may make their views on public policy and public services known to politicians and public servants. Organisations such as interest groups, representative bodies, industry and civil society organisations, NGOs, charities and third party professional lobbyists all provide necessary input and feedback to politicians and public servants through communication of their views and concerns. The aim of the Act is not to restrict the flow of information or views on policy or legislation. The intention is to bring about significantly greater openness and transparency with respect to lobbying activities.

This aspect could be stressed more (in explanatory memoranda if not in the regulation) with a more detailed fashion. Alternative terms to lobbying, such as influence, representation of interests and advocacy, can be used in Section 5 of the Act, to refer to the political activities of no-profits. The definition of lobbying as part of the democratic process could be linked to scholarly research, recommendations of international organizations and international NGOs in explanatory memoranda and policy documents. This would provide a more neutral image of the term, which is important for legitimacy and compliance reasons.

- Finally, the current act excludes public service bodies from the scope of the regulation. I am aware that the inclusion of public service bodies such as the Irish Central Bank or of the An Garda Síochána are problematic and beyond the goals and objectives of the regulation. However, it should be acknowledged (and considered whether to act upon) that public service

bodies (especially local and educational institutions) engage in lobbying. The current transparency register of the EU contains information about 10 Irish organizations that regularly lobby European institutions and qualify as Irish public service bodies. This comment does not suggest to introduce lobbying rules for these actors but encourages to consider if appropriate to regulate and why such organisations should (or should not) be part of the register.

What suggestions for changes, if any, would you make? (Please see comments in previous section and combine)

- Introduce clear goals and objectives of the regulation that can be used in the yearly assessment of enforcement and implementation levels.
- Consider the introduction of incentive structure: Re-design the register in such a way to provide registered lobbyists with the opportunity of making use of the disclosed information in their profession (see suggestions in previous section). Our study shows that registered lobbyists use lobbying.ie for informational, strategic, competitive and collaborative purposes. The register resembles a social network of lobbying activities. If the introduction of an incentive structure can be achieved, then possible positive outcomes are:
 1. More competition and collaboration between registered organizations. Competition and collaboration help level the playing field promoting a vibrant environment for political participation.
 2. Better information offers opportunities for peer-to-peer control, which facilitates enforcement for the registrar.
 3. More positive attitudes towards the lobby register from the lobbying community.This can help increase the overall efficacy of the lobby regulation act in Ireland.
- Include spending disclosure (based on the French example) with registration. Consider including a section for the disclosure of political donations.

- One of the main problems with lobby registers in Europe is a lack of resources, which makes implementation difficult. Reforms to the Act should be considered in relation to the availability of resources.
- Adapt investigative powers of SIPOC to new design of the Act and new responsibilities.

Chari, R., J., Hogan, G., Murphy, and M., Crepaz (2019). *Regulating lobbying: A global comparison*, 2nd edition: Manchester University Press.

Crepaz, M. and R., Chari (2018) Assessing the validity and reliability of measurements when evaluating public policy, *Journal of Public Policy*, 38(3), 275-304.

Crepaz, M. (2016) Investigating the robustness of lobbying laws: Evidence from the Austrian case, *Interest Groups and Advocacy*, 5(1), 5-24

Murphy, G. (2017). Ireland. In Bitonti, A., & Harris, P. (Eds.). (2017). *Lobbying in Europe: Public Affairs and the Lobbying Industry in 28 EU Countries*. Springer.