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Name of the organisation that you are affiliated to (e.g. IBEC)	The Wheel
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What are the positive features of the Act?

The Wheel is Ireland's representative body for community, voluntary and charitable bodies. The Wheel has over 1500 members and provides support services and representation on behalf of its members relating to matters that reflect their collective interests. The community and voluntary sector very much welcomed the introduction of the *Registration of Lobbying Act 2015* and the accompanying *Code of Conduct* in 2018 as an important part of improving transparency and professional standards. The Wheel was a member of the initial advisory group established by the Standards in Public Office Commission (SIPOC) and made submissions on both the development of the Act in 2012 and the Code in 2018. We have long advocated for further development of regulation and governance in the sector, and were instrumental in push for the establishment of the Charities Regulator. The Wheel welcomes this opportunity to make a submission to the consultation on the second review of the Act.

The Wheel agrees that charities, social enterprises, and community and voluntary organisations should be included in the lobbying register. While we expressed some original concerns in our 2012 submission about the potential inhibitory effects that compelling charitable bodies to register as lobbyists might have on advocacy by charities, these concerns were addressed to our satisfaction in the subsequent regulatory regime. Our 2018 submission to the consultation on the then proposed Code, emphasised that it is legitimate for charities to engage in political lobbying activity when that activity is consistent with advancing their charitable purposes, and this position has since been acknowledged by the Charities Regulator.

Feedback from our members has largely been that, since the establishment of the Act, they are now better able to demonstrate the important advocacy work that they undertake by referencing their entries to lobbying register. In this way, the register promotes the important role that community and voluntary organisations play in shaping the policies that impact the sector and those it represents.

The Wheel also supports the principles-based approach taken by the department to the Code, which manifests as shared principles and

standards that are relevant and appropriate both to professional lobbyists and to voluntary organisations that undertake advocacy work for charitable purposes.

The Wheel considers the practical requirements of the Act to be broadly reasonable. Our initial submission in 2012 expressed the concerns of some of our members that reporting would be onerous and place an unreasonable burden on organisations with limited resources. The Wheel considers these concerns to have been addressed in the implementation of the Act. In most cases, the information required and the frequency of reporting does not represent an excessive burden on lobbying organisations. The interface of lobbying.ie is straightforward and usable. It should be noted, however, that the new regulatory requirements, while by and large straightforward in themselves, add to the quantum of overall compliance requirements faced by charities, and this overall compliance burden (including, for most charities, returns to the Charities Regulator, Companies House, funders such as the HSE, Tusla, Pobal etc., permits for fundraising from the Gardai, compliance with many codes of governance, HIQA requirements, GDPR requirements and Garda vetting processes) has now reached a critical point in the community and voluntary sector. Many organisations are being impeded from focusing on their core missions and are having to divert resources to meet the increasing costs of compliance.

Finally, The Wheel considers the change of terminology in the third principle of the Code, 'Ensuring Accuracy of Information' (page 6), to be positive. The Wheel agrees that the Code should address how a person carrying on lobbying activities should present information to DPOs and that "Persons carrying on lobbying activities should take all *reasonable* [rather than possible] steps to ensure that inaccurate information is not provided [to DPOs]". This change in wording ensures that Designated Public Officials (DPOs) are not entitled to reject lobbying requests by claiming that information provided is inaccurate, not current or incomplete.

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

The Wheel considers the Act to broadly fulfil its objectives as initially outlined in the Programme for Government. The register has created greater transparency and accountability around lobbying of DPOs. This is of benefit to the general public as well as to community and voluntary organisations and charities, who are now able to see who is lobbying who about what. Additionally, it is of use to people seeking to hold lobbyists and those holding elected or public office to account. In terms of the inclusion of charity and voluntary organisations, the Act has allowed charities to promote their advocacy work and demonstrate greater transparency and accountability in their work.

Have any unintended consequences occurred, in your view?

The Wheel sought feedback from our members before making this submission. One area that was highlighted by several organisations as a cause for concern was the issuing of automatic fines for organisations that have registered as lobbyists who then fail to make subsequent 'nil' returns. The requirement currently states that "If the registered person has not carried on any lobbying activities in the period covered by the return, the return shall state that fact" (part 2, section 12, point 3). These fines can be significant for small organisations and can also pose a risk to the reputation of an organisation that relies on charitable funds. Each of the organisations that have raised this concern with The Wheel were penalised for relatively minor oversights or for missing return deadlines by a short amount of time. For small charitable organisations such as these that rely heavily on voluntary staff and only carry out occasional lobbying activity, making regular 'nil' returns represents a significant administrative burden, and is a cause of anxiety and alarm that results in reputational damage.

Thus, while The Wheel agrees with the inclusion of charitable organisations in the lobbying register, we argue that the requirement to make nil returns is not in the spirit of the trust-based approach of the Act. It has had the unintended consequence of unfairly penalising

small organisations with limited resources who engage in occasional advocacy work. It also acts a potential disincentive to register for small organisations that only engage in occasional lobbying and have already faced a significant increase in regulatory compliance burdens in recent years. We know that this issue has affected around six of our members directly, and that is only the number of organisations we know about. Many charitable organisations that may have fallen foul of this requirement would not want this fact to enter the public domain.

Another issue raised by a small number of The Wheel's member organisations was around the current interpretation of lobbying in the Act (part 1, section 5). These organisations consider the definition to be too broad in its interpretation of "activity that takes place in public involving DPOs" (such as an invitation to participate in a panel discussion at a conference where matters policy-related might be discussed) as lobbying activity. Members have also given examples of DPOs that have been invited to public events or where contact has been made publically with DPOs via social media.

The Wheel is of the view that greater guidance is necessary from the regulator on when such activity should be included in the register and that without clearer guidance on this a disproportionate impact will result for small community and voluntary organisations that may not be able to determine when such activity needs to be reported.

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

In relation to current arrangements regarding the making of 'nil returns' we believe the system needs to be changed. Lobbyists should be trusted to make the legally required returns and to obey the law in relation to reporting – not be punished for the failure to make a nil return *when no lobbying activity has taken place*. The Wheel proposes that the system should be amenable to organisations *only reporting when lobbying has actually taken place*.

The Wheel cannot see any reason (other than an IT or bureaucratic system-related reason) why nil-return-making is required. As noted above, this requirement has seen a number of charities fall foul and be

fined. This creates unnecessary alarm for smaller organisations, and may even have an inhibitory effect on lobbying activity by such organisations who would wish to 'steer clear' of the lobbying register's requirements. *We strongly recommend* that the system be changed so that there is no need to make a nil return if there has been no lobbying activity in a particular reporting period.

What suggestions for changes, if any, would you make?

As noted above, The Wheel proposes two changes to the Act. Firstly, we recommend that the requirement for organisations who have registered at lobbying.ie to submit nil returns be removed. This would greatly reduce the administrative burden on small organisations who might only engage in lobbying activity in an occasional and piecemeal way, encouraging more of these organisations to engage in lobbying.

The Wheel also suggests a change to the first principle of the Code (page 2), which states that persons carrying on lobbying "refrain from directly or indirectly exerting *undue pressure* on an elected or appointed public official". As detailed in our submission to the review of the Code in 2018, interpretations of "undue pressure" could vary widely, and could be used to deny organisations' rights to make their points, very strongly if necessary, to policymakers. *We recommend removal of this principle in its entirety and that the code stay silent on this matter.*

While we agree that preferential access or treatment from DPOs based on specific criteria should in most circumstances be prohibited, we cannot agree with a blanket provision as provided for in the Code, as there may be circumstances in which a person or organisation faces significant barriers in accessing policymakers and thus legitimately requires preferential access. A general restriction on preferential access might also undermine long-established partnership-working processes and structures that are crucial to effective public policymaking. The

Wheel considers this important in ensuring that charitable organisations are not unfairly excluded from undertaking advocacy work for the public benefit.