

Second review of the operation of the Regulation of Lobbying Act 2015

Name of the individual making the submission	Áine Aherne
Name of the organisation that you are affiliated to (e.g. IBEC)	Ervia (note that our response includes observations on behalf of Ervia, Irish Water and Gas Networks Ireland)
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

<i>What are the positive features of the Act?</i>
<p>The key positive impact of the introduction of the Act is that it recognises that lobbying is a legitimate activity which promotes the development of appropriate and effective legislation and policy.</p> <p>The establishment and maintenance of an on-line register of lobbying ensures that lobbying activities are conducted in an open and transparent manner.</p> <p>In Ervia's experience, the legislation has not inhibited any necessary lobbying activities carried out by Ervia on behalf of the group. The registration of these activities in a public forum has provided an added layer of openness and clarity to these communications.</p> <p>The development of the Code of Conduct for persons carrying on lobbying activities has complemented the provisions of the Act by providing guidance for persons carrying on lobbying activities according to generally accepted principles.</p> <p>Ervia has been proactive in implementing measures to drive awareness within our organisation about the requirements of the Act. Our Transparency initiative, launched in November 2015, continues to enhance accountability and deliver a greater understanding of how the organisation including its subsidiaries, Gas Networks Ireland and Irish Water, operate. Lobbying returns submitted by Ervia, Irish Water and Gas Networks Ireland are also made available on the Ervia website. Ervia aims to be at the forefront of best practice in corporate governance by recognising the importance of maintaining transparency and making available details of its business activities as a commercial semi- state to interested parties, including elected representatives and the public generally.</p>
<i>Does the Act fulfil the objectives it set out to achieve?</i>
<p>The Act does not aim to prevent or inhibit lobbying but aims to make the process more transparent. The establishment of the online register, which is freely accessible to all members of the public, ensures that this objective is met.</p>

Ervia would encourage ongoing public awareness campaigns of the Act and in particular the Code of Conduct for persons carrying on lobbying activities to increase the knowledge and understanding of the public of the lobbying process within Ireland and active participants in the process.

Have any unintended consequences occurred, in your view?

Whilst the provision of examples of activities which may constitute a lobbying activity by the Standards Commission via lobbying.ie is welcome, the potential for the incorrect interpretation of a communication as 'technical information' when in fact the communication should be registered as a lobbying activity remains. Without guidance, the interpretation of what constitutes 'technical information' may vary from organisation to organisation. Accordingly, in the absence of prescriptive guidance, non-relevant matters will continue to be reported for fear of reputational damage.

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

Ervia is of the view that the current categorisation should not be expanded to include the Principal Officer grade within the Civil Service on the basis that it would create an unnecessary administrative burden for large organisations who have daily interactions with Principal Officers in Government departments.

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

As noted above, further guidance on what is construed as 'technical information' would be welcome.

As part of the first review of the Act in 2016, Ervia had suggested that consideration be given to placing some onus on the DPOs themselves to disclose instances where they have initiated a discussion which may be construed as a lobbying activity. We note that the response expressed in the *Report on the First Review of the Lobbying Act 2015* was that DPOs are subject to other transparency initiatives such as Freedom of Information and Ethics legislation and that while a DPO may initiate a communication, the DPO could not be expected to know the intent of the person making the communication so that the obligation must remain with the lobbyist.

Our view remains that consideration should be given to placing some onus on the DPO where they have initiated or requested a conversation in order to contribute to the spirit of openness and transparency underpinning the Act.

Guidance on the impact on compliance with the Act where a decision is awaited following a request for delayed publication under Section 14 would be beneficial.

Ervia would also suggest that continued public awareness campaigns regarding lobbying in general, the Code of Conduct for persons carrying on lobbying activities, the role of the Commission and additional open house information sessions would be beneficial to both the public and active participants in the lobbying process.