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ORIGINAL ARTICLE

An ethics for the lobbying profession? The role of private associations in defining and codifying behavioural standards for lobbyists in the EU

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Abstract

The regulation of lobbying activities nowadays represents an internationally recognized standard of good governance. Such measures usually consist of mandatory public registers of lobbyists, meant to increase scrutiny and account-holding over the activities of lobbyists in the political and policy arena. In parallel to public regulation, industry-led initiatives have proliferated in recent years, in the form of private codes of conduct sponsored by professional lobbyists' associations. However, existing research on lobbying regulation has largely ignored these developments. The article addresses this research gap. It proposes that codes of conduct developed by practitioners' associations should be assessed through a professional ethics framework and tests this approach in a case study of the European Union (EU). Findings shows that, although the relationship between professionals and the beneficiaries of their services is central to the ethics of any profession, the codes of conduct developed by the EU associations neglect lobbyists' obligations towards those whose interests they represent. Having been created in response to the threat of public regulation, these private codes sought to reassure the EU institutions of lobbyists' integrity, leading to a narrow interpretation of 'ethical' lobbying as not exercising a corrupting influence over public officials or the public decision-making process.

Keywords Lobbying ethics · Lobby regulation · Professional ethics · European Union · Code of conduct

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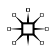


Introduction

The regulation of lobbying activities represents nowadays an internationally recognized standard of good governance (see e.g. OECD 2013, CoE 2016). Such measures usually take the form of public registers of lobbyists, often supplemented by codes of conduct (Chari et al. 2010, OECD 2014) and are meant to increase public scrutiny and account-holding over the activities of lobbyists in the political and policy arena. According to a recent review (Crepaz 2017), 16 political systems throughout the world now have such measures in place. The majority have been introduced after 2000 and are in European countries. The governments' appetite for regulating lobbying has been paralleled by a sustained development of professional lobbyists' associations. In the European Union (EU), for instance, such organizations exist in 13 member states, while in an additional 6 countries lobby practitioners are part of broader public relations (PR) associations (see Bitonti and Harris 2017).

Existing research on lobbying regulation—whether single case studies (e.g., Murphy et al. 2011; Thomas and LaPira 2017; Crepaz 2016) or comparative work (Chari et al. 2007, 2010; Holman and Luneburg 2012; Crepaz 2017)—has largely focused on the analysis of public regimes. Self-regulation initiatives (and the role of professional associations more generally) remain a largely unexplored subject, despite the widespread development of such structures. Where they are analysed, it is by comparison to the public regulation of lobbying activities and found to be either of limited usefulness (OECD 2012) or downright inadequate (e.g., McGrath 2009, 2011; Dinan and Miller 2012).

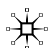
The article addresses this research gap by systematically exploring the role of professional associations in codifying standards of ethical behaviour for lobbyists. Specifically, the research questions are as follows: how do lobby practitioners themselves define ethics in lobbying? Furthermore, what factors influence the practitioner-led formulation (and subsequent evolution) of such ethical standards? These research questions are pursued primarily through the analysis of codes of conduct adopted by professional associations. Members of occupational groups have traditionally spelled out their collective understanding of ideal conduct through such documents (Frankel 1989; Gorman 2014); hence they are relevant in view of the research inquiry pursued here. In fact, the establishment, promotion and policing of ethical standards represent one of the defining functions of professional associations in any field (Gorman 2014; Adams 2017), and indeed a feature that is shared by professional lobbyists' associations, or PR associations which include lobbyists (OECD 2012). Questions of ethics are also significant given the pervasive negative public perceptions that surround lobbying, at times to such an extent that practitioners (particularly in Europe) avoid describing themselves by this term for fear of its undesirable connotations (McGrath 2005, pp. 127–128). To be clear, lobbying is understood as activities undertaken with the objective of influencing decisions made by public authorities (Hardacre 2011, p. 3), while a lobbyist represents an individual who performs such activities as part of their employment, on behalf of a specific actor or a collective interest.

The central contribution of this article is that it proposes and tests a new analytical standpoint for exploring questions of ethics in lobbying, namely the lens of professional ethics. The behavioural standards of lobbyists are often analysed in light of the democratic legitimacy of (pluralist) political systems (see e.g. Keffer and Hill 1997; Ostas 2007; Ron and Singer 2019), an approach that implies we care about their conduct because of their (potentially negative) influence on public policies and decisions. While these are legitimate concerns, and certainly the reason why governments seek to regulate lobbying, it is not clear that they do (or should) also take centre-stage in self-regulation efforts. I argue that professional ethics represents a more appropriate analytical vantage point in this latter case. It has the advantage of illuminating the ethical problems and obligations which arise from lobbyists' relationships with a wider range of stakeholders, and constitutes a general standard against which self-regulatory codes can be assessed on their own merits rather than by comparison to public regulation. A professional ethics perspective is justified since—as it will be later demonstrated—the work done by lobbyists has the characteristics of professional work, even though their status as a (fully-fledged) profession is contested.

The professional ethics perspective is applied to the analysis of the codes of conduct produced by the Society of European Affairs Professionals (SEAP) and the European Public Affairs Consultancies Association (EPACA), which are the two principal bodies representing lobbyists active at the European Union (EU) level. They are also among the most long-lived professional associations for lobbyists in Europe, in operation since 1997 (SEAP) and 2005 (EPACA).[1] While SEAP is open to individual practitioners, EPACA's membership is corporate and exclusive to public affairs consultancies active in Brussels. In both cases disciplinary procedures and specialized review bodies are attached to the codes of conduct. Also, both bodies claim to speak on behalf of a 'profession': SEAP defines itself as 'the authoritative representative of the interests of the *profession* to the EU institutions' (SEAP 2019, emphasis added), while EPACA works to ensure 'that policy-makers engage in dialogue with the *profession*' (EPACA 2019, emphasis added). More generally, various studies (e.g., Klüver and Saurruger 2013, Büttner et al. 2015; Lahusen 2018) attest to an increasing necessity to employ specialized knowledge and skills for performing lobbying activities in Brussels. These elements of occupational specialization and self-organization make the EU an appropriate case study because they represent markers for a trend of professionalization in lobbying, which is not as advanced in other European countries (see Bitonti and Harris 2017), but which makes the analysis of lobby ethics from a professionalism perspective particularly applicable here.

The EU also has a public regulation instrument—the Transparency Register (TR)—which is jointly managed by the European Commission (EC) and the European Parliament (EP) through a small operational team—the Joint Transparency Register Secretariat (JTRS)—comprising staff from both institutions. The TR is a publicly accessible database where actors voluntarily register and thereby

[1] By comparison, most organizations that are part of the Public Affairs Community of Europe (PACE), a platform open to lobbyists' associations in Europe, with members in 16 European countries (PACE 2018), were established after 2010.



disclose information regarding their EU lobbying, such as policy interests, lobbying expenses, participation in EU consultative structures, and employees responsible for public affairs. It also includes a code of conduct outlining the behaviour expected of them when engaging with EC and EP officials. Launched in 2011, the TR succeeds lobby registers that have previously been run separately by the two institutions (since 1996 in the EP's case and 2008 for the EC). This means that lobby self-regulation—in the form of codes of conduct sponsored by professional associations—has long co-existed with public lobby registers, putting the EU in a small group of jurisdictions that feature both types of instruments (along with e.g., Austria, UK, Ireland, US). This represents a situation that might in the future become more commonplace, given the rising popularity of both public and private forms of lobby regulation (as outlined above). However, it also highlights certain limits to the analysis. The EU is not a typical case, neither in the way it regulates lobbying (most governments prefer a legally binding solution, see Chari et al. 2010), nor in having both public and private forms of regulation (many countries still have either one or the other, see Grosek and Claros 2016). The value of studying it is therefore not necessarily in offering generalizable findings, but in suggesting viable new hypotheses for future research. These will be elaborated in the "Conclusion".

The article contributes to a broader debate concerning the professionalization of lobbying. Although lobbyists are often referred to as 'professionals' (see e.g. articles in the special issue 'Learning to Lobby', March 2015, in this journal), there are also sceptical voices (McGrath 2005, Bitonti et al. 2017) who question whether lobbying indeed deserves this label. By exploring how professional associations of lobbyists went about defining and perfecting the behavioural standards which apply to their members, this article explores lobby ethics as an element in a broader process of professionalization of lobbying. Most existing studies dealing with lobby ethics (e.g., Hamilton and Hoch 1997; Woodstock Theological Centre 2002; Ostas 2007; Holyoke 2017) are broadly limited to the US context and—crucially—do not approach the subject from the standpoint of professionalism.

The research presented here also adds to the literature dealing with EU lobby regulation, which focuses almost exclusively on the TR and its predecessors (e.g., Obradovic 2009; Chari and O'Donovan 2011; Greenwood 2011; Kanol 2012; Holman and Luneburg 2012; Greenwood and Dreger 2013; Smismans 2014), and on lobbyists' attitudes and responses to these instruments (Bunea 2018a, b, Năstase and Muurmans 2018, Bunea and Gross 2019). Only a few authors have analysed tangentially the role of professional lobbyists' associations in the development of the first public regulatory initiatives in the 1990s (McLaughlin and Greenwood 1995, Greenwood 1998, Chabanet 2006). Exceptionally, Antonucci and Scocchi (2018) give a more up-to-date account, but they too look at lobbyists' private codes of conduct as only one component in a more complex EU lobby regulation regime that also includes the TR and soft guidelines issued by the European Ombudsman.

In terms of methodology, the article draws on a combination of documentary analysis (official documents, websites, press releases, etc., produced by SEAP and EPACA, as well as the EU institutions) and expert interviews. Interviews were carried out with EPACA and SEAP board members—five interviews for the first and four for the latter. Although these numbers are not reflective of full size of the

boards, which are significantly larger for both associations, all interviewees (with one exception) had extensive experience in their positions, having been board members for 3 years or more. Furthermore, two EU officials from the JTRS were interviewed—one based in the EC and the other in the EP—who similarly had a long-standing involvement with the Transparency Register (over 5 years in both cases). The interviews are anonymized and will be referred to below by using numbers. I also draw on secondary sources and media coverage where available.

The article is structured as follows. Drawing on sociological and economic perspectives, the first section therefore explores the contested concept of 'profession' to determine whether—and in what way—lobbying could be considered a profession. The second section deals with professional ethics and discusses the ethical challenges that are specific to professional practice. This is followed by an analysis of the EPACA and SEAP codes of conduct. The last section examines the context in which the EU association codes were developed and shows that the threat and eventual emergence of public regulation (in the form of public lobby registers) has been key in shaping their content. "Conclusion" will follow.

A lobbying profession?

Is lobbying a profession? Answering this question is not straightforward, not in the least because what exactly constitutes a profession is a matter of academic dispute. Early conceptualization efforts focused on identifying attributes that might distinguish a 'profession' from a mere 'occupation'. Such attributes included, for instance: a body of specialized intellectual knowledge and skills, usually acquired through dedicated (long-term, graduate-level) training; fiduciary relations with clients, in whose service the professional expertise is deployed; a service orientation (i.e., the work performed by professionals contributes to the realization of a public service, such as justice, education, or health, that benefits society at large); the autonomy to self-regulate and, finally, specific standards of ethical behaviour, often expressed in formal codes of conduct (Greenwood 1957; Goode 1957; Hickson and Thomas 1969 among others). However, researchers following this 'list' approach ultimately proved unable to find occupational characteristics that were truly unique to professions (Suddaby and Muzio 2015, pp. 26–27). An alternative strategy therefore emerged—espoused in particular by sociologists (e.g. Larson 1977; Friedson 1986; Murphy 1988)—whereby professionalism was studied as a specific form of labour organization. From this perspective, a profession is defined not by a series of specific traits but by its ability to create a monopoly over the performance of certain economic activities, which become reserved for its members and closed to outsiders. Barriers to entry in the profession take the form of licencing, certification, or credentialing, and they are guarded by powerful professional associations, which also define specific standards of conduct and practice for the profession, socialize new members, and penalize deviant behaviour (Millerson 1964; Spillman 2012; Gorman 2014).

When judged from either of these two perspectives, lobbying falls short of being a profession. On the one hand, it lacks a number of features which are defining for professions, as McGrath's (2005) analysis shows: there is no formal specialized

education for lobbyists (although a growing demand for it exists), no uniform standards for regulating lobbying activities, no clear collective identity among practitioners, and not even agreement on terminology, with various terms such as 'government relations', 'political PR', and 'public affairs' used as quasi-synonyms for lobbying. On the other hand, the right to practice is not restricted; one does not have to pass special examinations or acquire certification to work as a lobbyist. Likewise, professional associations are generally weak actors. Although—as shown above—they do have a role to play in defining behavioural standards. The inability to secure an occupational monopoly for their constituency makes them unattractive for many practitioners, who choose to remain outside such organizations.

Clearly, the organizational accoutrements usually associated with the professions are missing (or not fully developed). However, in light of the inquiry pursued here, the key question to answer is whether the actual work done by lobbyists has the characteristics of professional work. If so, the ethics of lobbyists can be assessed from a professional ethics standpoint, since what matters in this regard is less how professionals are organized and more how their activities affect others. Economists—particularly those who take a public interest approach—have paid systematic attention to the nature of professional services (although their interest in doing so was less to offer definitions and more to critique regulatory arrangements applying to the professions). Two core characteristics of professional services are highlighted in this literature: on the one hand, they are highly specialised and, on the other hand, they have externalities, i.e. they impact others beyond the professionals' own clients (Begun 1986; Matthews 1991; Stephen 2006; Paterson et al. 2007, pp. 16–18; see also reviews by Garoupa 2011; Maks and Philipsen 2005).

On the one hand, the highly specialized nature of professional work creates informational asymmetries between professionals and their clients, leaving the latter unable to judge the quality of the services they receive, as they lack the necessary knowledge or skills. The problem is compounded by the fact that sometimes it may be objectively difficult to assess whether certain outcomes are caused by the professional's intervention, or by other independent factors. For example, a litigant may be successful due to their attorney's efforts, but also because of their opponent's poor performance, or a favourably minded judge, or simply luck. Stephen (2006) makes this point by arguing that professional services represent 'credence goods', i.e., goods characterized by the consumers' inability to ascertain their quality both before and after consumption. On the other hand, externalities are generally—but not always—connected to the professions' contribution to the delivery of certain conditions that benefit society at large. For instance, when lawyers represent their clients in court, they also contribute to the delivery of justice, in the same way that doctors, by treating their patients, help to increase the general health of a given community. As Paterson et al. (2007, p. 16) show, the justice and health-care systems (to use the examples above) are essential features in the infrastructure of society, and therefore the collective work of professionals who occupy these systems represents to some extent a public good.

Is lobbying characterized by informational asymmetries and externalities? The externalities question is perhaps easier to answer positively. After all, the entire point of lobbying is to shape public decisions, which will affect others beyond those

whose narrow interests are promoted by lobbyists. In terms of informational asymmetries, the services offered by lobbyists are sufficiently specialized to assume that clients would have difficulty in assessing their appropriateness and effectiveness ('client' is used as an all-purpose term to designate the intended—generally paying—beneficiaries of lobbying services, whether these be actual contractual clients in the case of commercial lobbyists, or employers in the case of in-house lobbyists). Although there is some controversy over what activities might justly be classified as lobbying, it is generally understood that hired lobbyists (a) represent and advocate for their clients' interests in the policy-making process and (b) provide strategic advice as to how emerging policy issues might affect their clients, what advocacy objectives would be appropriate, and how those should be best pursued (Stephenson and Jackson 2010, pp. 5–6, Kersh 2000, pp. 239–240). All this requires specific expertise in dealing with legislative and administrative decision-making processes, personal contacts and relationships with policymakers, and an ability to deploy arguments and circulate information for maximum persuasion. Furthermore, lobby success is difficult to define and judge, as many other factors aside from individual lobbyists' efforts can affect public decision-making outcomes (see e.g. Dür 2008). Importantly, a number of authors have confirmed that lobbyists' engagement with their clients bears the characteristics of a principal–agent relationship, with informational asymmetries in favour of the agent (Kersh 2000; Stephenson and Jackson 2010; Lowery and Marchetti 2012; Schiff et al. 2015; Holyoke 2017; Whitesell et al. 2018). These findings pertain to the US, but one can imagine that the situation is not so different in the EU, as these two political systems are similarly complex and attract lobbyist populations of comparable sizes to their respective capitals (Dinan and Wesselius 2010).

Ethics for lobbyists

If lobbying work has the characteristics of professional work—as demonstrated above—then it can also be normatively assessed from a professional ethics standpoint. Professional ethics represents a form of applied or practical ethics which deals with the moral problems that arise from the practice of a profession (Gunz et al. 2015, p. 117). As such, it concerns the ways in which the work done by professionals affects others, with parameters usually dictated by the relationships that the individual practitioner has with their clients, the public, and other members of the profession (see Jamal and Bowie 1995; Gaumnitz and Lere 2002; Airaksinen 2012).

The core ethical challenge for professionals is that the vast informational asymmetries which are inherent in their work put clients in a vulnerable position. As Easterbrook and Fischel (1993) show, when one party hires another's expertise and knowledge, it is impossible to draw up detailed contracts due to unusually high costs of specification and monitoring. This means that the contracted parties (i.e., the professionals) cannot be controlled, so they need to be trusted. The traditional solution to this dilemma has been to specify a fiduciary obligation of professionals towards their clients, which binds the former to loyally pursue the latter's best interests (duty of loyalty) and to do so with due diligence (duty of care). The fiduciary duty can,

however, be constrained by ethical obligations that stem from professionals' relationships with other stakeholders—oftentimes others (i.e., specific groups/ individuals, or society in general) who are affected by the externalities problem discussed in the previous section.[2] Such constraints are manifest in various ways. For instance, lawyers—who are sometimes compared to lobbyists (see Dovi and McCain 2017)—have a role as 'officers of the court', which makes them responsible for the fair administration of justice and puts limits on what can be done in the service of clients (see e.g. Wasserstrom 1975). Professional codes also regularly specify obligations that individual members of a profession have towards each other—what Jamal and Bowie (1995) term as 'obligations of professional courtesy'. Some of these, such as limitations on the advertisement of professional services, could clash with interests of (potential) clients by limiting competition and keeping fees excessively high. How to solve these sometimes-clashing obligations towards various stakeholder groups is certainly a matter of intense debate, but one which goes beyond the purposes of this article. It does, however, bear notice that the obligations towards clients generally take centre stage in discussions on professional ethics (Koehn 1994, esp. chapter 2, Meyers 2015, pp. 28–29).

Thinking about a *professional* ethics for lobbyists therefore requires to first consider the relevant stakeholders who are affected by their work, specifically the clients (i.e., the beneficiaries of lobby services), the public officials (i.e., the lobby targets), and other lobbyists (with whom they might compete or cooperate). A debate exists as to whether lobbyists also have responsibilities towards a fourth stakeholder—the general public. The first of the Woodstock Principles for the Ethical Conduct of Lobbying states that 'the pursuit of lobbying must take into account the common good, not merely a particular client's interests narrowly considered' (Woodstock Theological Centre 2002, p. 84). Ostas (2007) agrees that lobbyists have an ethical obligation to seek 'the creation of reasonably balanced and just laws' (p. 55), but concedes that in an adversarial system, where access to decision-makers is open and equal to all stakeholders, this can be achieved by lobbyists seeking only private gain. Following Susman (2009), I take the position that it is for public office holders—not lobbyists—to determine what the 'common good' is, or how it might best be served. In other words, to the extent that lobbyists have obligations to the general public, these pertain only to abiding by and protecting the procedural legitimacy of the political process whereby public decisions are reached. However, there is no distinct ethical obligation regarding the *content* of those decisions.

Based on these observations, I distinguish between two roles for lobbyists—firstly, the role of interest representative (which covers their relationship with clients) and secondly, the role of participant in the policy process (pertaining to the relationship with public decision-makers, with other lobbyists/ advocates, and with the general citizenry). While I do not prescribe the ethical obligations that might

[2] This is not restricted to parties affected by externalities—it may also concern third parties with which the professional is contractually engaged, such as insurance and pharmaceutical companies in the case of doctors (Latham 2001). The ethical implication is still the same, i.e., that such contractual obligations may clash with professionals' duties towards their clients.

apply to these various roles—this would go beyond the aims of the article—it is useful to understand the kind of ethical challenges each presents, and which a professional code of conduct might be expected to address. Thus, for the interest representative role, problems can arise that are typical of principal–agent situations. For instance, lobbyists may not represent their clients' interests vigorously or adequately; they may offer services that are more costly and/or more extensive than necessary; they may claim responsibility where favourable decisional outcomes occur independently of their efforts; they may work simultaneously for clients with opposing interests (for a comprehensive account see Lowery and Marchetti 2012). On the other hand, as participants in the policy process, lobbyists can have a highly corruptive impact on public decision-making, for instance by disseminating inaccurate or deceitful information, by misrepresenting the interests they speak for, through smear campaigns targeting their opponents, or by exercising undue influence over public office holders through e.g. gifts or hospitality offers (see e.g. Johnson 2006, pp. 18–48). It is this second type of problems that accounts for much of the public negative perceptions of lobbying, as well efforts to regulate it.

As this brief review demonstrates, a professional ethics angle does not necessarily illuminate new ethical concerns in lobbying. Rather, its advantage is that it pulls together existing issues which are usually analysed in separation and from different perspectives. Thus, lobbyists' corrosive influence on the political process is not just a question of democratic legitimacy, in the same way as their short-changing of clients is not just a question of agency and delegation. A professional ethics angle shows that they are also, both of them, ethics problems that characterize lobbying as a professional undertaking. Furthermore, this perspective also gives us a distinct standard to assess self-regulation efforts by those who explicitly claim to represent the lobbying profession. The codes elaborated by professional associations can therefore be judged on their own merits rather than as (inevitably inferior) substitutes for public regulation.

Standards of conduct in EU lobbying

Building on the framework presented above, this section analyses the ethical standards that apply to EU lobbyists, as they are outlined in the codes of conduct developed by EPACA and SEAP. One peculiarity of the EU context is that both these documents, as well as the code of conduct attached to the TR (the public regulation instrument), are all very similar in terms of content. Therefore, in Table 1 below, where the analysis is succinctly presented, I work with a common list of provisions and use separate columns to mark whether they are featured in one, two or all three codes ('X' marks that a provision is present in the code, '–' marks its absence). For each provision I also note (using the '$\surd$' mark) whether it applies to lobbyists' role as interest representatives, or to their role as participants in the policy process, or both.

One commonality across all three codes is that they are very short documents, of approximately one page, with content usually specified in general terms. Many provisions are common and the differences that do exist are not substantial, but rather

Table 1 Comparative overview of the codes of conduct for EU lobbyists

Code provisions	SEAP	EPACA	TR	Interest representative	Participant in policy process
Transparency					
Clearly identify themselves and the interests they represent	X	X	X	√	√
Do not misrepresent their status, nature of their inquiries, or links to EU institutions	X	X	X	–	√
Inform whomever they represent of their obligations towards the EU institutions	–	–	X	√	–
Mandatorily sign up to the EU Transparency Register and publicise their registration	–	X	–	–	√
Advise clients to sign up to the EU Transparency Register and refuse any assignments from (potential) clients who request that the consultant does not abide by the EU transparency regime;	–	X	–	√	–
Strongly consider registering on the EU Transparency Register	X	–	–	–	√
Ensure that information disclosed in the framework of the EU Transparency Register is complete and truthful	–	X	X	–	√
Management of information					
Not sell to third parties copies of documents obtained from EU institutions	X	X	X	–	√
Not (try to) obtain information by dishonest or illicit means	X	X	X	–	√
Not disseminate false or misleading information knowingly or recklessly and exercise proper care to avoid doing so inadvertently	X	X	–	–	√
Honour confidential information given to them, including from EU sources	X	X	–	√	√
Respect their clients' commercially confidential information within the limits of the EU transparency regime	X	–	–	√	–
Conflicts of interest					
Avoid any professional conflicts of interest	X	X	–	√	√
Disclose and take action to resolve conflicts of interest	X	X	–	√	√
Dealing with EU officials					
Do not offer financial inducements to staff, officials or members of the EU institutions	X	X	X	–	√

Table 1 (continued)

Code provisions	SEAP	EPACA	TR	Interest representative	Participant in policy process
Do not exert improper influence on staff, officials or members of the EU institutions (a more general formulation in the TR code: not induce them to "contravene the rules and standards of behaviour applicable to them")	X	X	X	–	√
Only employ former EU personnel according to the rules and confidentiality requirements of the respective EU institutions	X	X	X	–	√
Respect and avoid any obstruction to the implementation and application rules, codes and good governance practices established by EU institutions	–	–	X	–	√
Obtain the prior consent of MEPs concerned as regards any contractual relationship with, or employment of, any individual within an MEP's designated entourage	–	–	X	–	√
Observe any rules laid down on the rights and responsibilities of former Members of the European Parliament and the European Commission	–	–	X	–	√
Provisions for holders of EP access passes: ensure that they wear the access pass visibly on EP premises; registration does not offer automatic right to an access pass; comply with relevant EP Rules of Procedure	–	–	X	–	√
Do not offer financial inducements to staff, officials or members of the EU institutions	X	X	X	–	√
Other/miscellanea					
Act with honesty and integrity at all times, conducting their business in a fair and professional manner across all channels including social media	X	–	–	√	√
Maintain the highest standards of professionalism in conducting their work with the EU institutions	X	–	–	–	√
Proactively abide by any code of ethics applied by their clients	–	X	–	√	–
Avoid actions likely to discredit the profession or the representative associations (SEAP & EPACA)	X	X	–	–	√
Be mindful of potential competition law infringements and proactively work to avoid them	–	X	–	–	√

a matter of nuance. All codes focus more on the lobbyists' role as participants in the political process, as opposed to their role as interest representatives. If this is perhaps to be expected for the TR code—which, after all, is meant to regulate specifically exchanges between lobbyists and EU officials—it is a surprising finding for association codes because, as explained above, they might be expected to include a broader range of issues that have ethical relevance for lobbyists. Nonetheless, the only theme in these codes that pertains clearly (but not exclusively) to the relationship with clients is conflicts of interests. However, the wording in the relevant provisions is so general that they fail to transmit what a conflict of interests actually is, when it might arise, and what redress measures exist. In other instances, clients are mentioned only in relation to specific obligations lobbyists themselves have towards EU institutions, such as the provision of clear and accurate information on the interests represented, or—in case of the EPACA code—the requirement to sign up their clients to the TR, and not take on those who refuse to abide by the EU transparency regime. While both association codes mention the issue of confidential information, it is only EPACA that explicitly links it to client obligations (hedged however within the limits of what EU regulations permit).

Even a cursory comparison with codes of other associations for lobbyists highlights the one-sided nature of the documents elaborated by the EU counterparts. For example, the code of the Association of Government Relations Professionals (AGRP), which has been until relatively recently[3] the preeminent national organization representing professional lobbyists in the US, clearly instructs practitioners to 'exercise loyalty to the client's or employer's interests', to advance those 'vigorously and diligently' and, whenever possible, to 'give the client the opportunity to choose between various options and strategies' (AGRP n.d.). Lobbyists are directed to avoid working for two different clients who have conflicting positions on the same issue, inform clients if they are paid by a third party to work on the same or a related issue, or if the work undertaken for a third party on a different issue is likely to adversely affect them. Confidential client information should not be disclosed without the client's prior consent and cannot be used against their interests, or for any other purpose outside the terms of engagement. Fees should be fully transparent, reasonable, and limited to work undertaken on behalf of the client. Similar but less extensive provisions are present in the codes of the Public Relations Institute of Ireland, the Austrian Public Affairs Association, the German Association of Political Consultants and the Dutch Professional Association for Public Affairs. To be clear, the argument is not that these codes should be emulated in the EU. They are not meant as best practice examples, but rather as a sample—to some extent randomly constructed[4]—which illustrates that the ethical obligations of lobbyists towards their

[3] The association was founded in 1979 as the American League of Lobbyists. It changed its name to AGRP in 2013 and wound down operations in 2017, due to a legal dispute, after over 35 years of existence.

[4] All these codes are elaborated by associations who are active in consolidated representative democracies where lobbying is a (fairly) well developed as an occupation.

clients and other practitioners are not a mere theoretical expectation, but a reality recognized and regulated by some professional associations.

Lobbying ethics and the EU context

The one-sided nature of the codes elaborated by EU lobbyists' associations is surprising given that the relationship with clients represents *the* core consideration in professional ethics. Instead, the focus is placed on issues that already are covered in the TR code of conduct. What explains this puzzling state of affairs? The argument developed in this section is that the manner in which practitioners thought about ethical behaviour in lobbying—and the type of questions that warranted consideration in this regard—has been context-dependent. Namely, in order to understand the content of the EU association codes, one must look to the circumstances in which lobby self-regulation first appeared in the EU, and to how the associations chose to respond to the emergence and evolution of public regulatory instruments. To trace these developments empirically, I rely on documentary analysis and expert interviews with board members from EPACA and SEAP, and with officials from the JTRS. The interviews are used to supplement and triangulate the empirical data gathered through documentary analysis—in other words, the experts interviewed represent a source of information for the reconstruction of sequences of events and social situations (see e.g. Gläser and Laudel 2009). They were therefore selected for their knowledge of and involvement with lobby (self-)regulation measures in the EU.[5]

The emergence and institutionalization of ethical standards for EU lobbyists

The first lobby self-regulation initiatives at the EU level appeared in the early 1990s as a reaction to regulatory intent coming from the EU institutions. Specifically, they were closely connected to an initial divergence of preferences between the EP and

[5] All interviews made use of broad open questions clustered around a few core topics. Interviewees were encouraged to bring up any new issues which they considered important but had not been covered by the topic guide. The interviews with SEAP and EPACA representatives covered the following topics: the interviewees' experience in the EU public affairs sector and within SEAP/EPACA; the establishment and evolution of SEAP/ EPACA (circumstances that led to these associations being created, key debates and actors, criteria for admitting new members and membership fluctuation over time, core functions of the associations and their perceived importance); the code of conduct of SEAP/EPACA (when, why and how the codes were created, subsequent changes and the impetus behind them, dissemination and training activities around the codes, complaints received and their follow-up) and, finally, the public regulation of lobbying (SEAP/EPACA advocacy positions and actions regarding the TR and its predecessors, perceived impact on the development of the EU lobby registers, relationship with the JTRS). The two interviews with JTRS officials followed a different set of questions. The following topics were covered: the interviewees' experience with the JTRS and in the European Institutions more generally; the relationship between JTRS and SEAP and EPACA (frequency and type of contact, changes in these aspects over time, future outlook); the importance of SEAP and EPACA as stakeholders in the broader environment around the TR (perceived influence of SEAP and EPACA advocacy, their promotion of the TR to the community of EU public affairs practitioners).

the EC as to the opportunity and the way lobbying should be regulated. While the EP favoured an interventionist approach in the form of a public lobby register, the EC was lukewarm to the idea as it preferred to keep its doors open to a wide variety of interest representatives (Cini 2013, p. 1147). The EP managed to launch its register in 1996, which was voluntary but incentivised: access passes to EP premises (valid up to one year) were granted to those who signed up and thereby publicly declared the organizations they represented, the nature of their activities in the EP, as well as any gifts or services granted to MEPs (Greenwood 1998, Chabanet 2006). For its part, the EC issued in 1992 a *Communication*, which proposed the creation of a single directory of interest groups active at EU level, but for information purposes only (no preferential access or other privileges attached). Crucially, the *Communication* also invited profit and non-profit groups to draw up their own code of conduct, in a move meant to create an alternative to the stricter policy direction taken by the EP (Greenwood 1998, pp. 589–591).

It was in response to this invitation that a number of practitioners from public affairs agencies and commercial lobby firms met to write the first code of conduct for EU lobbyists, eventually completed in 1994 (Greenwood 1998, McLaughlin and Greenwood 1995). It was a short, one-page document which focused on laying down ground rules for interaction with the EU institutions and their officials; lobbyists pledged to identify themselves and the interests they represented, to not misrepresent their status or nature of their inquiries to EU institutions, honour confidential information, not obtain information by dishonest means, not disseminate false or misleading information, not sell EU documents to third parties, avoid professional conflict of interests, and not give financial inducements to EU officials (see Chabanet 2006, p. 5). These provisions aligned closely to a few basic principles which the EC had included in its 1992 *Communication* specifically to guide future self-regulatory efforts, and which it considered as the expression of 'a broad understanding between the Commission and special interest groups on some basic rules of conduct' (Commission 1992, p. 4). The 1994 code firmly set the tone for all future codification of behavioural standards in lobbying. It was included in the EP's lobby register in 1997 (Chabanet 2006, p. 11), and later became the foundation for the development of lobbyists' professional association codes—although SEAP in particular also sought to draw on other sources, such as the code of the International Public Relations Association (IPRA) (Interview 7), as well as academic work and, partially, the US experience (Interview 8).

It is significant to note that the associations themselves were set up long after the 1994 code—3 years after in the case of SEAP, while EPACA formed almost 11 years later. They were created specifically out of a perceived need to have formal bodies to represent the public affairs industry to the EU institutions, as the perspective of public regulation became more definitive than in the early 1990s (Interviews 3, 8, 9). Therefore, at least initially, the associations' primary function was to act as advocacy outfits rather than governing bodies for a (fledgling) profession.[6]

[6] It is telling, in this regard, that the SEAP code did not have a disciplinary body attached to it until 2003 (SEAP 2016).

Accordingly, their codes of conduct were used to improve the public image of Brussels lobbyists, by raising the visibility and status of those who practiced this activity 'professionally' (Interviews 1, 5, 7):

> […] it was centred really around the concept of ethics. […] I think SEAP realized that there was a need to try to explain what lobbying was about, and how it's done, and to focus on having a code of conduct […] we hoped that would improve any negative views someone might have with the profession.' (Interview 7).
> The aim of EPACA as such is to promote the public affairs consultancies, and the fact that we have a professional way of working, that we have a code of conduct and we have ethics, and that what we do is good. (Interview 1)

The existence of codes of conduct that were backed by representative bodies proved very important later on, when the EC departed from its initial stance on lobby regulation and proposed the creation of its own registration system to parallel that of the EP. In 2007 the web-based Register of Interest Representatives (ROIR) became operational (Commission 2008), and in 2011 the EC and EP merged their respective separate registers, thus creating the TR as a common platform for regulating lobby activities.

Both the ROIR and the TR were focused on fostering transparency as to the interests that were active on the Brussels lobby scene—as such, the key institutional design questions which captured the public debate related to the type of actors that should sign up, the scope and depth of the disclosure requirements, the legal status of these instruments and registration incentives (Obradovic 2009; Greenwood and Dreger 2013). Although codes of conduct were incorporated into both (registration implied the automatic acknowledgement of their provisions), the EU regulators proved less interested in controlling the behaviour of lobbyists. To be sure, public consultations on these codes did take place. But the EC eventually settled on appending a very simple statement of principles to the ROIR, which was almost identical to the code adopted by lobby practitioners back in 1994 (see Commission 2008, p. 7). This was in no small part thanks to assiduous advocacy by the EPACA, SEAP and IPRA, who were quick to present Kallas—the Commissioner responsible at the time for Administrative Affairs—with a set of Common Principles drawing from their respective codes, which eventually became the basis for the EC's proposal (EPACA 2008, Interview 7). This decision was an attempt by the EC to use the code symbolically to build common ground with the industry, possibly in order to secure their support for the register.

Uploading their codes of conduct to the public lobby registers is claimed as an advocacy success by both SEAP and EPACA (Interview 2, Interview 7). Not only did it spare them and their members any adaptational challenges, it was also interpreted as a signal that the public regulators (particularly the EC) wished to focus on transparency, leaving the professional associations to take the lead in managing lobbyists' conduct. As one interviewee explained:

> … there were other organizations who wanted the EU to get involved in the management of conduct. […] The EC decided, no, we want to be focused, and

> focus they did, and they have done what they have done. Our view was that was correct, because we thought that the job of conduct is the job of SEAP and the job of IPRA and the job of EPACA. (Interview 7)

But tethering the codes to the public instruments also reinforced previously existing tendencies to approach questions of lobby ethics primarily in terms of the relationship with decision-makers, while preventing any truly new discussions as to what behaviour would be desirable from lobbyists, and what might count as (un) ethical lobbying. Instead, the public registers helped institutionalize[7] a set of behavioural rules that—as shown above—were specifically developed by lobbyists to build legitimacy for themselves as dialogue partners to the EC, and the EU institutions more generally.

Ethics, transparency and reputation in EU lobbying

The previous section has shown why the codes developed by EU lobbyists' associations focused primarily on the relationship with public officials, and how this focus was later reinforced as public registers for lobbyists were developed by the EC and EP. But why is it that the associations did not significantly expand their codes to other ethically relevant issues, while preserving the existing content? This section will show that such change was slow to arrive and moderate in its scope because the emergence of public regulation already satisfied much of EU lobbyists' legitimation needs.

As the TR registration became 'the driving licence to public affairs' (Interview 10) in Brussels, both SEAP and EPACA accepted that the public register did more to improve the public image and credibility of lobbyists than self-regulation programmes ever could. As one of the interviewees explained:

> It's actually a benefit for us, because we have about 80 clients, okay? So maybe I'm going to see the same person for two or three different clients. It is possible. So that person needs to know that my reputation is important - I'm not going to lie to them, I'm not going to say something inaccurate. I'm not going to actually pretend to be something I'm not, because if I do that, he will not want to see me again, ever, and then I'm killing my business. So, my reputation is very important, and the Transparency Register and all the different tools on transparency are a way for me to actually have that reputation (Interview 2)

This confirms existing research which shows that EU lobbyists sign up to the TR primarily for the reputational benefits it provides (Năstase and Muurmans 2018, Bunea and Gross 2019) and that, more generally, lobbyists support the

[7] This is because both the ROIR and the TR target groups were wider than the constituencies represented by EPACA and SEAP. Specifically, the ROIR comprised three categories of registrants—(1) professional consultancies and law firms involved in lobbying, (2) in-house lobbyists and trade associations and (3) NGOs and think-tanks—while the TR added academic institutions, organizations representing churches and religious communities, and organizations representing local, regional and municipal authorities, as well as other public or mixed entities.

public regulation of their activities out of an expectation that it would diminish negative public perceptions (see e.g. Holman and Susman 2009, OECD 2014). It also explains why both associations currently advocate for a mandatory regime (see Transparency International—EU 2017), although they have in the past differed over the legal status of the TR (compare e.g. SEAP 2013 to EPACA 2013).

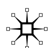
The TR became a credible reputational marker as it attracted growing number of registrants—from 5431 after its first year of operation (JTRS 2012) to 11,896 at the time of writing (EU 2020) —and was taken seriously by Brussels watchdog groups, some of whom made it their business to publicly expose those who were not on the TR, or whose entries contained plainly inaccurate information (see e.g. Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) 2013, 2015). The media, too, monitored the TR, as exemplified by Politico Europe's recurring segment 'Additions to the EU Transparency Register'. Not signing up was deemed as a highly suspect course of action—when the TR was launched in 2011, EC Vice-President Maroš Šefčovič indicated that lobbyists should register as proof they 'have nothing to hide' and promised that 'all those who are not in the register will have to be asked why they can't be transparent' (Commission 2011, p. 1).

Internally, this development has had two effects. Firstly, SEAP and EPACA have kept on prioritizing political advocacy over other activities, including professional self-regulation. Advocacy efforts really took off after the EC announced its intention to set up the ROIR in 2005 and have been constant ever since, as the public regime kept evolving first with the creation of the TR in 2011 and then with its successive revisions in 2013 and 2016. Both organizations quickly became key stakeholders for the EC and the EP owing to their ability to act as representative voices for the industry and to promote the public registers to their members (Interviews 10, 11).

Secondly, the associations took steps to ensure high compliance with the TR among their members. Both have created, as a matter of priority, guidelines for TR registration that are specifically adapted to the needs of their members (Interviews 2, 7). They have also used their own codes of conduct to promote compliance. In 2016, SEAP introduced an amendment directing members to 'strongly consider registering on the EU Transparency Register' (SEAP 2016, p. 1). In EPACA's case, 10 new provisions were added to the code in 2017, most relating to the TR, for instance: a clear obligation for EPACA members to be signed up to the TR, to advise their clients to do the same, and to refuse potential clients who 'request that the EPACA member does not abide by the EU transparency regime' (see also Table 1 above). In practice, this translated to EPACA consultancies adding a standard provision to client contracts, according to which they undertook to register the respective clients in the TR, if that was not already the case (Interviews 2 and 5). There are indications that this practice pre-dated the 2017 code, although perhaps not with all EPACA members (Interview 2).

However, the problem with using the TR registration as a reputational marker was that it remained a voluntary instrument, despite being linked to increasingly compelling registration incentives.[8] As such, compliance represented not an obligation

[8] Nowadays, it is impossible for unregistered lobbyists to meet with European Commissioners and their cabinet members, or with senior civil servants in the EC. Access to EP buildings, participation in EP hearings and in EC expert groups are similarly conditional on registration. For a full description of the



but a virtuous choice and, by extension, an easily observable manner of differentiating between 'good' (that is, registered) lobbyists and 'bad' (i.e., unregistered) ones (Năstase and Muurmans 2018; see also Bunea and Gross 2019). In essence, while the TR satisfied EU lobbyists' need for reputation management, it did so in a very reductive way, whereby being 'ethical' became conflated to being transparent—or being signed up to the TR, in any case.

In these circumstances, it is perhaps not surprising that internal initiatives to reconsider the scope of lobbyists' ethical obligations were not received with enthusiasm. The fate of the EPACA Charter is an important illustration in this regard. The Charter was intended as a set of rules on how to be the best sort of consultant, to 'develop a higher standard for our industry' (Interview 2), and it was adopted in 2014 following a very lengthy internal process (Interviews 1, 3). All the new provisions from the 2017 code of conduct mentioned above were first incorporated into the Charter, but its overall level of ambition was significantly higher. For instance, it prescribed specific actions to develop the lobby profession, namely investing in training for staff on all aspects of the public affairs consultancy work, mentoring programs ran by senior lobbyists, and undertaking, where feasible, teaching and publishing activities. Importantly, there were also provisions that specifically targeted the relationship with clients: EPACA members were asked to regulate the trading of their clients' shares/stock by staff members, to have transparent budgets that clearly outlined fees, costs and other applicable charges, as well as appropriate levels of professional liability/indemnity insurance. Nevertheless, it soon became clear that only 8 of the 40-odd consultancies which were part of EPACA would support the more ambitious standards prescribed in the Charter (Interview 2). To overcome internal divergence, it was decided to simply to have one document, the Code of Conduct, and 'to bring it to the next level' (Interview 1) by incorporating as many provisions from the Charter as could gain universal traction from EPACA members. The 2017 code update was largely triggered by this effort (Interviews 1, 2 and 3).

Before concluding, it should be noted that, apart from the dynamics related to the EU public lobby registers, very few other external incentives existed for the associations to re-consider their codes of conduct. The disciplinary mechanisms attached to those codes were hardly ever put to the test. While SEAP has reportedly never received any complaints relating to its code of conduct (Interview 7), EPACA did handle a couple, but only one of those lead to a limited amendment to the code of conduct in 2013 (Interviews 1, 3). It clarified that lobbyists' obligation to be transparent about their affiliations and clients covered not only exchanges with EU officials (as the previous code had prescribed), but all other professional relationships as well. Overall, however, the near absence of complaints was interpreted as a positive signal that association members understand and respect the prescribed behavioural rules (Interviews 2, 3, 7, and 8). Furthermore, although lobbyists were featured in

Footnote 8 (continued)
conditionality linked to TR registration please see: http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do;TRPUBLICID-prod=Y0cwyr9SgOVgDg1BCTV_qJNl-nHV458ne9-9H5gdeChU5zYYvhqp!-1297884402?locale=en&reference=WHOS_IS_EXPECTED_TO_REGISTER.

several highly publicized scandals in the EU, such as the so-called 'cash for amendments' affair at the EP in 2011 (*Journalistic spoof* 2011), or the resignation of Commissioner Dalli in 2012 (Dunmore 2012), they all pertained to lobbyists' relationship with public officials (not clients or other practitioners). The associations did not see such episodes as cause for concern; in one instance no real lobbyists were involved (but rather journalists posing as such), while in others it was (former) politicians, not lobbyists, who behaved badly (Interview 1).

Conclusion

This article has proposed the professional ethics lens for the analysis of lobby ethics and illustrated this approach on the codes of conduct elaborated by SEAP and EPACA, the principal professional associations for lobbyists active at the EU level. I have argued that analysing lobby ethics from the perspective of professionalism is justified because the activities performed by lobbyists give rise to ethical challenges which are specific to professional work. The analysis has uncovered a number of blind spots in the codes of EPACA and SEAP, both of which have little to say about lobbyists' obligations towards their clients, as well as other members of the profession. These are surprising omissions because relevant ethical problems can arise in dealings with both of these stakeholder groups. The codes instead focus on lobbyists' engagement with EU officials, demonstrating that being 'ethical' was largely understood by practitioners as not exercising a corrupting influence over public actors and the decision-making process. This rather narrow interpretation is explained by the specific context in which the private codes were created, as well as their subsequent co-evolution alongside public lobby registers sponsored by the EC and the EP.

The findings have several important implications. Firstly, the EU case has demonstrated that the self-regulation of lobbying should not be viewed simply as an (inevitably inferior) substitute for public regulation. By analysing the SEAP and EPACA codes in a professional ethics framework, it was revealed that their deficiencies are a matter of content and coverage, not enforcement. Put differently, the problem is not that they lack the force of the law, but that they fail to address the full range of issues which are relevant to the professional practice of lobbying. What is more, the public regulator—which is likely to focus on disclosure policies—is ill-suited for this task. None but lobbyists themselves—through their professional associations—can articulate behavioural standards that are both appropriately comprehensive and accepted as legitimate by their addressees. The fact that EPACA and SEAP have failed to do this ultimately shows that it is the associations themselves which do not take lobbying seriously as a profession. Their instrumental approach, whereby codes of conduct were used to assuage public concerns about lobbying, has resulted in a lowest common denominator benchmark that only the most unscrupulous practitioners would fail to meet. By contrast, a professional ethics standpoint can yield more ambitious standards because it would require practitioners to think systematically about the characteristics of lobby work and the stakeholders who are affected by it, and to go beyond

the issues that capture the public's attention at any given time, or that the EU institutions care about.

Secondly, the EU case has demonstrated that the professionalization of lobbying—at least in what concerns the formalization of standards of ethical behaviour—has been intertwined with its public regulation. It was the prospect of being subject to public regulation that pushed EU lobbyists to collectively consider for the first time the ethical implications of their activities, to write a code of conduct, and eventually to establish professional associations around (very similar versions of) this code. Later on, it was the operation of public regulatory instruments that shaped how the associations went about amending their own codes of conduct, and ultimately what kind of issues were thought to rightly belong in these documents. Not only does public regulation matter, but the form it takes is also important. The voluntary aspect of the EU lobby registers rendered them—the TR in particular—into useful channels for signalling good lobbying behaviour. As being 'ethical' became conflated to being transparent/registered, the professional associations saw their legitimation work greatly relieved by the public instrument, and thus had no compelling reasons to reach for ethical standards that would go much beyond the TR benchmark.

Before concluding, a few limitations should be noted. Firstly, the article has covered only the codes of conduct of associations for EU lobbyists because it is through such documents that professional groups have traditionally articulated their views on what constitutes appropriate behaviour for their members. That said, such codes necessarily present a limited perspective on (professional) lobby ethics, as they likely capture only the minimum around which consensus could be achieved. It may be that some public affairs consultancies active in the EU (especially those with an international presence) have internal policies that cover more ethically pertinent issues. It may also be that individual lobbyists—be they members of professional associations or not—would have different views on what has ethical relevance in their day-to day work. It remains for future research to explore these questions and thus provide a more multi-faceted and nuanced understanding of how lobby ethics is defined, regulated, and translated in professional practice.

Secondly, the analysis has been confined only to the EU case. Without producing widely generalizable findings, the value of this case study is in demonstrating that the way practitioners—through their professional associations—define ethics in lobbying is context-dependent. What matters specifically is how the professionalization of lobbying has intersected with its public regulation, with both the existence and the type of public measures being relevant. This suggests at least two hypotheses for future research. Firstly, future (comparative) studies could investigate the work of professional associations for lobbyists in jurisdictions that do not regulate lobbying. Does the lack of public regulation strengthen or weaken their role as fora for the formulation of ethical standards in lobbying? Secondly, future research in jurisdictions with binding rules could be useful, as one might expect different outcomes to the EU case. Such measures could not be used—as the TR has been—to signal out 'honourable' lobbyists who *choose* to subject themselves to public scrutiny as proof they 'have nothing to hide'. In such a context, more opportunities might exist for

private codes of conduct to become relevant reputation boosters for lobbyists and hence cover a larger scope and/or contain more detailed provisions.

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Compliance with ethical standards

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References

Adams, T.L. 2017. Self-regulating professions: past, present, future. *Journal of Professions and Organization* 4 (1): 70–87. https://doi.org/10.1093/jpo/jow004.

Airaksinen, T. 2012. Professional Ethics. In *R Chadwick*, ed. Encyclopaedia of Applied Ethics (Second Edition), 616–623. San Diego: Academic Press. https://doi.org/10.1016/B978-0-12-373932-2.00080-6

ALTER-EU 2013. *Rescue the Register! How to make EU lobby transparency credible and reliable*, Brussels, Retrieved from https://www.alter-eu.org/sites/default/files/documents/Rescue_the_Register_report_25June2013.pdf.

ALTER-EU 2015. *New and Improved? Why the EU Lobby register still fails to deliver*, Brussels, Retrieved from https://www.alter-eu.org/sites/default/files/documents/Why%20EU%20Lobby%20Register%20still%20fails%20to%20deliver%20-%20print%20version.pdf.

Antonucci, M.C., and N. Scocchi. 2018. Codes of conduct and practical recommendations as tools for self-regulation and soft regulation in EU public affairs. *Journal of Public Affairs* 18 (4): e1850. https://doi.org/10.1002/pa.1850.

Association of Government Relations Professionals (AGRP) n.d., 'Code of Ethics', Retrieved from http://grprofessionals.org/join-agrp/code-of-ethics.

Begun, J.W. 1986. Economic and Sociological Approaches to Professionalism. *Work and Occupations* 13 (1): 113–129.

Bitonti, A., and P. Harris, eds. 2017. *Lobbying in Europe: Public Affairs and the Lobbying Industry in 28 EU Countries*. Houndmills: Palgrave Macmillan.

Bitonti, A, Harris, P, & Mariotti, C 2017, 'Lobbying and Public Affairs in Europe: Some Comparative Remarks' in *Lobbying in Europe: Public Affairs and the Lobbying Industry in 28 EU Countries*, pp. 351–362, Palgrave Macmillan, Houndmills.

Bunea, A., and V. Gross. 2019. Regulating Lobbying Through Voluntary Transparency Clubs: the Connoisseurs Assessment. Evidence from the European Union. *Public Administration*. https://doi.org/10.1111/padm.12594.

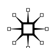
Bunea, A. 2018. Legitimacy through targeted transparency? Regulatory effectiveness and sustainability of lobbying regulation in the European Union. *European Journal of Political Research* 57 (2): 378–403. https://doi.org/10.1111/1475-6765.12231.

Bunea, A. 2018. Regulating European Union lobbying: in whose interest? *Journal of European Public Policy*. https://doi.org/10.1080/13501763.2018.1539115.

Büttner, S.M., L. Leopold, S. Mau, and M. Posvic. 2015. Professionalization in EU Policy-Making? The topology of the transnational field of EU affairs. *European Societies* 17 (4): 569–592. https://doi.org/10.1080/14616696.2015.1072229.

Chabanet, D. 2006. *The Regulation of Interest Groups in the EU*, CONNEX Research Group, Retrieved from http://www.mzes.uni-mannheim.de/projekte/typo3/site/fileadmin/research%20groups/4/WP%20A1%20Chabanet%20Report.pdf.

Chari, R., and D.H. O'Donovan. 2011. Lobbying the European Commission: Open or Secret? *Socialism and Democracy* 25 (2): 104–124. https://doi.org/10.1080/08854300.2011.579475.



Chari, R., J. Hogan, and G. Murphy. 2010. *Regulating lobbying: A global comparison*. Manchester: Manchester University Press.
Chari, R., G. Murphy, and J. Hogan. 2007. Regulating lobbyists: A comparative analysis of the United States, Canada, Germany and the European Union. *The Political Quarterly* 78 (3): 422–438. https://doi.org/10.1111/j.1467-923X.2007.00870.x.
Cini, M. 2013. EU Decision-Making on Inter-Institutional Agreements: Defining (Common) Rules of Conduct for European Lobbyists and Public Servants. *West European Politics* 36 (6): 1143–1158. https://doi.org/10.1080/01402382.2013.826022.
Council of Europe - European Committee on Legal Cooperation (COE-CDCJ) 2016. Draft recommendation of the Committee of Ministers to member states on the legal regulation of lobbying activities in the context of public decision-making. Retrieved from https://www.coe.int/t/dghl/standardsetting/cdcj/Lobbying/CDCJ%20-%20Lobbying%20-%20Draft%20recommendation_en.pdf.
Crepaz, M. 2016. Investigating the robustness of lobbying laws: Evidence from the Austrian case. *Interest Groups and Advocacy* 5 (1): 5–24. https://doi.org/10.1057/iga.2015.12.
Crepaz, M. 2017. Why do we have lobbying rules? Investigating the introduction of lobbying laws in EU and OECD member states. *Interest Groups and Advocacy* 6 (3): 231–252. https://doi.org/10.1057/s41309-017-0025-x.
Dinan, W., and D. Miller. 2012. Sledgehammers, nuts and rotten apples: Reassessing the case for lobbying self-regulation in the United Kingdom. *Interest Groups and Advocacy* 1 (1): 105–114. https://doi.org/10.1057/iga.2012.5.
Dinan, W., and E. Wesselius. 2010. 'Brussels: a lobbying paradise' in ALTER-EU. *Bursting the Brussels Bubble: the Battle to Expose Corporate Lobbying at the Heart of the EU*, pp. 23–32, Brussels.
Dovi, S., and J. McCain. 2017. 'Are Lobbyists Lawyers?' in E. In *Ethics in politics: the rights and obligations of individual political agents*, ed. M. Crookston, D. Killoren, and J. Trerise, 319–338. London: Routledge.
Dunmore, C. 2012. Ex-EU Health Chief Vows to Fight Tobacco Bribe Links. Reuters. [Last Accessed 12 June 2018.] Available from URL: https://www.reuters.com/article/eu-health-dalli/ex-eu-health-chief-vows-to-fight-tobacco-bribe-linksidUSL5E8LOHN520121024.
Dür, A. 2008. Measuring Interest Group Influence in the EU: A Note on Methodology. *European Union Politics* 9 (4): 559–576. https://doi.org/10.1177/1465116508095151.
Easterbrook, F.H., and D.R. Fischel. 1993. 'Contract and Fiduciary Duty' *The Journal of Law and Economics*, vol. 36, no. 1. *Part* 2: 425–446. https://doi.org/10.1086/467282.
European Commission (EC). 1992. An open and structured dialogue between the Commission and special interest groups. *Official Journal of the European Communities* no. 63.
European Commission (EC). 2008. *Communication from the Commission: European Transparency Initiative—A framework for relations with interest representatives (Register and Code of Conduct), COM(2008) 323 final*.
European Commission (EC). 2011. *Commission and European Parliament Launch Joint Transparency Register to Shed Light on all those Seeking to Influence European Policy. Europa Press Release 23 June 2011*. [Last Accessed 12 June 2018] Available from URL: http://europa.eu/rapid/press-release_IP-11-773_en.htm.
European Public Affairs Consultancies Association. 2008. 'EPACA Response to the European Commission's European Transparency Initiative (ETI) Green Paper and Consultation', Retrieved from https://epaca.org/wp-content/uploads/2006/07/eti_consultation.pdf.
European Public Affairs Consultancies' Association (EPACA). 2013. 'Contribution', in Joint Transparency Register Secretariat (JTRS). *Consultations with stakeholders: summary of positions*, p. 12, Retrieved from http://ec.europa.eu/transparencyregister/public/openFile.do?fileName=stakeholders_positions.pdf
European Public Affairs Consultancies' Association. 2019. 'Questions & Answers', retrieved from https://epaca.org/questions-answers/.
European Union (EU). 2020. 'Transparency and the EU', Retrieved from https://ec.europa.eu/transparencyregister/public/homePage.do?redir=false&locale=en.
Frankel, M.S. 1989. Professional codes: Why, how, and with what impact? *Journal of Business Ethics* 8 (2): 109–115. https://doi.org/10.1007/BF00382575.
Friedson, E. 1986. *Professional Powers: A Study of the Institutionalization of Formal Knowledge*. Chicago, Il: University of Chicago Press.
Garoupa, N. 2011. Regulation of Professions. In *Handbook on the Politics of Regulation*, ed. D. Levi-Faur, 451–466. Cheltenham: Edward Elgar.

Gaumnitz, B.R., and J.C. Lere. 2002. Contents of Codes of Ethics of Professional Business Organizations in the United States. *Journal of Business Ethics* 35 (1): 35–49. https://doi.org/10.1023/A:1012718103007.

Gläser, J., and G. Laudel. 2009. On Interviewing "Good" and "Bad" Experts'. In *Interviewing Experts*, ed. A. Bogner, B. Littig, and W. Menz, 117–137. Houndmills: Palgrave Macmillan.

Goode, W.J. 1957. Community within a Community: The Professions. *American Sociological Review* 22 (2): 194–200. https://doi.org/10.2307/2088857.

Gorman, E.H. 2014. Professional Self-regulation in North America: The Cases of Law and Accounting. *Sociology Compass* 8 (5): 491–508. https://doi.org/10.1111/soc4.12152.

Greenwood, E. 1957. Attributes of a Profession. *Social Work* 2 (3): 45–55.

Greenwood, J., and J. Dreger. 2013. The Transparency Register: A European vanguard of strong lobby regulation? *Interest Groups and Advocacy* 2 (2): 139–162.

Greenwood, J. 1998. Regulating lobbying in the European Union. *Parliamentary Affairs* 51 (4): 587–588.

Greenwood, J. 2011. The lobby regulation element of the European Transparency Initiative: Between liberal and deliberative models of democracy. *Comparative European Politics* 9 (3): 317–343. https://doi.org/10.1057/cep.2010.18.

Grosek, K., and E. Claros. 2016. *Regulation of lobbying across the EU*, Brussels: EPRS (European Parliamentary Research Service), Retrieved from http://www.europarl.europa.eu/RegData/etudes/ATAG/2016/595830/EPRS_ATA(2016)595830_EN.pdf.

Gunz, H., S. Gunz, and R. Dinovitzer. 2015. Professional Ethics: Origins, Applications, and Developments. In *The Oxford Handbook of Professional Service Firms*, ed. L. Empson, D. Muzio, J. Broschak, and B. Hinings, 114–135. Oxford: Oxford University Press.

Hamilton, J.B., and D. Hoch. 1997. Ethical Standards for Business Lobbying: Some Practical Suggestions. *Business Ethics Quarterly* 7 (3): 117–129. https://doi.org/10.2307/3857317.

Hardacre, A., ed. 2011. *How the EU Institutions Work... & How to Work with the EU Institutions*. New York: John Harper Publishing.

Hickson, D.J., and M.W. Thomas. 1969. Professionalization in Britain: A Preliminary Measurement. *Sociology* 3 (1): 37–53. https://doi.org/10.1177/003803856900300103.

Holman, C., and W. Luneburg. 2012. Lobbying and transparency: A comparative analysis of regulatory reform. *Interest Groups & Advocacy* 1 (1): 75–104.

Holman, C., and T. Susman. 2009. *Self-Regulation and Regulation of the Lobbying Profession*. Paris: OECD Global Forum on Public Governance.

Holyoke, T.T. 2017. A theoretical foundation for assessing principal-agent problems in lobbying ethics and an empirical test. *Interest Groups & Advocacy* 6 (3): 272–289. https://doi.org/10.1057/s41309-017-0022-0.

Jamal, K., and N.E. Bowie. 1995. Theoretical considerations for a meaningful code of professional ethics. *Journal of Business Ethics* 14 (9): 703–714.

Johnson, V.R. 2006. Regulating Lobbyists: Law, Ethics, and Public Policy. *Cornell Journal of Law and Public Policy* 16 (1): 1–56.

Joint Transparency Register Secretariat (JTRS). 2012. *Annual Report on the Operations of the Transparency Register 2012*, Brussels, Retrieved from http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=ANNUAL_REPORT.

Journalistic spoof traps MEPs in bribery affair. 2011. EurActiv [Last accessed 12 June 2018.] Available from URL: https://www.euractiv.com/section/public-affairs/news/journalistic-spoof-traps-meps-in-bribery-affair/.

Kanol, D. 2012. Should the European Commission enact a mandatory lobby register? *Journal of Contemporary European Research* 8 (4): 519–529.

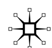
Keffer, J.M., and R.P. Hill. 1997. An Ethical Approach to Lobbying Activities of Businesses in the United States. *Journal of Business Ethics* 16 (12): 1371–1379. https://doi.org/10.1023/A:1005722806496.

Kersh, R. 2000. State autonomy & civil society: The lobbyist connection. *Critical Review: A Journal of Politics and Society* 14 (2–3): 237–258.

Klüver, H., and S. Saurugger. 2013. Opening the black box: The professionalization of interest groups in the European Union. *Interest Groups & Advocacy* 2 (2): 185–205. https://doi.org/10.1057/iga.2013.2.

Koehn, D. 1994. *The Ground of Professional Ethics*. London and New York: Routledge.

Lahusen, C. 2018. Interest representation as a field of expertise: the professionalization of lobbyists in the European Union. In *Transnational Expertise: Internal Cohesion and External Recognition*



of Expert Groups, ed. A. Schneiker, C. Henrik-Franke, R. Kaiser, and C. Lahusen, 179–204. Baden-Baden: Nomos.

Larson, M.S. 1977. *The Rise of Professionalism: A Sociological Analysis*. Berkeley, CA: University of California Press.

Latham, SR 2001, 'Conflict of Interest in Medical Practice' in M. Davis & Stark Andrew (eds.), *Conflict of Interest in the Professions*, pp. 279–301, Oxford University Press, Oxford.

Lowery, D., and K. Marchetti. 2012. You don't know Jack: Principals, agents and lobbying. *Interest Groups & Advocacy* 1 (2): 139–170. https://doi.org/10.1057/iga.2012.15.

Maks, J.A.H., and N.J. Philipsen. 2005. An Economic Analysis of the Regulation of Professions. In *The Regulation of Architects in Belgium and the Netherlands*, ed. E. Crals and L. Vereeck, 11–45. Lanoo Campus: Leuwen.

Matthews, R.C.O. 1991. The Economics of Professional Ethics: Should the Professions be More Like Business? *The Economic Journal* 101 (407): 737–750.

McGrath, C. 2005. Towards a lobbying profession: developing the industry's reputation, education and representation. *Journal of Public Affairs* 5 (2): 124–135. https://doi.org/10.1002/pa.14.

McGrath, C. 2009. The lobbyist with "balls of iron and a spine of steel": why Ireland needs lobbying reform. *Journal of Public Affairs* 9 (4): 256–271. https://doi.org/10.1002/pa.332.

McGrath, C. 2011. Lobbying in Ireland: a reform agenda. *Journal of Public Affairs* 11 (2): 127–134. https://doi.org/10.1002/pa.397.

McLaughlin, A.M., and J. Greenwood. 1995. The Management of Interest Representation in the European Union. *JCMS: Journal of Common Market Studies* 33 (1): 143–156. https://doi.org/10.1111/j.1468-5965.1995.tb00521.x.

Meyers, C. 2015. 'Professional Ethics' in *International Encyclopaedia of Ethics*, pp. 1–14, American Cancer Society, https://doi.org/10.1002/9781444367072.wbiee685.pub2.

Millerson, G. 1964. *The Qualifying Associations: A Study in Professionalization*. London: Routledge & Kegan Paul.

Murphy, G., J. Hogan, and R. Chari. 2011. Lobbying regulation in Ireland: some thoughts from the international evidence. *Journal of Public Affairs* 11 (2): 111–119. https://doi.org/10.1002/pa.391.

Murphy, R. 1988. *Social Closure: The Theory of Monopolization and Exclusion*. Oxford: Clarendon Press.

Năstase, A., and C. Muurmans. 2018. Regulating lobbying activities in the European Union: A voluntary club perspective. *Regulation & Governance*. https://doi.org/10.1111/rego.12200.

Obradovic, D. 2009. Regulating Lobbying in the European Union. In *Lobbying in the European Union: Institutions, Actors and Issues*, ed. D. Coen and J. Richardson, 289–336. Oxford: Oxford University Press.

OECD. 2012. *Lobbyists, Governments and Public Trust, Volume 2: Promoting Integrity through Self-regulation*, OECD Publishing, Retrieved from https://doi.org/10.1787/9789264084940-en.

OECD. 2013. *Transparency and Integrity in Lobbying*, Paris, Retrieved from http://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf.

OECD. 2014. *Lobbyists, Governments and Public Trust, Volume 3: Implementing the OECD Principles for Transparency and Integrity in Lobbying*, OECD Publishing, Paris.

Ostas, D.T. 2007. The Law and Ethics of K Street: Lobbying, the First Amendment, and the Duty to Create Just Laws. *Business Ethics Quarterly* 17 (1): 33–63. https://doi.org/10.5840/beq200717113.

Paterson, I., M. Fink, A. Ogus, J. Merz, F. Fink, and H. Berrer. 2007. *Economic Impact of Regulations in the Field of Liberal Professions in Different Member States* Working Paper No. 52, European Network of Economic Policy Research Institutes, Retrieved from https://css.ethz.ch/en/services/digital-library/publications/publication.html/104268.

Public Affairs Community of Europe (PACE). 2018. 'Press Release', Retrieved from http://www.paceurope.eu/wp-content/uploads/2018/07/Press-release_8th-Pace-Conference.pdf.

Ron, A., and A.A. Singer. 2019. Democracy, corruption, and the ethics of business lobbying. *Interest Groups & Advocacy*. https://doi.org/10.1057/s41309-019-00073-w.

Schiff, E.L., K. Seufer, A. Whitesell, and D. Lowery. 2015. Agency problems and interest representation: An empirical analysis of the costs of lobbying. *Interest Groups & Advocacy* 4 (3): 225–248. https://doi.org/10.1057/iga.2015.4.

Smismans, S. 2014. Regulating Interest Group Participation in the EU: Changing Paradigms between Transparency and Representation. *European Law Review* 39: 470–492.

Society of European Affairs Professionals (SEAP). 2013. ‘Contribution’ in Joint Transparency Register Secretariat (JTRS). *Consultations with stakeholders: summary of positions*, p. 15, Retrieved from http://ec.europa.eu/transparencyregister/public/openFile.do?fileName=stakeholders_positions.pdf.

Society of European Affairs Professionals (SEAP). 2016. ‘Frequently asked questions: SEAP code of conduct’, Retrieved from https://seap.be/wp-content/uploads/2013/11/SEAP-code-FAQ-2016.pdf.

Society of European Affairs Professionals. (SEAP). 2019. ‘About Us’, retrieved from https://seap.be/about-seap/.

Spillman, L 2012, *Solidarity in Strategy: Making Business Meaningful in American Trade Associations*, University of Chicago Press, Chicago & London.

Stephen, F.H. 2006. The Market Failure Justification for the Regulation of Professional Service Markets and the Characteristics of Consumers. In *European Competition Law Annual 2004: The Relationship Between Competition Law and the (Liberal) Professions*, ed. C.-D. Ehlermann and I. Atanasiu, 143–154. Portland: Hart Publishing.

Stephenson, M.C., and H.E. Jackson. 2010. Lobbyists as Imperfect Agents: Implications for Public Policy in a Pluralist System. *Harvard Journal on Legislation* 47 (1): 1–20.

Suddaby, R., and D. Muzio. 2015. Theoretical Perspectives on the Professions. In *The Oxford handbook of Professional Service Firms*, ed. L. Empson, D. Muzio, J. Broschak, and B. Hinings, 25–48. Oxford: Oxford University Press.

Susman, T.M. 2009. Where to Look, What to Ask? Frames of Reference for Ethical Lobbyists. *McGeorge Law Review* 41 (1): 161–182.

Thomas, H.F., and T.M. LaPira. 2017. How many lobbyists are in Washington? Shadow lobbying and the gray market for policy advocacy. *Interest Groups & Advocacy* 6 (3): 199–214. https://doi.org/10.1057/s41309-017-0024-y.

Transparency International – EU. 2017. ‘Joint Letter: Lobbyists for Transparent Lobbying’, Retrieved from https://transparency.eu/wp-content/uploads/2017/01/Joint-letter-Lobbyists-for-transparent-lobbying-1.pdf.

Wasserstrom, R. 1975. Lawyers as Professionals: Some Moral Issues. *Human Rights* 5 (1): 1–24.

Whitesell, A., E. Schiff, and D. Lowery. 2018. Agency issues with small lobby firms: a test of competing hypotheses. *Interest Groups & Advocacy* 7 (1): 82–103. https://doi.org/10.1057/s41309-018-0029-1.

Woodstock Theological Centre. 2002. *The ethics of lobbying: Organized interests, political power, and the common good*. Washington, D.C.: Georgetown University Press.

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