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EUTR registration: 2694372574-63

1<sup>st</sup> November 2014

Dear President Juncker,

Congratulations on your appointment as President of the European Commission. We welcome your commitment to improve lobbying transparency in the EU, and would like to support you and your team in this endeavour. We wish to outline what we see as priority actions for your Commission in this field, and to request a meeting with you at your earliest convenience.

ALTER-EU has been working for lobby transparency and better ethics rules in the EU institutions since 2005, when our coalition of 200 organisations was set up to support the Commission's "European Transparency Initiative". Since then we have campaigned for a mandatory EU lobby register and monitored the effectiveness of the current system; we successfully called for a reform of the code of conduct for commissioners in 2010-11 after public outrage at former commissioners going through the 'revolving door'; we worked with MEPs of different political groups to introduce the MEP code of conduct following the cash-for-amendments scandal; and most recently, during the European elections, we secured the support of 180 elected MEPs who pledged to "stand-up against the excessive lobbying influence of banks and big business".

Our experience and research of the past decade has led us to formulate the following proposals for improving lobby transparency and ethics regulation within the Commission, which we would like to share and discuss with you.

### **Lobby transparency**

ALTER-EU welcomes your commitment to a mandatory lobby register<sup>1</sup> and such a step would put the EU on a par with the US and Canada in terms of lobby regulation. As you will know, the European Parliament has adopted resolutions expressing its support for a mandatory lobby

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<sup>1</sup> <http://www.alter-eu.org/press-releases/2014/07/15>

register for several years and has asked the Commission to make a legislative proposal to that effect.<sup>2</sup>

We are seeking assurance that your commitment to a mandatory register will take the form of a legislative proposal rather than an Inter-Institutional agreement.

For many years ALTER-EU has analysed the effectiveness of the current voluntary register and documented its many failings such as: the absence of major lobby actors including a majority of law firms that lobby and a large number of major corporations and lobby groups; under-reporting of lobby activity and expenditure by registrants; and disclosure rules which are too vague.<sup>3</sup> It will be vital that a mandatory lobby register tackles these problems and creates a new system which places far more reliable lobby data in the public domain and therefore delivers real transparency.

In the interim, before the mandatory register comes into operation, it will be important to ensure that the current register is as effective as it can be. Accordingly, we hope the new Commission will immediately implement the incentives to register which the Parliament proposed in its April 2014 resolution<sup>4</sup>, namely: granting patronage only to registered organisations; reducing the number of meetings with non-registered organisations; limitations on the participation of non-registered organisations in Commission advisory bodies and expert groups; refusing invitations to events organised by non-registered organisations; and restricting to registered organisations the possibility of hosting or co-hosting events on Commission premises.

We further welcome your commitment to proactive transparency as included within the commissioners-designate mission letters. However, considering that lobby meetings held by commissioners' are only a fraction of those that are held by the Commission as a whole, we strongly recommend that this commitment is extended to cover a wider range of Commission meetings between officials (including cabinet members and high level officials) and lobby actors. We also urge that all this information is published on a regular and timely basis so the information is up-to-date.

We consider that there are specific transparency concerns regarding trade negotiations. Recently the European Ombudsman urged the Commission (and the Council) "to step up their proactive transparency policy" for the TTIP negotiations following a call from more than 250 civil society organisations on the issue.<sup>5</sup> We hope the Commission will follow the Ombudsman's recommendations for more openness and transparency in the EU-US trade negotiations and we would be pleased to learn what concrete steps you will take in this regard.

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<sup>2</sup> Most recently:

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-037>

<sup>3</sup> <http://www.alter-eu.org/documents/2013/06/rescue-the-register>

<sup>4</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0376>

<sup>5</sup> <http://www.ombudsman.europa.eu/en/press/release.faces/en/54636/html.bookmark>

## **Expert groups**

ALTER-EU has long had concerns about the way in which many of the Commission's expert groups are dominated by industry interests, while those from consumer groups, trade unions, academics, independent experts and NGOs are often in a minority or marginal role.<sup>6</sup> Our concerns have been echoed by the European Parliament, which in 2012 froze the Commission's expert group budget until reforms were introduced. These reforms were to ensure that the Commission's expert groups will have no corporate dominance; no lobbyists will operate within the groups in a 'personal capacity'; there will be public calls for applicants to join with clear selection criteria; and full transparency on each group's membership and work. On October 22<sup>nd</sup> the European Parliament again decided to freeze part of the 2015 budget for expert groups, due to the lack of effective improvements and reforms in recent years.

Both ALTER-EU and the Parliament<sup>7</sup> remain concerned about the lack of progress made by the Commission in this regard and we look forward to hearing your timetable for implementing these conditions across all DGs.

Furthermore, we believe a horizontal review of expert group rules during 2015 is now necessary, incorporating the European Ombudsman's recommendations following her enquiry.<sup>8</sup> The work of former MEP Martin Ehrenhauser<sup>9</sup> has revealed that corporations that have broken the law are able to (and do) sit on expert groups; which threatens both the reputation and regulatory abilities of the Commission. In our view, such corporations should be banned and the rules should be revised accordingly.

## **Revolving doors and ethics rules**

In 2010-11, the Commission revised the code of conduct for commissioners. At the time, Catherine Day wrote to ALTER-EU (in a letter to Paul de Clerck dated 9/6/2011) stating "We are committed to ensuring full transparency of these decisions [relating to departing commissioners' new professional activities], whether approving, rejecting or imposing possible restrictions and/ or conditions. We intend to publish these decisions on the Europa website..."

Can you confirm that this will happen, that all documents will be published and that this will happen as soon as a decision has been made and communicated to the commissioner concerned?

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<sup>6</sup> <http://www.alter-eu.org/documents/2014/09/03/new-commission-must-end-corporate-dominance-of-eu-expert-groups>

<sup>7</sup> <http://www.alter-eu.org/documents/2014/09-5>

<sup>8</sup> <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/54299/html.bookmark>

<sup>9</sup> <http://corporateeurope.org/expert-groups/2014/05/crooked-counsel-how-law-breaking-corporations-are-advising-european-commission>

ALTER-EU welcomed the review of the code of conduct for commissioners which took place in 2010-11, although we consider that the code is still too weak in a number of aspects. Reforms need to be implemented urgently and we propose that they should include the following: the notification period for former commissioners should be extended to three years to match the period of entitlement to the transitional allowance; the ban on lobbying should also be extended to three years and should cover all issues for which the Barroso II Commission has taken collective decisions; and the ban on lobbying should be defined in more detail and should include both direct and indirect lobbying such as the provision of lobbying advice.

Furthermore, the recent commissioners-designate hearings have indicated a number of additional areas where reform of the code of conduct is required. These include a need to make clear that 'family' interests are broader than those simply involving spouses or partners as well as the need for greater clarification and transparency about the process and outcome when files are re-allocated between commissioners in order to avoid risks of conflicts of interest arising. The declaration of interest form should be revised to reflect the above, to include both present and recent financial interests of commissioners (dating back at least 12 months), as well as the family's wider financial interests, rather than just partner/ spouse professional activities).

In its recent 'integrity report'<sup>10</sup>, Transparency International called for the introduction of a fully independent committee to oversee ethical rules in the Commission, including commissioners' revolving door moves. ALTER-EU shares this view and we enclose a more detailed proposal for this. We also recommend that such a committee perform a screening of proposed commissioners in order to prevent conflicts of interest arising when they enter public service in the commission.

You will be aware that the European Ombudsman has recently published her ruling after a two-year investigation into the Commission's handling of revolving door cases involving Commission officials following a complaint by several members of the ALTER-EU steering committee<sup>11</sup>. She found that 'systemic maladministration' had occurred, and we urge the Commission to implement all 16 of her recommendations and suggestions forthwith.

We further consider that the Staff Regulations should be reformed at the earliest opportunity to introduce stronger rules to prevent possible conflicts of interest. Such reforms would include: a mandatory cooling-off period of at least two years for all EU institution staff members (and three years for the most senior officials) entering new posts which involve lobbying (or other jobs which provoke the risk of a conflict of interest); and ensuring that the rules cover staff working as temporary or contract agents (as they are currently largely excluded from the rules).

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<sup>10</sup> [http://www.transparencyminternational.eu/wp-content/uploads/2014/04/EU\\_Integrity\\_System\\_Report.pdf](http://www.transparencyminternational.eu/wp-content/uploads/2014/04/EU_Integrity_System_Report.pdf)

<sup>11</sup> <http://www.ombudsman.europa.eu/en/press/release.faces/en/56332/html.bookmark>

## **Better regulation**

Concerns have been raised by civil society groups that the introduction of a dedicated portfolio on 'better regulation' risks measures aimed at cutting rather than improving important legislation needed to protect citizens and the environment. In our view, full transparency around, and balance in, interactions with outside stakeholders will be absolutely critical in this portfolio. We would therefore like to hear from you what steps you will take to ensure that in the future the better regulation agenda will not result in weakening, delaying or even cancellation of key environmental, health, social and consumer protection standards.

We would very much welcome the opportunity to meet with you to discuss our suggestions and your concrete plans to improve Commission transparency and ethics. We hope you do not mind if our coordinator, Ms Nicola Freeman contacts your office in the coming days to arrange a meeting:

We look forward to hearing from you.

Yours sincerely,

## **ALTER-EU steering committee:**

Max Bank (LobbyControl)  
Helen Darbishire (Access Info Europe)  
Paul de Clerck (Friends of the Earth Europe)  
William Dinan (SpinWatch)  
Jorgo Riss (Greenpeace European Unit)  
Erik Wesselius (Corporate Europe Observatory)  
Yuklan Wong (European Federation of Journalists)

enclosure: reform of ad hoc ethics committee:

<http://www.alter-eu.org/documents/2014/01/barroso-letter-on-revolving-doors>

cc First Vice-President Frans Timmermans, Vice-President Kristalina Georgieva

For further correspondence on this letter, please contact Ms Nicola Freeman, ALTER-EU Coordinator: [nicola@alter-eu.org](mailto:nicola@alter-eu.org)