

## Chapter 3

# Transparency in lobbying activities

*There is consensus among stakeholders that transparency of lobbying activities is needed. However, many countries struggle to achieve adequate levels of transparency – i.e. disclose the right amount and types of information – or operate efficient disclosure tools and mechanisms.*

*This chapter reviews how OECD countries have approached the questions of what information should be disclosed, by whom, and if and how it should be made public.*

## Transparency in lobbying activities fosters trust

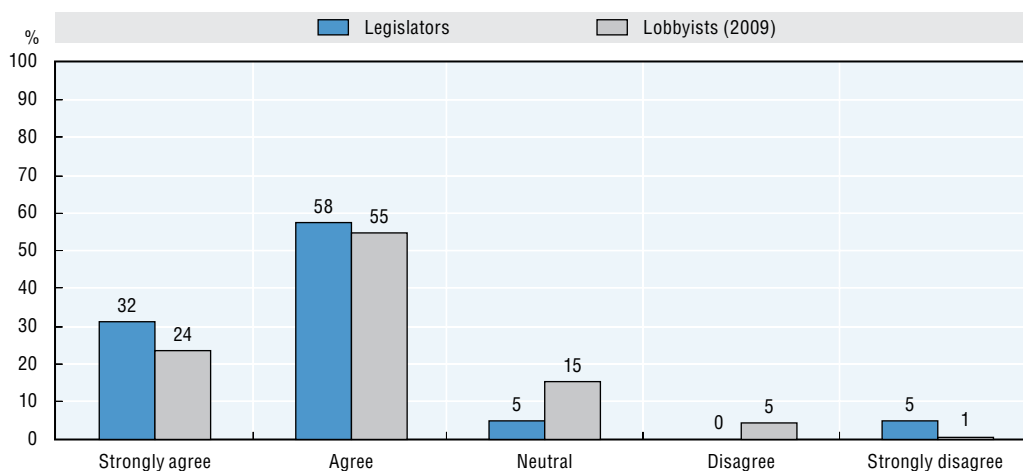
Mechanisms that ensure informed public decision making and transparent lobbying are critical parts of open government. Experts argue that transparency strengthens public confidence in political institutions and increases the power of citizens to hold decision makers and representatives accountable for their actions. Transparency, contend the experts, may also secure more impartial policy decisions by forcing representatives to filter out self-interested arguments which, because they may have a foundation in particular interests, are unlikely to prevail in an open debate (Naurin, 2005). Nevertheless, the debate is still ongoing as to just how much information needs to be made publicly available in order to shine a light on lobbying and address concerns related to it, particularly the risk of bias in the decision making.

### OECD Principles for Transparency and Integrity in Lobbying

Principle 5. Countries should provide an adequate degree of transparency to ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities.

In the 2013 lobbying survey conducted by Burson-Marsteller, 26% of the respondent European Union (EU) politicians and senior officials<sup>1</sup> considered the most negative aspect of lobbying was that interests were not clearly delineated or that there was a lack of transparency (Burson-Marsteller et al., 2013). There was consensus among lobbyists and legislators surveyed by the OECD in 2013 about the need for transparency (Figure 3.1). Fifty-five per cent of lobbyists agreed, and 24% strongly agreed, that transparency in lobbying would help reduce the actual or perceived problems of influence peddling by lobbyists. Very

Figure 3.1. **Transparency in lobbying activities would help alleviate actual or perceived problems of influence peddling by lobbyists**



Source: OECD 2013 Survey on Lobbying for Lobbyists; OECD 2009 Survey on Lobbying; OECD 2013 Survey on Lobbying for Legislators.

few disagreed that transparency would be good for restoring the integrity of the profession. Fifty-eight per cent of legislators were of the same opinion as lobbyists and 32% strongly so.

Nonetheless, many countries struggle to achieve adequate levels of transparency – i.e. disclose the right amount and types of information – or operate efficient disclosure tools and mechanisms.

The vast majority of surveyed lobbyists (70%) also believed that transparency should be mandatory for all in the profession, a view shared by close to three-quarters (74%) of legislators (Figure 3.2). The percentage of lobbyists advocating transparency was nine percentage points higher than in a 2009 OECD survey of lobbyists which asked the same question – which suggests growing support for mandatory transparency.

The majority stance on transparency is echoed by other survey findings. For example, more than half (53%) of the EU politicians and senior officials questioned by Burson-Marsteller thought that a mandatory register for lobbyists would be useful in their country (Burson-Marsteller et al., 2013). That view is not, however, shared everywhere. In Norway, more than half of the respondents (51%) did not think a mandatory register would be useful. There was even cooler enthusiasm for a mandatory register in other Nordic countries: only 24% of respondents in Finland and 19% in Sweden felt a mandatory register would be useful (Burson-Marsteller et al., 2013).

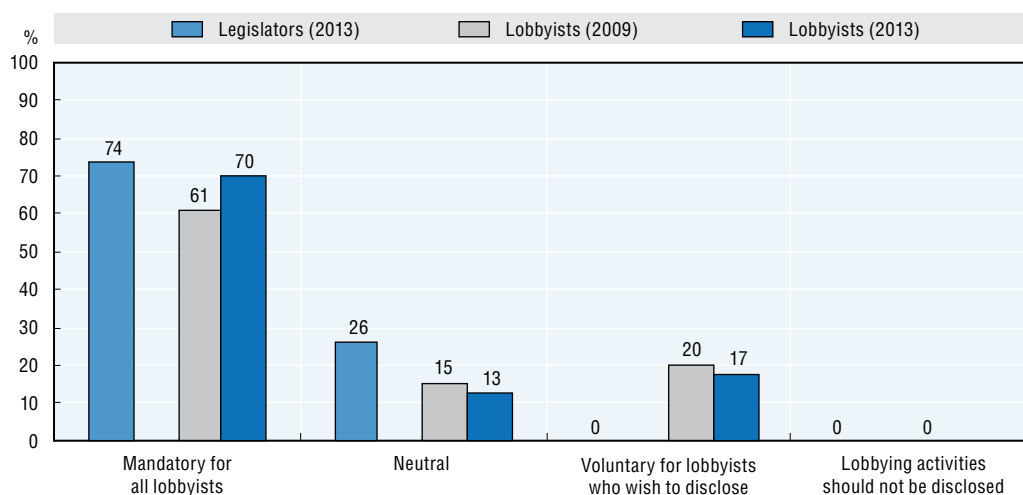
### **Lobbying registers enhance transparency and foster integrity in decision making**

#### **OECD Principles for Transparency and Integrity in Lobbying**

Principle 6. Countries should enable stakeholders – including civil society organisations, business, the media and the general public – to scrutinise lobbying activities.

Another challenge countries are facing is how to disclose lobbying activities. The most common method is to store information on lobbying activities in a public register accessible to all stakeholders – governments, lobbyists, civil society organisations, businesses, the media, and the general public.

**Figure 3.2. Stakeholders believe that transparency in lobbying activities should be mandatory for all lobbyists**



Source: OECD 2013 Survey on Lobbying for Lobbyists; OECD 2013 Survey on Lobbying for Legislators; OECD 2009 Survey on Lobbying for Lobbyists.

Countries have in recent years moved towards designing and implementing lobbying rules and guidelines with registers as a key component of their transparency schemes. Indeed, most countries that regulate lobbying now use lobbyist registers as platforms for managing disclosed information. Of the 26 countries that responded to the OECD 2013 Survey on Lobbying Rules and Guidelines, nine – Austria, Canada, France, Germany, the Italian Ministry of Agriculture, Mexico, Poland, Slovenia, and the United States – had a lobbying register in place (Figure 3.3).

### **Notions of adequacy of transparency vary across countries depending on resources, concerns and the maturity of the system in place**

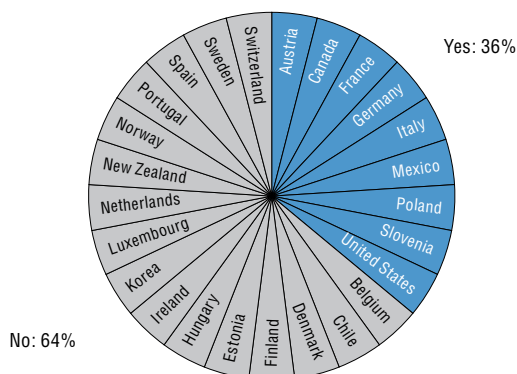
Disclosure should provide enough pertinent information on key aspects of lobbying activities to enable proper scrutiny. Countries with publicly accessible registers commonly require lobbyists (or lobby firms) to file their name, contact details, their employer's name, and the names of their clients (Table 3.1) in the registers. Any supplementary disclosure requirements should take into consideration the legitimate information needs of key players in the public decision-making process.

However, the amount and types of information disclosed and made publicly available varies across countries according to the resources available for running a lobbying register, prevailing concerns, and the maturity of the system in place. For example Canada and the United States – both of which have had a lobbying register in place for a longer time than most OECD countries – generally disclose more information than countries with more recent systems. Experience shows that the concerns over lobbying (often prompted by scandal) and political will are the chief factors behind transparent lobbying practices – transparency being determined by the amount, type, and public availability of information disclosed.

### **Lobbyists and legislators consider the transparency of lobbyists' financial disclosures crucial**

When questioned in OECD surveys on what types of information they believed should be made public, lobbyists tended to share governments' views. Legislators diverged, however, saying that it was more important to disclose information on the financing behind lobbying activities and lobbyists' expenses than their names, contact details, or employers. One explanation for lobbyists' reticence over financial disclosure could be that such information

Figure 3.3. OECD member countries with lobbying registers in place



Note: For Germany, the response refers to the public list of associations representing interests vis-à-vis the Bundestag or the Federal Government that is kept by the President of the German Federal Parliament (Bundestag). For Italy, responses refer to the system put in place by the Ministry of Agriculture. There is no information available for Japan. Source: OECD 2013 Survey on Lobbying Rules and Guidelines.

**Table 3.1. Disclosure and public availability of lobbying information**

	Names (of individuals or organisations)	Contact details	Whether the lobbyist was previously a public official	The names of clients	The name of the lobbyist employer	The name of parent or subsidiary company that would benefit from the lobbying activity	The specific subject matters lobbied	The name or description of specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts sought	The name of the national/ federal departments or agencies contacted	The source and amounts of any government funding received by the entity represented by a lobbyist	Lobbying expenses	Turnover from lobbying activity	The communication techniques used such as meetings, telephone calls, electronic communications or grassroots lobbying	Contributions to political campaigns	Other
Australia	●	○	●	●	○	○	○	○	○	○	○	○	○	○	○
Austria	●	●	○	●	●	○	●	●	○	○	●	○	○	○	○
Canada	●	●	●	●	●	●	●	●	●	●	○	○	●	○	●
France	●	●	○	○	●	○	●	○	○	○	○	○	○	○	○
Germany	●	●	○	○	○	○	●	○	○	○	○	○	○	○	●
Italy	●	●	○	●	●	○	●	●	○	○	●	○	○	○	○
Mexico	●	●	○	○	○	○	○	○	○	○	○	○	○	○	○
Poland	●	●	○	○	○	○	●	○	○	○	○	○	○	○	○
Slovenia	●	●	●	●	●	●	●	●	●	○	○	●	●	●	●
United States	●	●	●	●	●	●	●	●	●	○	●	●	○	●	○
EP/EC Joint Transparency Register	●	●	○	○	○	○	●	●	○	●	●	●	○	○	●
<b>Total OECD10</b>															
● The information collected is publicly available	10	7	3	4	5	2	5	3	3	1	2	1	1	1	2
● Information is collected but not made publicly available	0	2	1	2	1	1	3	2	0	0	1	1	1	1	1
○ Information is not collected	0	1	6	4	4	7	2	5	7	9	7	8	8	8	7

Notes: In addition to the categories in the table, a number of countries included additional information filed in registers under “Other”. Canada’s “Other” category refers to the details of meetings with certain high-level decision makers. In Germany “Other” refers to the requirement to declare the number of members in an association. Slovenia requires lobbyists to provide information on gifts given to a person lobbied. In the Joint Transparency Register of the European Parliament and the European Commission, lobbyists must include information on the nature of their lobbying activities.

Source: OECD 2013 Survey on Lobbying Rules and Guidelines.

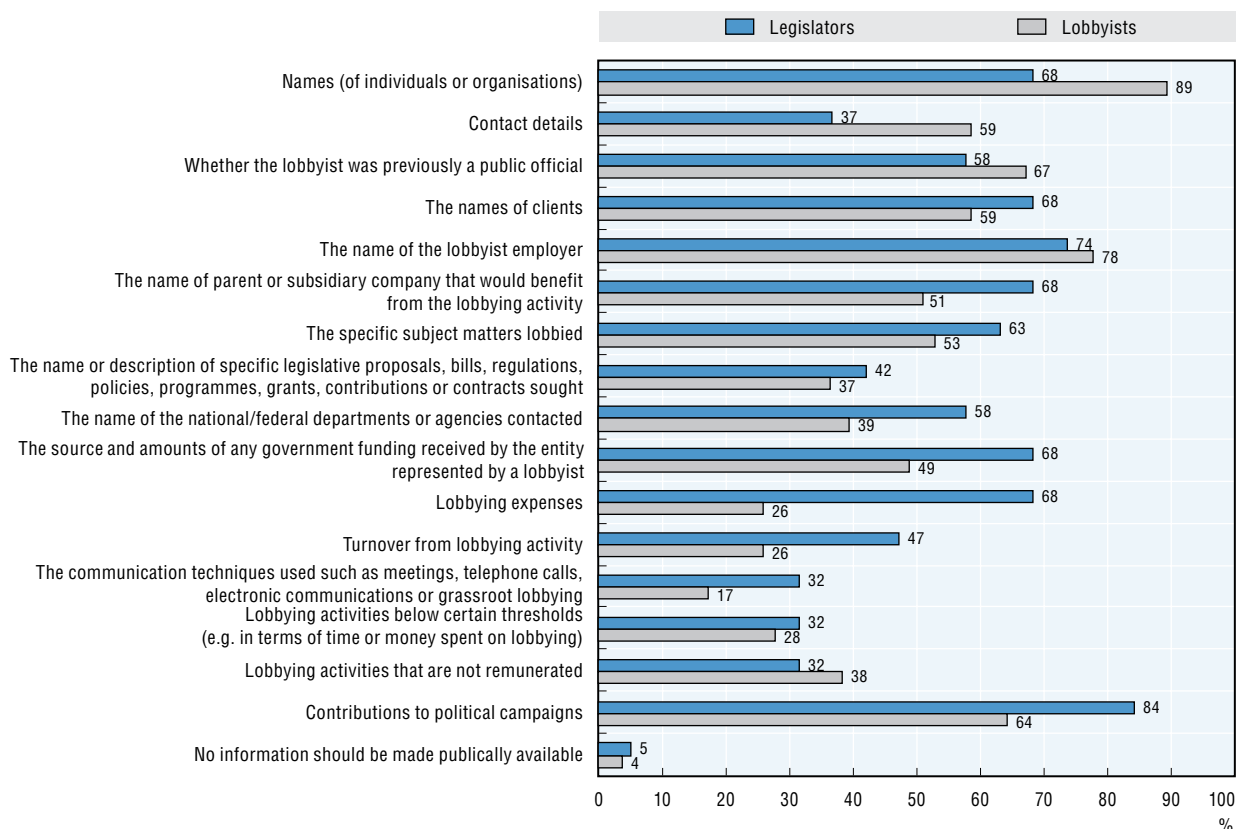
could include “trade secrets” or divulge how a particular lobbyist conducts his or her business. Indeed, most lobbyists do not think that the turnover from lobbying activities and the communication techniques used should be disclosed in a register (Figure 3.4).

Results from the OECD 2013 Survey on Lobbying showed that lobbyists believe that the types of information that it was most important to disclose to public scrutiny were: the names of lobbyists or lobby firms, their employers, whether they were previously public officials, their contributions to political campaigns, contact details, and the names of their clients.

Legislators, on the other hand, believe that the types of information it was most important to disclose and make publically available were: lobbyists’ or lobby firms’ names, their contributions to political campaigns, who their employers and clients were, the names of the parent companies that benefit from lobbying activities, the source and amounts of any government funding received by the entity represented by a lobbyist, and finally lobbyists’ expenses.

Both lobbyists and legislators rank lobbyists’ contributions to political campaigns as highly important information that should be made publically available. Yet, solely Slovenia and the United States require them to be filed in registers. And of the two countries, only the United States makes lobbyists’ campaign contributions publically available.

Figure 3.4. **Types of information that stakeholders believed should be made publicly available**



Note: Respondents were asked the following question “Which of the following types of information, if any, do you think should be made publicly available, for example through a register?”

Source: OECD 2013 Survey on Lobbying for Lobbyists; OECD 2013 Survey on Lobbying for Legislators.

## Striking a balance between the costs and benefits of regulating lobbying

A key challenge that governments face is that of striking a balance between collecting and managing information on lobbying activities and reaping the benefits of so doing. The administrative burden on lobbying oversight bodies of implementing lobbying regulations and on lobbyists of complying with them, together with the annual cost of institutional support mechanisms, has led a number of countries not to consider some types of communication as lobbying and, therefore, not to require them to be registered.

Worth highlighting is that although many OECD countries have instituted mechanisms to lessen the administrative burden (Table 3.2), Austria is the only one to have attempted to calculate the cost of lobbyists' regulatory obligation to comply with lobbying rules. In the Regulatory Impact Assessment which it conducted under the terms of the Austrian Lobbying Act, the Federal Ministry of Justice concluded that lobbyists' cost would be very little compared to their earnings (Austrian Federal Ministry of Justice, 2012).

One ploy used by a number of countries – e.g. Canada, Slovenia, and the United States – is not to register communication that is already on public record. This includes formal presentations to legislative committees, public hearings, established consultation mechanisms, or information related to the decision-making process already in the public domain (Table 4). This is one way of effectively reducing the administrative load, avoiding duplication and ensuring that resources are not devoted to making information available that already is publicly available elsewhere. For example in Slovenia, records of meetings between senior public officials and lobbyists are available under the Access to Public Information Act, but are not included in the register.

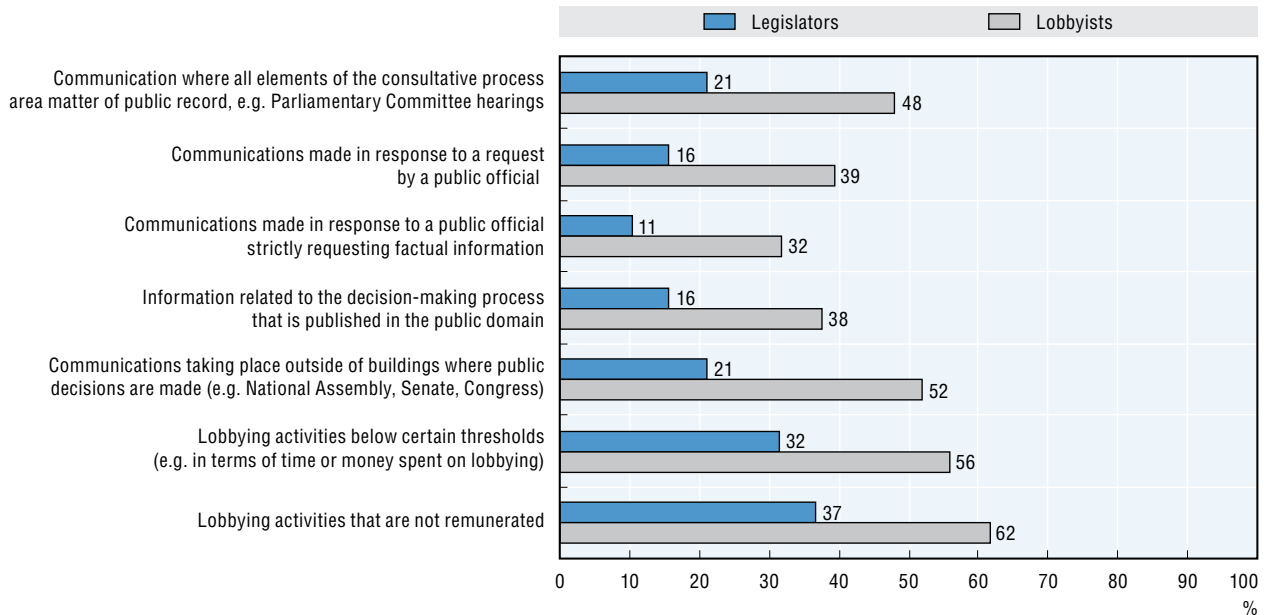
Austria, Canada and the United States have also established certain thresholds beyond which individuals – defined as “lobbyists” by those countries' statutory or regulatory rules – are required to register (Table 3.2). In this way, lobbyists and lobbying oversight bodies are relieved of paperwork and only people who lobby on more than an occasional ad hoc basis register. Canada's Lobbying Act, for example, exempts from its definition of in-house lobbyists those who spend under a certain amount of time lobbying and those whose work is not remunerated. According to Article 7(1)(b) of the act, a person needs to register his or her activities if they “constitute a significant part of the duties of one employee or would constitute a significant part of the duties of one employee if they were performed by only one employee”. The Canadian Commissioner of Lobbying has interpreted “significant” to mean 20% of one person's time. Nearly one-third of surveyed lobbyists (31%) responded that the countries where they operated had instituted registration thresholds determined, for example, by an amount of time spent on or money received for lobbying activities.

Governments across the OECD have sought to bring clarity to lobbying through regulation. They have endeavoured to define concisely and cost-effectively who lobbyists are and what lobbying entails. At the same time, they have also tried to streamline registration procedures and refrain from casting the regulatory net too wide. Yet, lobbyists themselves appear to want rules and guidelines to be more inclusive in their coverage. Most of those surveyed lobbyists felt that lobbying activities below established thresholds and those that were not remunerated ought also to come within the ambit of lobbying rules and guidelines (Figure 3.5).

As Table 3.2 shows, in an effort to lighten the administrative load on lobbying oversight bodies of monitoring and enforcing rules and regulations, a number of OECD members with registers have electronic filing systems. They enable lobbyists to register and submit

activity and spending reports online. Of lobbyists surveyed in 2013, over two-thirds (69%) noted that it took them 30 minutes or more to register (Figure 3.6).

Figure 3.5. **Actors and types of communication that stakeholders believe should be covered by lobbying rules and guidelines**



Note: Respondents were asked the following question: “Which of the following actors or types of communication do you think should be covered by lobbying rules/guidelines?”

Source: OECD 2013 Survey on Lobbying for Lobbyists; OECD 2013 Survey on Lobbying for Legislators.

Table 3.2. **Mechanisms in place to lighten the administrative load on lobbying oversight bodies of managing rules and guidelines**

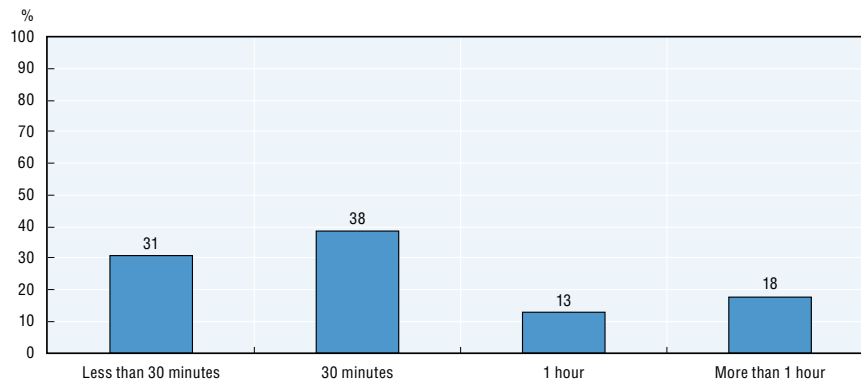
	Electronic submission of registrations	Electronic submission of activity/spending reports	Electronic (automatic) verification that all information was submitted	Below a certain threshold in terms of for example time spent on lobbying, lobbyists do not need to register
Austria	●	●	○	●
Canada	●	●	○	●
France	○	○	○	○
Germany	○	○	○	○
Italy	●	●	●	○
Mexico	○	○	○	○
Poland	●	○	○	○
Slovenia	●	●	●	○
United States	●	●	●	●
<b>Total OECD9</b>				
● Yes	6	5	3	3
○ No	3	4	6	6

Note: For Italy, the responses refer to the system put in place by the Ministry of Agriculture.

Source: OECD 2013 Survey on Lobbying Rules and Guidelines.



Figure 3.6. **For the majority of lobbyists, it takes 30 minutes or more to register**



Note: Respondents were asked to respond to the following question: “On average, how long does it take to register?”

Source: OECD 2013 Survey on Lobbying for Lobbyists.

### Note

1. Interviewees included politicians (both members of national Parliaments and members of the European Parliament) and senior officials from national governments and the EU institutions. In total, nearly 600 interviews were conducted.

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**From:**  
**Lobbyists, Governments and Public Trust, Volume 3**  
Implementing the OECD Principles for Transparency and Integrity in Lobbying

**Access the complete publication at:**  
<https://doi.org/10.1787/9789264214224-en>

**Please cite this chapter as:**

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

DOI: <https://doi.org/10.1787/9789264214224-5-en>

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