

Newcomers' Guide to EU Lobbying



 Public Affairs Council

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Introduction

Welcome to Brussels, Europe’s political capital.

For more than 55 years, Brussels has been the place where the European heads of state and government and the ministers of the European Union’s 28 member states, as well as their elected legislators gather to negotiate policies on subjects as diverse as financial transactions, farmland and honeybee health.

Lobbying and public affairs in the EU

Lobbying is broadly understood as government relations. In other words, a lobbyist’s primary target for action is a public official — legislator, regulator or bureaucrat. However, defining lobbying as only an activity conducted by private sector entities towards public bodies is therefore missing the point. According to the Joint Transparency Register, the EU’s lobbying registry, anyone aiming to influence policy is considered a “lobbyist,” though the register does not use this exact term. By that definition, then, NGOs, religious entities, diplomats, local governments and academics may be considered to be “lobbying.”

The European public affairs professional

In a corporate context, virtually no one would define themselves as a “lobbyist” and only a handful would do so even off the record. This is not out of political correctness or any negative connotation that go with the term but rather due to the fact that, in most cases, their job is far broader than *just* lobbying. It might include any or all of the following:

- Regulatory compliance
- Corporate or strategic communication
- Stakeholder management
- Corporate social responsibility
- Enabling new business opportunities
- Identifying EU funding opportunities

Who are the main public affairs players?

There are 15,000 to 20,000 people working “public affairs,” “lobbying” or “interest representation” in 8,000 lobbying organizations in Brussels.

These organizations can be broken down into just a few categories:

- Public affairs consultancies
- Law firms
- Professional and trade associations
- Representatives office of regions, capitals and EU member states
- Think tanks
- NGOs
- Corporate officers

Many of the individuals working for these organizations have responsibilities extending beyond Brussels to the whole of Europe, or to all of Europe, Middle East and Africa (EMEA).

The Primary Institutions

In order to influence EU policymaking, you must focus mainly on the European Commission, the European Parliament and the Council of the EU. But there are many layers of these bodies, so it is crucial to understand their many moving pieces.

European Commission

The European Commission prepares and drafts every legislative proposal, be it a broadly based initiative or a narrowly defined proposal for technical adjustment. It then submits its proposals to the European Parliament and the Council of the EU for their approval or rejection. The EC not only plays a significant role in the initial phase of the legislative process, but it stays involved during the entire process

and can influence the Council and the EP throughout. Because of this, the EC is rightfully perceived as being highly influential in both legislative and non-legislative procedures. The Commission always tries to approach any matter from a “European” angle, which means it cannot favor any member state’s interests over another’s.

Lobbying Tip #1

Be disciplined: While there are many obvious traits key to successful lobbying – creativity, courage, perseverance – discipline is often overlooked. Monitoring, writing a memo on a technical matter or sitting through long legal discussions can be taxing, but they are as much a part of the job as meetings with Members of the European Parliament or cocktail receptions.

European Parliament

The European Parliament has been strengthening its position over the past 25 years, rivalling the Commission and the Council of the EU in power and importance. The EP cannot submit any draft legislation but can request that the Commission submit a proposal. If the Commission fails to act or refuses to do so, it must explain its reasons in detail. Most importantly, the Treaty of Lisbon gave the EP increased decision-making powers under “ordinary legislative procedure,” or OLP, which covers numerous public policy areas from agriculture to justice to transportation. It is important to note that it is, at heart, a political institution, the EP looks at each Commission proposal through both European and political lenses, depending on which political group (equivalent to a political party elsewhere in the world) leads the negotiations on a given matter.

Council of the European Union

The Council of the European Union (also known as the Council of Ministers or simply the Council) is the central EU legislative body. Since the Treaty of Lisbon, it is also the EP’s counterpart in adopting laws by the OLP. The Council represents the 28 EU member states at the level of ministers who are making decisions on behalf of their respective governments. On every policy issue, the experts and the attachés from each EU member state meet on a frequent basis in the so-called Working Groups/Parties, where they negotiate the legislative proposals down to the

smallest technical and political details. It is important to follow developments in these Working Parties to understand possible roadblocks in the legislative process and to gauge the most likely timeline for progress. It is vital to keep in mind that the Council looks at any given file from a national angle, so arguments presented to diplomats need to be phrased differently than the ones given to MEPs or Commission officials.

Council's EU presidency

Every six months (with one minor exception), a different member state assumes role of the Council's EU presidency. The President speaks on behalf of the 27 other member states, coordinates their position on major issues and negotiates all proposals with the Commission and the EP.

Member state ministers are divided into groups of three and those three ministers will assume the presidency consecutively. This is done to enhance continuity and consistency in the work of the Council and to encourage greater cooperation between the "Trio

Presidency." During the 18 months of a "trio," a common platform is published, which includes themes the three presidents will emphasize. It is important to prepare ahead for the upcoming presidency, and to be informed of its policy priorities and upcoming calendar of events. Nevertheless, no presidency operates in a vacuum, as it is dependent on the Commission's Annual Work Program, any outstanding legislative processes inherited from its predecessor and on any pressing EU issues that are pending (e.g., the eurozone crisis).

Lobbying Tip #2

Know the institutions: To effectively approach them, you need to know them well. Applying the same method to all will not work, given the differences in their approaches and organizational cultures outlined earlier. Try to get familiar with the different internal decision-making processes and "mindsets" of the European Commission, the Council of the European Union and the European Parliament. This knowledge will help you not only adjust your tone to each policymaking body but also the content of your message and the questions you can ask.

Subsidiary Institutions

There are several other EU governmental institutions that, while not as understood or known as the Commission, Parliament and Council, serve important functions in the public affairs process.

European Court of Justice

Once a law has been enacted, the European Court of Justice interprets it upon a claim from member states, EU institutions or private persons to ensure uniform interpretation across all member states.

European Court of Auditors

The European Court of Auditors is the watchdog for the budget, checking that EU money is being spent wisely. In practice, lobbyists do not work with them much as their role is focused on shaping new rules. What is important, however, to monitor closely is the **Official Journal of the European Union**, where adopted laws are published and where you can find the most official and reliable information about when they take effect.

European Economic and Social Committee

The European Economic and Social Committee (EESC) is an official consultative and advisory body, which portrays itself as a “bridge” between the main EU institutions and “organized civil society.” The Commission, EP and Council must, at different points in the policymaking process, consult the EESC before making decisions on economic and social policy. As a result, the panel, whose opinion is non-binding, is involved in EU policymaking at the earliest of stages, when the EC is first weighing the pros and cons of various policy options. The EESC also issues opinions on initiatives of its own, four out of five upon which the Commission generally acts.

Lobbying Tip #3

Know your objective: The only way to achieve your goal is have a specific, measurable objective. Are you trying to increase the visibility of your issue? Are you attempting to affect a specific legislative change? Do you want to find out whether and how the regulatory environment might change so that you can leverage this information for business or hedge against threats? Are you trying to access EU funding or engage in diplomatic efforts? To grab the attention of you audience, two things should be clear: the message to be conveyed and what your counterpart’s agenda is. You will then be able to tailor your message accordingly, decide among inside and outside lobbying and fine-tune your approach.

Committee of the Regions

Similar to the EESC is the Committee of the Regions (CoR), which consists of representatives of local and regional authorities. The CoR promotes those authorities’ interests at the EU level and informs them of what the EU institutions are doing. The Commission, Council and Parliament must consult the CoR before legislating in areas that directly affect local and regional interests. Like the EESC, CoR opinions are not legally binding and the committee is strategically placed and able to influence the EU agenda. But unlike the EESC, the CoR regularly gauges whether EU law is properly implemented at national, regional and local levels, and if EU institutions comply with the principle of subsidiarity after the formal adoption of EU legislation.

The Long Decision Making Process

One of the most important things to know about EU-level decision-making is that, except for regulatory measures, it takes a long time to enact new policy. Policymaking can take two to four years (including preparatory time), so patience and persistence are key.

The Commission holds the quasi-monopoly of initiating any new legislation. The Treaty of Lisbon gave EU citizens the ability to petition the Commission by European Citizens' Initiative (requires at least 1 million signatures to demand action on public policy), but these petitions do not require the Commission to act, nor does an "own initiative" resolution from the EP to the Commission.

Through the ordinary legislative procedure, once the Commission proposes a policy, a draft law is sent to the Council of Ministers and the EP. These two bodies — the Council and the EP — serve, more or less, as if in a bicameral system, with separate debate, amendments and votes. In the EP, a draft is assigned to a relevant committee where one (MEP) is assigned the role of "rapporteur" and will shepherd the bill in the process. A "shadow rapporteur" is also appointed to provide alternative views on the measure. These two MEPs then negotiate the finer details of the proposal, with other committees providing input as well.

After several months of work on the text, the draft proposal is voted upon. If it passes, it proceeds to wider negotiation of the policy between the EP, Commission and Council, a phase commonly referred to as a "trilogue." In such a setting, the Commission acts as a policy broker and tries to mediate differences between the EP and Council. While the EP was crafting the draft proposal, the Council was also discussing it. These internal discussions may not move at the same pace, however.

Lobbying Tip #4

Remember everything: Each and every relationship is important. Given the long-term, strategic nature of EU legislation, do not expect something spectacular to happen overnight, but if you invest in keeping proper notes, use legislative monitoring services, put all the information you get in context and stay curious about people and events alike, soon, you will be able to think not only of effects but also of potential causes — and these are the first steps in devising your own strategy.

Lobbying Tip #5

Know the decision-making system and schedule: It is very important for you to know when the draft proposal you are following will be debated or voted upon, what procedure is being used, who can intervene or table amendments, etc. You should check the European Parliament's Legislative Observatory and the Council webpage regularly, and call up the relevant secretariats to ask about their file's schedule in the legislative agenda.

At this point, on every policy issue, experts and the attachés from each EU member state meet on a frequent basis in issue-specific Working Groups/Parties, where they craft legislative policy down to the smallest technical and political details. The country holding the EU presidency sets the agenda for these meetings and serves as an honest broker between member state representatives to facilitate as unified a policy front as possible.

As you might imagine, it is difficult for the Council to agree on a draft proposal. Working Party negotiations can drag on for months. It is certainly a rarity when the 28 national representatives in the Council produce a so-called “general approach,” which is an informal political agreement between member states, which then requires the agreement of the European Parliament as well.

After all of this, the EP and the Council have two rounds of negotiations still to go as far as changing and/or agreeing on a draft that the Commission has put forward. These are the so-called “first reading” and “second reading.” If, after second reading, they are unable to reach an agreement, the proposal is sent to a “conciliation committee,” which consists of 28 MEPs and 28 Council representatives. If a proposal fails at this stage, the proposal is considered to have failed. (It should be noted, however, that less than five percent of Commission proposals fail, given the subtle coordination before and during the negotiation phases to find a compromise agreement.)

Lobbying Tip #6

Know legislative planning: The Commission publishes an annual work program for the coming year, so you will be able to identify which policy areas will take priority and which will not. Be conscious of the upcoming “trio” presidencies, as those countries are already preparing the policy objectives they are going to pursue. Follow policy developments to know when a file is coming up, and whether it is going to be a Green or White Paper (draft policy outlines). If you do, you will be able to prepare scenarios for potential developments, anticipate and intervene when needed.

First reading agreements, those made in during trilogue discussions, have become much more common in the last few years. As a result, EU legislation is being adopted faster, which results in greater policymaking efficiency but less transparency. Consequently, lobbyists would be well-served to build strong informal bonds with MEPs and EP administrators — particularly if you are working on financial services policy, as recent dossiers on those subjects have frequently been agreed to under first reading agreements.

Other Policymaking Considerations

Once you come to grips with how long it can take to get things done, you need to consider two other facets of the EU policymaking process.

Decentralized policymaking authority

The power for EU policymaking resides within several institutions that have no central authority. Consequently, you need to work horizontally and focus on making contacts and following events in several EU institutions at the same time.

Even after a proposal leaves Commission headquarters, the Commission continues to follow the proposal closely and has the power to propose a revision at any point. The Commission also may work with the EP rapporteurs and the committees of jurisdiction to affect policy changes, as may the Commission policy officers who drafted the proposal in the first place. Therefore, it is advisable to reach out to these policy officers so you can also keep an eye on the agenda of events you may not be fully aware of (e.g., policy breakfasts, task force meetings) at which they are sometimes speak and answer questions on the proposal of interest, expected timelines or new considerations they may have.

Many others — rapporteurs, officers of the committee of jurisdiction — are going to be following proceedings as well, but as with any public official, when contacting them, remember that these are extremely busy people who are approached by many stakeholders on a daily basis, so be as patient, reasonable and concise as you possibly can.

Much of a lobbyist's activity consists of collecting complete and up-to-date information, trying to grasp the attention of busy people and sending key messages to the target audience. To do all this successfully, assemble, maintain and grow many diverse networks in all EU institutions and beyond — both on technical and political levels. Everybody is important and valuable, so never underestimate the opinion-shaping power of those perceived to be in the lower ranks of the hierarchy.

For example, when the Commission begins drafting a new law, the work is carried out in the relevant unit of the most relevant Directorate General, or “lead DG” (e.g., DG ENERGY Unit C.3). The unit is responsible both for the draft proposal and for coordinating its preparation. One or two Desk Officers in the lead unit will work on the draft under the supervision of the Head of Unit, and in close cooperation with other related DGs in the preparatory work. Although it

Lobbying Tip #7

Know the right people: Over 40,000 people work in EU institutions, so it is not always easy to find out precisely who is in charge of a certain policy item. However, it is imperative to do so, lest you put a lot of effort into drafting the right message and then deliver it to the wrong person. Find out exactly who is in charge of a certain proposal, understand their approach and discuss the issue with them to find the information you need.

might, at first, seem counterintuitive, this is why you shouldn't just approach and lobby only the DG in charge of drafting the original proposal.

The discussions between the various DGs can be quite intense, complicated and controversial, and may lead to substantial changes to a text proposed by one DG or another. Once the DGs have agreed on the text, it is less likely that it will be changed at the top of the hierarchy: the meeting of the 28 European Commissioners, or "College of Commissioners."

All of this is to say that it is crucial to know who is in charge of a file. They can offer expertise, background studies, their own impact assessments or many other valuable pieces of information that might possibly influence policymaking in their favor. This advice applies across the EU legislative process. In the EP, know who the rapporteurs and the shadows are for a specific file, as well as who their political advisors and assistants are. And in the Council, get to know the attachés at the 28 member states' delegations in Brussels who follow your file and who take part in Working Party negotiations.

Getting political

Even the most technical issues can become highly politicized. This usually means that even if an agreement can be reached on the technical aspects of the proposal, due to its political implications, the member states (as represented in the Council of Ministers) may find it difficult to reach agreement. In such a case, Working Parties will try to clear the technical hurdles, while "Council formations" will meet to discuss the issue that had been prepared on technical levels. Such an arrangement can give you an indication of the speed and direction of the negotiations.

Lobbying Tip #8

Know how to communicate: You must "package" your message in the most user-friendly and relevant way for the recipient. Do this in terms of language, length and qualitative/quantitative balance. Gather as much information as you can about your intended audience. Communicate by the means you know they prefer (telephone, email, in person). Do not shy away from also using indirect channels, online tools, social media, events and conferences.

Recent Developments in Lobbying

Lobbying has been around for several decades, but it has been transformed by a few key recent events:

- The adoption of the Treaty of Lisbon, which created several new powers for the EP, including the ability to influence trade negotiations or agriculture dossiers
- New member states joining the EU, with Croatia becoming the 28th 1 July 2013
- Major economic turbulence, which has resulted in the adoption of numerous financial services laws

- The emergence of European citizen activism, by which EU citizens launch initiatives, online campaigns and Europe-wide petitions to ban a substance, veto an international treaty or to campaign for a member state to leave the EU altogether, to name a few examples
- Greater regulatory power for EU institutions governing environmental, chemical, food, agricultural, trade and financial entities

Factions and rivalries

As there are 28 voices in the Council of the EU and in every Working Party, the road toward consensus has changed in more ways than one. Apart from the large number of participants and the complex calculation of a “qualified majority” for most decisions, the issue of “old” and “new” members — the founding members versus those who had joined the EU only shortly before and after 2004 — is still somewhat present in many policy discussions.

Do newcomers support the position of their older counterparts or will they form separate groups of their own that may even turn into blocking minorities? Informal negotiating power is also affected by the economic might of a member state, apart from the formal basis of the voting weights (i.e., population).

A telling example in this regard is the financial transaction tax (FTT). When this proposal was put forward by the European Commission in September 2011, it became clear that the unanimity needed in the Council for its adoption (since all tax issues in the EU require the agreement of all 28 member states) could not be reached due to the strong opposition and probable UK veto. Therefore, the Commission decided to make use of a Treaty

Lobbying Tip #9

There are always two sides to every coin: Take counter-arguments into account, as well as national sensitivities (think of the divergence in economic performance of member states or the fact that there are 24 official EU languages being spoken, for example). What may seem like a brilliant idea in one country may be opposed vehemently in other member states.

procedure called “enhanced cooperation” in order to move ahead with the discussions on the proposal. Enhanced cooperation allows a group of at least nine member states to advance an initiative proposed by the Commission when unanimous agreement proves impossible. Despite the above, it is likely that the proposal will be watered down and its implementation will be delayed, due mainly to effective advocacy from both the European and US financial services industries. But given the current shortcomings of the EU decision-making system, enhanced cooperation might become more widely used more in the future to overcome unanimity hurdles and allow member states that wish to move ahead to be able to do so with a common approach.

Procedural changes

Another interesting change brought about by the Treaty of Lisbon is a set of revisions to the process known as “comitology” (another EU term of art that does not exist elsewhere), a new regulatory decision-making procedure. Though it might seem complicated, there are only a few

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things to remember. When the Commission proposes a piece of legislation, in many cases it is only a “framework rule” without many details on its implementation on an EU-wide scale. Once the EP and Council adopt a regulation or directive, this framework rule must be filled with detailed measures of implementation. It is the Commission that prepares the draft of the framework regulation or directive, sends it to the EP and Council for approval and eventually implements the measure.

The Treaty of Lisbon reformed the old comitology system and introduced two alternatives for implementing legislation: the Implementing and the Delegated Acts. Because the Delegated Acts no longer use committees, the term “comitology” has become somewhat redundant but is still used informally.

It is important for stakeholders and interested parties to know exactly which of the two acts their specific technical rules or regulatory topics are subjected to as it has a major impact on the advocacy strategy they should use. Delegated Acts are measures used “when there is a need to supplement or amend the legislative act’s non-essential elements,” while Implementing Acts are utilized “when there is a need to implement the legislative act in a uniform manner across the EU.”

Approximately 1,800 Delegated or Implementing Acts are adopted every year, while only 60 to 150 basic legislative acts are adopted under the ordinary legislative procedure. A great number of these decisions can actually have a significant impact on businesses and citizens despite being classified as “non-essential elements” of legislation. As a result, “comitology lobbying” has

become increasingly popular over the last few years, with plenty of stakeholders wishing to influence the implementing decisions that arise from the primary legislation. However, this can prove to be a difficult task because it is not always easy to identify the relevant national experts who sit on these regulatory committees, or to get detailed insight on discussions considered confidential. Moreover, the EP’s enhanced power under Delegated Acts, which puts it on an equal footing with the Council, is creating new opportunities for lobbyists working in the field.

Lobbying Tip #10

Know the EU member states: They are diverse in a myriad of ways: culture, political past and present, internal difficulties, economic challenges. So on a specific policy of interest, find out which country supports/opposes which aspect, and why, find out who are those who favor your position and engage them in an exchange of views.

Online Resources

Here are a few links that will undoubtedly be useful in your EU lobbying journey:

- [Centre for European Policy Studies](#) (think tank)
- [Comitology Register](#) (for regulatory files)
- [EU Whoiswho](#)
- [EUobserver](#) (news)
- [EurActiv](#) (news)
- [EUR-Lex](#) (EU laws)
- [European Commission at Work](#)
- [European Parliament — Committees](#)
- [European Parliament — Legislative Observatory](#)
- [European Parliament — MEPs](#)
- [European Parliament — News](#)
- [European Parliament — Plenary](#) (questions asked and declarations made by MEPs)
- [European Policy Centre](#) (think tank)
- [European Union Newsroom](#)
- [European Voice](#) (news)
- [Personnel Directory of European Institutions](#)
- [Public Affairs Council European office](#)
- [Public Register of Council Documents](#)