

## Draft revised Recommendation of the Council on Transparency and Integrity in Lobbying and Influence

### THE COUNCIL,

**HAVING REGARD** to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

**HAVING REGARD** to the standards developed by the OECD in the area of public governance, regulatory policy, public integrity, corporate governance, anti-corruption, public procurement, and responsible business conduct;

**RECOGNISING** that while lobbying and seeking to influence government decisions are legitimate ways in which stakeholders participate in public decision-making processes and support informed decisions by providing valuable data and insights for effective public policies, all stakeholders should have a fair and equitable opportunity to participate in public decision-making;

**RECOGNISING** that public decision-making processes that are shielded from undue influence and supplied with relevant inputs are crucial to safeguarding the public interest, especially as the information landscape is becoming more complex and it is more difficult for public officials to navigate through the information and documents they receive;

**RECOGNISING** the evolving lobbying and influence landscape, with particularly new and more diverse mechanisms and channels of influence, such as through social media, and lobbying and influence by foreign commercial and political interests, including foreign governments and their affiliated organisations and multinational enterprises;

**RECOGNISING** that the increasing risks connected with undue influence on public decision-making processes make it more important for governments to tackle undue influence and set up a strong, effective and resilient framework for lobbying and influence activities;

**RECOGNISING** that integrity, transparency, openness, and equity in public decision-making are necessary for both the creation of optimal policies and citizens' trust in government;

**RECOGNISING** that influence actors and companies are under increasing scrutiny and that there is a need for a clear integrity framework regulating the engagement with public decision-making processes;

**RECOGNISING** the need to reflect the evolving lobbying and influence landscape and assist actors in government, business, and civil society to reinforce the frameworks for transparency and integrity in policy-making;

**RECOGNISING** the need to implement international standards related to the protection and promotion of civic space, open government, and independent and plural media;

**CONSIDERING** that while the responsibility for ensuring transparency, integrity and equity in public decision-making rests primarily with the government, at all levels of government, and by all public institutions, it is also shared with influence actors and therefore this Recommendation is relevant at all levels of government and for all actors involved in lobbying and influence activities.

### On the proposal of the Public Governance Committee:

- I. **AGREES** that the purpose of this Recommendation is to provide guidance on how governments can maximise the benefits of inputs into public decision-making, while fostering transparency and integrity in lobbying and influence activities, restricting undue influence of government policies, and increasing equity in stakeholder participation, by building or strengthening a coherent, comprehensive, effective and enforceable system, consistent with the wider policy and regulatory frameworks, and ensuring proper implementation, compliance and review.
- II. **AGREES** that, for the purposes of the present Recommendation, the following definitions are used:
  - **Lobbying and influence activities** refers to actions aimed at or capable of influencing public decision-making, and targeted at public officials or institutions carrying out the decision-making process, its stakeholders or a wider audience. It does not cover influence activities exercised through official consultation processes whereby transparency and integrity is already ensured, and influence by foreign governments through formal diplomatic channels.
  - **Advisory and expert group** refers to any committee, board, commission, council, conference, panel, task force or similar group, or any subcommittee or other subgroup thereof, that provides governments with advice, expertise or recommendations. These may be made up of public and/or private-sector members and/or representatives from civil society, and may be put in place by the executive, legislative or judicial branches of government or government subdivisions, either on an ad hoc or standing basis.
  - **Oversight function** refers to a public institution, dedicated or with broader competencies, adequately resourced and empowered to enforce policies and regulations concerning lobbying and influence activities, and monitor and promote their implementation.
  - **Regulatory footprint** refers to documentation that details the stakeholders who sought to influence the decision or were consulted in its development, and shows what inputs into the particular decision-making process were submitted and what steps were taken to ensure inclusiveness of stakeholders in the development of the regulation.
  - **Undue influence** refers to an act of attempting to influence the design, implementation, execution and evaluation of public policies and regulations administered by public officials, whether by providing covert, deceptive or misleading evidence or data, by manipulating public opinion, or by using other practices capable of manipulating the decisions of public officials.
  - **Public decision-making process** refers to the development, implementation, evaluation or modification of any public policy or of any public programme, at all levels of government (federal, national, regional or local); the preparation or amendment of any law, including secondary legislation such as statutory instruments and by-laws; the award, modification or withdrawal of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds; and the nomination of key public officials.

- **Public official** refers to an individual carrying out duties in the public sector, at the central and subnational levels of government, whether appointed or elected, paid or unpaid, or in a permanent or temporary position, which are subjects of lobbying and influence activities.

**III. RECOMMENDS** that Members and non-Members having adhered to this Recommendation (hereafter the “Adherents”) strengthen transparency and openness in government decision-making processes in the executive, legislative, and judicial branches at all levels of government and ensure transparency of lobbying and influence activities, including from foreign governments and foreign commercial interests. To this effect, Adherents should:

- Make publicly available and easily accessible, timely, comprehensive and detailed information on activities aimed at or capable of influencing government decision-making processes, in particular on who is lobbying or influencing government, who is the target of such activities, and the specific policy issue;
- Require a mandatory regulatory footprint in public decision-making processes with the information on influence activities made publicly available online, in an open data format, which allows for cross-checking by third parties;
- Disclose, in an open data format, that is reusable for public scrutiny, all direct and indirect donations and contributions, received by the government, public officials, political parties and election campaigns from non-governmental actors, including from abroad;
- Foster the right to full access to information about lobbying and influence activities and timely responses to such requests for information.

**IV. RECOMMENDS** that Adherents implement transparency and integrity frameworks for all bodies providing advice to government, notably advisory and expert groups, and external consultancy organisations. To this effect, Adherents should:

- Publicly disclose information on the funding and functioning of these bodies, and information on their members and other persons who participate in providing advice to government, including their private interests and their current and past professional affiliations;
- Provide rules that promote transparency, integrity and inclusiveness in these bodies, such as procedural rules, and standards of conduct and rules on conflicts of interest.

**V. RECOMMENDS** that Adherents ensure that government decision-making processes are inclusive. To this effect, Adherents should:

- Ensure effective public communication and information, consultation and engagement with respect to all stakeholders;
- Require that public officials proactively seek the views of those stakeholders that may be underrepresented in the public decision-making process.

**VI. RECOMMENDS** that Adherents take measures in order for companies, trade associations, grassroots organisations, think tanks, research bodies and other organisations having a significant role in lobbying and influence activities to fully disclose relevant information. To this effect, Adherents should ensure disclosure of:

- Ownership, including beneficial ownership, and financing;

- b) Political engagements, notably donations and contributions to the government, political parties and election campaigns, either directly or indirectly through third parties;
- c) Activities aimed at influencing public opinion or public decisions either directly or indirectly, e.g. through trade associations, grassroots movements, think tanks, research bodies, charities, fundraising organisations, prominent experts and personalities or targeted ads via social media;
- d) Companies' engagement with outside organisations such as trade associations, grassroots organisations, think tanks and research bodies, as well as with experts and personalities, and disclosure of funding to these organisations and persons;
- e) Companies' board members and senior executives' membership and their engagement with outside associations, other companies, and state agencies, and other outside organisations such as trade associations, grassroots organisations, think tanks and research bodies;
- f) Media companies' ownership, including beneficial ownership, and disclosure of conflict of interest situations between the media content and the private interests of the owner(s);

**VII. RECOMMENDS** that Adherents promote a public integrity framework aimed at ensuring integrity when companies, trade associations, grassroots organisations, think tanks, research bodies and other organisations engage in lobbying and influence activities. To this effect, Adherents should:

- a) Take measures to ensure that companies, trade associations, grassroots organisations, think tanks, research bodies and other organisations adhere to integrity standards and engage responsibly in their lobbying and influence activities;
- b) Ensure that companies, trade associations, grassroots organisations, think tanks, research bodies, and other organisations having a significant role in lobbying and influence activities take responsible business conduct and integrity standards into account when engaging in activities seeking to influence government decision-making processes;

**VIII. RECOMMENDS** that Adherents promote public integrity in the interactions between government and stakeholders, notably those with corporate interests, and establish a public integrity framework adapted to the risks of lobbying and influence activities for public officials. To this effect, Adherents should:

- a) Provide clear standards and guidelines for public officials, including tailored ones for at-risk positions, on: (i) engaging with stakeholders, including checking their credibility; (ii) how to seek and assess information and evidence, in particular how to deal with possibly biased or false information and disinformation campaigns; (iii) receiving gifts, invitations and hospitalities;
- b) Provide, for public officials in at-risk positions and at-risk sectors, guidance, developing capacity and raising awareness about the risks of undue influence on government policies.

**IX. RECOMMENDS** that Adherents implement an effective system to manage pre/post public employment risks and other conflict of interest situations, whether at the domestic or international level. To this effect, Adherents should:

- a) Establish specific policies, rules, and procedures for managing conflict of interest situations in connection to government decision-making processes;

- b) Ensure that the conflict of interest risks posed by individuals, including from abroad, entering the public sector from government regulated sectors, in particular into regulatory functions, are properly covered;
  - c) Design effective rules and procedures such as cooling-off periods, subject-matter limits, time limits, and prohibiting any use of any “insider” information after they leave the public sector, to manage the conflict of interest risks posed by public officials leaving the public sector for entities in government-regulated sectors, including abroad;
- X. RECOMMENDS** that Adherents safeguard those that scrutinise and/or report violations of the policies and rules on lobbying and influence activities, such as media, civil society organisations, and whistleblowers, by protecting their right to freedom of expression. To this effect, Adherents should:
  - a) Promote pluralism and independence in media, and protect journalists and media outlets from intimidation and abusive defamation or libel cases;
  - b) Provide clear rules and procedures for whistleblowers reporting suspected violations of the policies and rules on lobbying and influence activities, and ensure protection in law and practice against all types of retaliation against whistleblowers as a result of reporting on reasonable grounds.
- XI. RECOMMENDS** that Adherents ensure there is an oversight function on lobbying and influence activities with the capacity to enforce policies and regulations concerning lobbying and influence activities, and monitor and promote their implementation. To this effect, Adherents should:
  - a) review the completeness, adequacy and timeliness of all the information disclosed for public scrutiny and the effectiveness of integrity standards;
  - b) seek effective, proportionate and dissuasive sanctions for non-compliance.
- XII. RECOMMENDS** that Adherents periodically review, in consultation with relevant stakeholders, the functioning of their legal framework, public policies, rules, procedures and guidelines to ensure alignment with this Recommendation, in order to improve their enforcement systems and seek convergence towards best practices.
- XIII. ENCOURAGES** non-governmental stakeholders to follow and promote the use of this Recommendation.
- XIV. INVITES** the Secretary-General to disseminate this Recommendation.
- XV. INVITES** Adherents to disseminate this Recommendation at all levels of government.
- XVI. INVITES** non-Adherents to take due account of, and adhere to, this Recommendation.
- XVII. INSTRUCTS** the Public Governance Committee to:
  - a) *Concrete actions to support implementation and dissemination to be added in the next version.*