

FINAL REPORT

**CONCEPTUAL GUIDELINES FOR THE DEVELOPMENT OF PROVISIONS
OF LOBBYING IN THE REPUBLIC OF LATVIA**

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CONCEPTUAL GUIDELINES FOR THE DEVELOPMENT OF PROVISIONS OF LOBBYING IN THE REPUBLIC OF LATVIA

Foreword

Lobbying is a two-way process between lobbyists and representatives. Codes of conduct and registers of Members' interests also affect lobbying activities. The activities of civil servants and outside advisers in respect of lobbying must also be considered.

In considering the regulation of lobbyists it is important to note the difficulties in regulation and what it entails. Potential problems have to be addressed for any legislation to be comprehensive and effective. The following areas need to be considered

- To what extent should lobbyists be regulated?
- What types of activities should be regulated?
- What constitutes lobbying activity?
- Who should be required to register?
- What information should be required of those who register? Information details of lobbyists and clients?
- How should this information be disclosed?
- How should the system be administered? The body responsible for maintaining and updating the register?
- Powers of enforcement? How should compliance be enforced?
- Access to the Register?
- What fees should be applied, and to whom?
- What, if any acts or behavior should be prohibited?
- To what extent should government require lobbyists to adhere to a Code of Conduct?

Lobbying when conducted appropriately, is a legitimate activity through which individuals and groups can educate government about their issues and objectives, and thus influence public policy and program decisions. Volunteers with non-profit or grass-roots organizations sometimes undertake lobbying. Lobbying is also conducted by paid

professionals when organizations (whether commercial or non-profit) hire them to bring a particular message to key decision-makers. It is the latter activity, **paid lobbying** that would be the subject of regulation.

The conceptual guidelines hereafter recognize four key principles:

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is attempting to influence government.
- A system of registration of paid lobbyists should not impede free and open access to government.

The four principles above recognize implicitly the critical role of information in the policy-making process. Information is the most valuable input in that process, and getting complete, up-to-date, and accurate information is always a priority for legislators and policy-makers. This information comes from stakeholders, from people or businesses with an interest in the outcome; people who are concerned enough to make the effort to speak out, to make their voices heard and their views known. In addition, individuals and businesses may join together as public interest groups or trade and industry associations to discuss issues and speak with government.

The conceptual guidelines serve to enhance transparency:

Transparency means that the process by which government makes decisions must be one that people can understand, a process which they can access, a process which provides them the opportunity to make their voices heard, and to have their say in the laws that will govern and affect their lives.

Transparency also means that the public should be able to find out exactly who is talking to government, and what they are talking about.

For that reason, understanding transparency means broadening the discussion beyond narrow questions of how much information lobbyists should be required to disclose. Of course, that discussion must also take place. It is important that the public has enough information to know what is going on in government.

Why Provisions of Lobbying?

The objective is not to regulate lobbying which remains a valuable and legitimate activity but rather to make the system transparent by requiring people or groups to disclose their lobbying activities. The conceptual guidelines suggest that lobbyists be registered. Registration of lobbyists would allow anyone to find out who is lobbying what department or Member of Parliament and what exactly they are discussing. Why is it important to know this? Simply put, by knowing who is talking to government, the public (and of course, other lobbyists) can form a clear picture of the information that is being

provided and the policy options that are being considered. Ultimately, a registry makes it possible to achieve a true plurality of views without an unduly onerous compliance mechanism.

It is important to balance two important objectives: first insuring that any lobbying legislation promotes disclosure of enough information to achieve transparency, but at the same time, that it does not require information merely for its own sake, because it “might” tell us something. More information is not necessarily better information; the key is to have the right information. Requiring more information also would raise the cost of the system: for government the cost of collecting, reviewing and confirming the information provided; and for registrants, the administrative cost of compliance.

The challenge is to determine the right level of disclosure to ensure a level playing field, a field in which all Latvian citizens can have access to the decision-making process.

The process of lobbying is often portrayed as the exclusive reserve of “powerful and influential lobbyists”, using their “connections” to make “secret deals”. This is far too simple a picture. The reality is that the overwhelming preponderance of government decision-making and, therefore lobbying efforts are directed not at legislators or legislation, nor even at Ministers. Rather, most lobbying is “low-level” activity aimed at many levels of the public service.

Any registration system should really be best understood as a “work in progress”. While thinking must continue to evolve on subjects of transparency and access to government, any legislative framework should remain flexible and ready to evolve. In this way, it is possible to respond to significant changes in the environment in which public decisions are made.

Summary

When examining the issue of the relevance and terms of a possible legal framework specific to lobbying, it is well to remember that any such legislation would have for prime purpose to guarantee access to information and establish the principle that citizens are entitled to know who is attempting to influence public interest decisions. At the centre of this basic right to information there must be the right of citizens to know how decisions are made and who is attempting to influence the decision-making process through their lobbying activities.

Decisions affected by the operation of any lobbying legislation should not only be those concerning the development, presentation, modification or rejection of a legislative or regulatory proposal but should also include among other things the awarding of a permit, license, certificate, contract, grant or any other financial benefit.

Moreover the institutions concerned by any lobbying legislation should not only be parliamentary institutions such as the *Saeima* but also government institutions, the ministries, government agencies, public bodies as well as municipal institutions.

Any lobbying legislation should recognize the legitimacy of lobbying and the often necessary contribution of lobbyists to the enlightened decision-making by government administrators. Any lobbying legislation would dictate a condition: **Transparency**.

This transparency would materialize through the keeping of a **Register** which would be available free of charge, 24 hours a day, 7 days a week, to citizens desirous to know

- who is attempting to influence who,
- in whose behalf,
- what decisions are involved,
- made by whom and
- in exchange of what remuneration.

Admittedly, the duty of transparency imposed to lobbyists also has implications for government administrators. It is rather due to their capacity as trustees and guardians of the decision-making process, decisions that should be in the public interest, and due to their accountability to citizens that public office holders should stand behind the goals of any lobbying legislation.

To manage the practice of lobbying, the legislator would among other things provide for the implementation of a **Code of Conduct for Lobbyists**. The primary objective of this Code would be to serve as a guide to the people involved in lobbying government administrators. It would also involve the coding of duties and obligations that must be met under penalty of law.

To ensure that the prescriptions of the lobbying legislation and of the Code of Conduct are respected, the legislator would establish a supervisory control mechanism for lobbying activities: The **Lobbyists Commissioner** who would be mandated by the *Saeima* and therefore would be independent from the government. Under the lobbying legislation the Code of Conduct for lobbyists would thus be the Commissioner's main reference in exercising this power of supervision and control of lobbying activities.

The primary value advocated by the Code of Conduct for lobbyists would be a respect for institutions. A Code article would thus provide that lobbyists must carry out their activities in the respect of institutions and of public office holders working within them. What is referred to here is not the simple interpersonal relationship between two speakers but rather the relationship between a special interest representative and a trustee of the public interest.

The Code of Conduct would contain other articles identifying the value of honesty and integrity that must also characterize the relationships lobbyists maintain with public office holders.

Therefore, if it can be maintained that lobbying not only involves the exercise of an access right to institutions but also a useful, even necessary contribution to an enlightened

decision-making process by public office holders, this necessarily results in a special responsibility as regards the information thus communicated to public office holders.

The Code of Conduct for lobbyists, making its own the objective of transparency would specify that a lobbyist who makes contact with a public office holder has to introduce himself, provides his client's identity and specify the mandate he or she has been given by the latter. The purpose of this rule would be to avoid situations where, under the cover of personal relationships, a person might act as a lobbyist without revealing his mandate. Other provisions of the Code of Conduct would relate to concerns of professionalism in the practice of lobbying. Such is the case for the provisions that would aim at preventing or managing potential conflict of interest situations.

Lobbying legislation would introduce rules where there were none before. These references would be extremely useful. Lobbyists coming into contact with policy makers would be required to abide by these rules, and the policy makers would have a right to expect that the lobbyists behave accordingly.

If such was not the case, any failure to comply with the law or with the Code would be brought to the attention of the Commissioner, who could intervene as part of the exercise of his supervision and control mandate.

All public office holders would be aware that if questions are raised concerning the integrity of a decision-making process with respect to legal obligations, in this case the transparency of the influences that may have come into play, the legitimacy of the decision would be questioned by the citizens.

Lobbying legislation would recognize new rights to citizens i.e. in knowing who is attempting to influence the decisions made in their behalf within parliamentary, governmental and municipal institutions. This would increase trust in public institutions by substituting a culture of transparency to the culture of discretion that often surrounds the action of influence networks. This transparency would of course have a major effect by substantially improving the opportunity for interested or concerned Latvian citizens to also put their point of view in due course.

Any lobbying legislation would bring about a drastic change in the ways of doing of numerous individuals or corporate entities in Latvia that interact with public authorities. As with any such changes, a lot of patience and conviction would have to be displayed and the will to achieve this goal would have to be periodically reaffirmed.

It must be kept in mind that ethical concerns are increasingly expressed by citizens because many believe there is a real credibility gap in public institutions and in the people that act as their fiduciaries. Never before have citizens searched with as much eagerness and insistence for a better hold over their administrative and political institutions. Most certainly, this is something very sound from the viewpoint of the health of democracy.

Of course, any lobbying legislation's contribution to the improvement of the quality of democratic life would be dependent on the support of members of the community, policy makers, lobbyists and citizens to its objectives of transparency. This would come under the responsibility of each and everyone.

POSSIBLE FRAMEWORK FOR THE STATUTORY REGULATION AND REGISTRATION OF LOBBYISTS

CHAPTER 1 PURPOSE AND APPLICATION OF LEGISLATION

While recognizing that lobbying is a legitimate activity, the objective would be to provide, in the public interest, for the registration of paid lobbyists, and to the greatest extent possible consistent with the public interest in free and open access to parliamentary, government and municipal institutions for the disclosure of their activities and to ensure that lobbying activities are properly conducted.

Lobbyist Definition

A lobbyist would be any individual who for payment on behalf of any employer, person or organization undertakes to communicate with a public office holder or arranges a meeting between a public office holder and any other person with respect to

- (a) the development of a legislative proposal;
- (b) the introduction, passage, defeat or amendment of any legislative or regulatory proposal, resolution, policy, program or action plan,
- (c) the issue of any permit, license, certificate or other authorization,
- (d) the awarding of any contract, otherwise than by way of a call for public tenders, or of any grant or other financial benefit or the granting of any other form of benefit determined by government regulation or
- (e) the appointment of any public office holder.

Registration would be required whether the communication is initiated by the lobbyist or the public office holder.

Communications which would not normally require registration

Below are non-exhaustive lists of communications which would not normally require registration:

- Submissions to Members of the *Saeima*, in their official capacities as MPs, by or on behalf of their constituents;
- On-the-record submissions to a committee of the *Saeima* or to any body or person with jurisdiction under a given piece of legislation;

- Enquiries to obtain publicly available information;
- General enquiries about the terms and conditions of programs and application processes;
- Participation in consultations, hearings, roundtables or like activities when the name of the participants, the government participating organizations and the subject matters are readily available publicly;
- Communication with respect to the enforcement, interpretation or application of legislation or regulations, or administration of a policy, program, directive or guideline with respect to the person, partnership or organization being represented;
- Preparation and presentation of briefings to parliamentary committees;
- Communication by a trade union regarding administration or negotiation of a collective agreement;
- Communication by a trade union representing a member or former member who is or was employed in the public service;
- Communication by an unpaid member of a voluntary organization, about an issue of concern to that organization.

Communications which would likely require registration

- Enquiries about a specific application for a grant, a contribution, a tax credit or a contract;
- Communication to determine what additional information is required to have the application or project approved; and
- Negotiations about terms related to a specific financial benefit.

Lobbying and Lobbying Activities

Any communication or arrangement of a meeting with a public office holder pertaining to

- the development of a legislative proposal;
- the introduction, passage, defeat or amendment of any legislative or regulatory proposal, resolution, policy, program or action plan;

- the issue of any permit, license, certificate or other authorization;
- the awarding of any contract, otherwise than by way of a call for public tenders, or of any grant or other financial benefit or the granting of any other form of benefit determined by government regulation or
- the appointment of any public office holder.

This broad definition would cover both **Direct Lobbying** and **Grassroots Lobbying activities**:

Direct Lobbying consists of communications with a legislator, an employee of a legislative body or other government official or employee participating in the formulation of legislation.

Grassroots lobbying makes use of mass communications directed to the general public and is designed to encourage recipients to take specific action with respect to a specific legislation or executive action. The communication reflects a view on that specific legislation.

- (A) The communication states that the recipient should contact a legislator or should contact an officer or employee of an executive agency.
- (B) The communication provides the address, phone number, and contact of a legislator or of an officer or employee of an executive agency.
- (C) The communication provides a petition, tear-off postcard, or similar material for the recipient to send to a legislator or to an officer or employee of an executive agency.

The communication that is a grassroots lobbying communication would fall therefore under the definition of lobbying activities if such communication identifies an individual who is in a position to consider or vote on the legislation; represents the recipient in the *Saeima* or is an officer or employee of the executive agency to which the legislation or executive action relates.

Activities that would not be considered as Lobbying

1. **Oral or written communications** with a legislator or public office holder on a non-legislative matters such as urging a Ministry or governmental agency to provide social services grants.
2. **Oral or written communications** with a legislator or public office holder with respect to the enforcement, interpretation or application of statutes or regulations as long as this does not apply to draft or proposed legislation.
3. **Endorsing legislation without spending money to promote the endorsement.**

4. Non-partisan Analysis, Study or Research

Although this type of communication may reflect a viewpoint, it would be considered outside the lobbying definition if such communication 1) provides information on all sides of the issue in an objective and nonpartisan manner and 2) it is made available to the general public, a segment of the general public or to governmental bodies and employees. It would be possible for such communication to be distributed, in part, to Members of the *Saeima* so long as it is distributed widely and not limited to only those people who are interested in one side of the issue. Under this definition educational materials which inform the public and reflect a view on legislation would be allowed but the materials would need to be prepared carefully to meet the standards for the nonpartisan analysis, study or research definition.

5. Examinations and Discussions of Broad, Social, Economic, and Similar Problems

Communications that address the public, Members of the *Saeima* or governmental employees on general topics that are also the subject of specific legislation would not be lobbying as long as the communication does not refer to a specific legislation or directly encourages the recipients to take action.

6. Self-defense communications i.e. commenting on public policy proposals that would affect the existence, powers, duties, tax-exempt status or the deductibility of contributions to a non-profit organization.

7. Public commentary on legislation without a call to action.

8. Legislative updates as long as there is no call to action.

9. Requests for Technical Advice or Assistance.

Preparation or submission of a response to the requesting party of a specified request for information or comments by the *Saeima*, or committee, a state agency, or a municipal or executive body as long as the response is not disseminated to the entire body requesting the response.

10. Testimony in a response to a written invitation from the *Saeima*, committee or subcommittee.

11. Participation (and all preparation for such participation) as a witness, attorney, or other representative in public rule-making or rate-making proceedings of a state or municipal agency, to the extent that such participation is part of the public record.

12. Publication of broadcast of news items, editorials or other comments and paid

advertisements concerning proposed legislation, rules, regulations, or rates by newspapers and other periodicals, radio and television stations, and by the owners and employees of such entities. This would only apply to newspapers, periodicals, and radio and television stations and to their owners and employees, not to outside individuals and groups.

Client of Lobbying

A client means the employer, person, or organization on whose behalf a lobbyist engages in lobbying activities.

Public Office Holders Definition

To influence government decisions, lobbying has to reach the decision-makers. A **Public Office Holder** would be defined as a “person occupying an elected, appointed or other employment position in the *Saeima*, as well as officers and employees of the Government.

The following persons would be considered public office holders:

- a) the President;
- b) members of the *Saeima*;
- c) the Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, State Ministers and Parliamentary Secretaries;
- d) the head of the Chancellery of the President of Latvia and his or her deputy, the Director of the *Saeima* Chancellery and his or her deputy;
- e) advisors to the President, advisors, consultants and assistants, as well as heads of the Offices of the Prime Minister, Deputy Prime Minister, Ministers, Ministers for Special Assignments and State Ministers;
- f) the Governor of the Bank of Latvia, his or her deputy and members of the Board of Governors of the Bank of Latvia;
- e) the Auditor General, members of the Council of the State Audit Office, members of the Collegia of the Audit Departments of the State Audit Office and the administrator of the Chancellery of the State Audit Office;
- f) the Chairperson of the Central Electoral Commission, his or her deputy and the Secretary of the Central Electoral Commission;
- g) the Director of the Constitution Protection Bureau and his or her deputy;
- h) the Head of the Prevention and Combating of Corruption Bureau and his or her deputy;
- i) the Director of the National Human Rights Office and his or her deputy;
- j) members of the National Broadcasting Council of Latvia, members of the Council of the Public Utilities Commission, members of the Council of the Finance and Capital Market Commission;
- k) chairpersons of local government city councils (parish or district councils) and their deputies, executive directors of local government and their deputies;

- l) councilors of local government city councils (parish or district councils);
 - m) heads of State or local government institutions and their deputies;
 - n) civil servants of the general or specialized State Civil Service;
 - o) members of councils or executive board of those capital companies in which the State or local government share of the equity capital separately or in aggregate exceed 50 percent;
 - p) members of councils or executive boards of State or local government capital companies;
 - q) representatives of the holder of the State or local government share of capital and their authorized persons;
 - r) judges, prosecutors, sworn notaries and sworn bailiffs; and
 - s) professional service soldiers and military employees of the National Armed Forces.
- (2) Persons who in the performance of the duties of office in the State or local government authorities, in accordance with regulatory enactments, have the right to issue administrative acts, as well as to perform supervision, control, inquiry or punitive functions in relation to persons who are not under their direct or indirect control, or to deal with the property of the State or local government, including financial resources, would also be considered public office holders.
- (3) Persons who perform duties of office outside the State or local government authorities shall also be considered public office holders if in accordance with the regulatory enactments the State or local government has permanently or temporarily delegated to them any functions referred to in (2) above.

Public body Definition

- a Department of State, including any body, organization or group specified in relation to that Department of State
- a local authority for the purposes of the Local Government
- a health board
- any body, organization or group appointed by the Government or a Minister of the Government

CHAPTER 2 DISCLOSURE OF LOBBYING ACTIVITIES

REGISTRATION OF LOBBYISTS

Registration requirements could be applied for three categories of lobbyists.

1. Consultants or Professional Lobbyists
2. In-House Corporate Lobbyists
3. In-House Organization Lobbyists

1. Consultants or Professional Lobbyists

These are individuals who, for pay and on behalf of a client [an individual, an organization or corporation] communicate with public office holders. Consultant lobbyists may include government relations consultants, lawyers, notaries, engineers, accountants or other professional advisors who provide lobbying services.

Consultants or Professional Lobbyists would be required to register when they arrange a meeting between their client and a public office holder. They would also be required to disclose information for each undertaking.

The undertaking is defined by the agreement or contract, written or verbal; between the client and the lobbyist and not by the government activities about which the lobbyist seeks to communicate. The scope of these agreements or contracts may be very broad and require lobbying on several activities or may be narrowly focused on only one activity. They may describe precisely the nature of the lobbying activities or only imply them.

What is important is the existence of a relationship within which the activities will eventually take place. Also, undertakings may be concurrent or sequential. New or amended agreements with substantially different subject matters would signify new undertakings, and in such cases, separate registrations would be required when they lobby for a) the making, developing or amending of legislative proposals, bills or resolutions, regulations, policies or programs; b) the awarding of grants, contributions, tax credits or other financial benefits; and c) the awarding of contracts.

A Consultant Lobbyist would have to complete and file a Consultant Lobbyists registration with the Registrar within 10 days of entering into an undertaking on behalf of a client. Changes to any information previously submitted would have to be reported within 30 days. Thereafter, a return would need to be filled for each undertaking no later than 30 days after the expiry of every six months from the date of the initial filing or amendment of the undertaking.

There would be no need to file a return at the expiry of every six months when the Registrar has already been advised of the completion or termination of the undertaking.

A firm would be able to assign several consultants to work on the same undertaking for the same client. In such a case, much of the information in one registration form may be common to the forms of all consultants. However, each consultant lobbyist would individually be responsible for compliance with the legislation and would have to certify the information in his registration form.

Information to be disclosed

For each lobbying undertaking would include the following:

- Name, position title and business address of the lobbyist;
- Name and business address of the lobbying firm;
- Client name and business address;
- Name of the principal representative of the client;
- Name and business address of any person or organization that controls or directs the client's activities;
- If the client is a corporation, the name and business address of the parent corporation and those subsidiaries which directly benefit from the lobbying;
- If the client is a coalition, the names and business addresses of the corporate and organizational members;
- If the individual is a former public office holder, a description of the offices held;
- Subject matters including the specific legislative proposal, bill or resolution, regulation, policy, program, grant, contribution, or financial benefit or contract sought;
- Name of each department or other governmental institution lobbied;
- Source and amount of any governmental funding provided to the client; and
- Whether payment is contingent on the success of the lobbying; and communication techniques used, including grass-roots lobbying.

2. In-House Corporation Lobbyists

In-House corporate lobbyists are usually full-time employees and officers of the company that carries commercial activities for financial gain. Their primary function is usually public affairs or government relations work, even though such distinctions may not be reflected in the individual's title. Their duties would include communications with public office holders.

When the accumulated lobbying duties by all paid employees would constitute 20% of those of one equivalent employee over a period of six months, or if this threshold is reached during at least one of those months, the officer [usually the chief executive officer, chief operating officer or president or any other officer directly reporting to one of them] would complete and file a registration for all employees listed.

Lobbyist registration would be required with respect to the following matters: a) the making, developing or amending of legislative proposals, bills or resolutions, regulations, policies, programs; or b) the awarding of grants, contributions, tax credits or other

financial benefits and would be required within two months after one or more employees commence lobbying on behalf of the corporation. A new registration would have to be filed with the Registrar every six months thereafter and updates would also have to be filed within 30 days when employees modify or cease their lobbying activities, or cease employment with the corporation.

The officer [usually the employee who holds the most senior office in the corporation] would be responsible for completing and filing a registration.

Information to be disclosed

Following information is to be disclosed:

- Name and position title of the officer responsible for filing returns;
- Name and business address of the corporation;
- Name and business address of the parent corporation and those subsidiaries that directly benefit from the lobbying;
- Name of the senior officers who communicate at any time with public office holders;
- Names of other employees of the corporation who lobby as a significant part of their duties (20% or more over a six-month period, or if there is a peak reaching or exceeding the 20% threshold during any of those six months);
- A general description of the corporation's business or activities;
- If any employee or senior officer named in the return is a former public office holder, a description of the offices held with the government;
- Subject matters including the specific legislative proposals, bills or resolutions, regulations, policies, programs, grants, contributions, tax credits or other financial benefits sought.
- Name of each department or other governmental institution lobbied;
- Source and amount of any government funding received by the corporation; and communication techniques used, including grass-roots lobbying.

3. In-House Organization Lobbyists

In-House Organization Lobbyists are usually full-time employees and officers of non-profit organizations such as a business, trade, industry, professional or voluntary organization, a trade union or labor organization, chamber of commerce or board of trade, a partnership, association, charitable society, coalition or interest group, a government, other than the Government of Latvia and a corporation without share capital incorporated to pursue without financial gain to its members, objects of a national, provincial, patriotic, religious, philanthropic, charitable, scientific, artistic, social, professional or sporting character or other similar objects.

Many such non-profit organizations have paid employees who work on government relations, public affairs or specific policy areas of issues. These employees may

communicate, even though infrequently, with elected or appointed public office holders.

Lobbyist registration would be required with respect to the following matters: a) the making, developing or amending of legislative proposals, bills or resolutions, regulations, policies, programs, or b) the awarding of grants, contributions, tax credits or other financial benefits and within two months after one or more employees commence lobbying on behalf of the organization. A new registration would have to be filed with the Registrar every six months thereafter and updates would also have to be filed within 30 days when employees modify or cease their lobbying activities, or cease employment with the organization.

The same rule as for In-House Corporate Lobbyists would apply i.e. when the accumulated lobbying duties by all paid employees would constitute 20% or more of the duties of one equivalent employee over a six-month period, or if this threshold is reached during any month in that period, the officer responsible for filing returns would have to file a registration in which those employees would be listed.

Information to be disclosed

Following information to be disclosed:

- Name and position title of the senior officer;
- Name and business address of the organization;
- Names and employees who lobby including, as applicable, the senior officer;
- General description of the organization's business or activities;
- General description of the organization's membership.
- If any employee named in the return is a former public office holder, a description of the offices held with the government;
- Subject matters including the specific legislative proposals, bills or resolutions, regulations, policies, programs, grants or contributions or other financial benefits sought;
- Name of each department or other governmental institution lobbied;
- Source and amount of any government funding received by the organization and
- Communication techniques used, including grass-roots lobbying.

Lobbyists Registrar Appointment and Responsibilities

The Registry of Lobbyists would be administered and maintained by a **Registrar of Lobbyists**.

The Registrar's responsibilities would include:

- Administering the registration process

The Registrar an Administrator working for the Ministry of Justice would be responsible for administering the registration process.

- Identifying omissions and inconsistencies, and requesting completion and corrections from the lobbyist;

The task of the Registrar would be to determine whether the returns and notices submitted contain all the required information and whether they are submitted in the prescribed form and manner. The Registrar would be able to refuse to accept, or remove from the registry, any return or notice that does not contain all the required information or that is not submitted in the prescribed form or manner. The Registrar would inform the person having submitted the return or notice of the reason for the refusal or removal, and if practical in the circumstances would allow the person to make the required corrections within a determined time. If the required corrections were not made within the allotted time, the Registrar would maintain the refusal or proceed with the removal.

- Informing lobbyists, public officer holders, the public and others about the Registry;
- Ensuring that the public has access to information in the Registry

Except as regards information that is subject to a confidentiality order, the Registry would be public and open for registration purposes or public inspection on registry premises or through an Internet site set up for that purpose by the Registrar.

Enforcement

It would be the responsibility of lobbyist to comply with the registration requirements.

Education and communication programs could help facilitate compliance. Also the Registrar would be able to issue advisory opinions and interpretation bulletins to help lobbyists understand the registration provisions.

CHAPTER 3 REGULATION OF LOBBYING ACTIVITIES

Acts that would be prohibited

No person would be able to lobby a public office holder without being registered in the Registry of lobbyists in respect of such lobbying activities.

- No consultant lobbyist, corporate or organization lobbyist would be able to act in return for compensation that is contingent on the achievement of a result or the lobbyist's degree of success. Furthermore, no consultant lobbyist, corporate or organization lobbyist would be able to act in return for compensation derived from a grant or loan received from the Government, a municipality or a government or municipal body or agency.
- No lobbyist who in the course of lobbying activities would receive from a public office holder the mandate to award a contract, a grant or any other form of benefit would be able to award it to himself or herself, to the enterprise or organization on whose behalf the lobbyist is acting or to any third person that is related to the lobbyist. No such third person, enterprise or organization would be able to accept such contract, grant or benefit.
- No person having held a public office during one year or more in the two years preceding the date on which the person ceased to be a public office holder would be able to lobby a public office holder as a consultant lobbyist.
- No person would be able to lobby a public office holder who is employed or serves in the same parliamentary, governmental or municipal institution in which the person held a public office in the year preceding the date on which the person ceased to be public office holder or in such an institution with which the person had significant and direct official relations during that year.
- No person would be able to derive undue advantage in the course of lobbying activities from having held a public office, or lobby in respect of a procedure or other specific operation in which the person was involved in or in connection with the exercise of that office.
- No person would be able, in the course of lobbying activities to disclose confidential information obtained in or in connection with the previous exercise of a public office, or advise anyone on the basis of information that is not available to the public concerning either the parliamentary, governmental or municipal institution in which the person held a public office, or a person with which the person had significant and direct relations in the year preceding the date on which the person ceased to hold a public office in that institution.

Lobbyists Commissioner Appointment and Responsibilities

The **Lobbyists Commissioner** on the proposal of the President of Latvia and chosen by the *Saeima* would have for prime task to monitor and control the lobbying of public office holders operating in parliamentary, governmental and municipal institutions.

Another aspect of the mission would be to develop a Code of Conduct for Lobbyists and to set off investigations and inspections regarding breaches of any provision of the legislation governing lobbying activities or the Code of Conduct.

The Commissioner would be independent from the Government of Latvia. He would be appointed for five years by two thirds of the Members of the *Saeima* and would report on his activities to the *Saeima* every year. The Office of the Lobbyists Commissioner would include 5 people: A Secretary General overseeing Legal Affairs, Inspections and Investigations, Communications and Management Services.

The Lobbyist Commissioner would be able on his own initiative or on request to conduct inquiries if he believes on reasonable grounds that there has been a breach of the legislation governing lobbying or the Code of Conduct. The Commissioner and any person specifically authorized by the Commissioner to conduct an inquiry would have for the purposes of the inquiry, the powers and immunity conferred on commissioners except the power to order imprisonment.

The Commissioner or his or her delegates would be thus able to (1) enter, at any reasonable time the establishment where the lobbyist or the public office holder engages in his or her activities (2) require the persons present to provide any information concerning the activities engaged in or the functions exercised by the lobbyist or the public office holder, and to produce any book, register, account, record, or other related document and (3) examine and make copies of documents containing information relating to the activities. Every person who has custody, possession or control of the documents referred to above would have on request to give access to the person conducting the inspection and facilitate their examination.

When after an investigation, the Lobbyists Commissioner would conclude that a person violated the rules that cover lobbying in some way, he would make a report to the Prosecutor General.

The Prosecutor General could

- demand that the person pay back the value of any payment (money, benefit etc) received or payable in return for the illegal lobbying activities,
- begin a penal prosecution against the person who appears to have committed the offence.

Possible offences would include:

- engaging in lobbying activities without being included in the Registry,
- making fake a false declaration when registering,
- hindering the work of the investigation or the inspection of the Commissioner or the people acting in his name,
- failing to respect certain provisions of the Code of Conduct.

Fines would be imposed for convictions. If there is a repeat offence and a person is convicted more than once, fines would be doubled.

In case of a serious or repeated violation of the rules covering lobbying activities, the Commissioner would be able to take disciplinary measures including:

- preventing the person at fault from registering in the Registry of lobbyists,
- canceling the person's registration.

These two measures should not be for more than one year.

Before making a decision about a disciplinary measure, the Commissioner would inform the person concerned about the situation and allow him or her to explain his or her point of view. The person targeted by a disciplinary decision from the Commissioner would be able to contest the decision by appealing to the Latvian Court.

Code of Conduct

Introduction

A Lobbyists' Code of Conduct would be an inherent part of any legislation.

This Code of Conduct would be founded on the following concepts:

- free and open access to government is an important matter of public interest;
- lobbying public office holders is a legitimate activity;
- it is desirable that public office holders and the public are able to know who is attempting to influence government;
- a system for the registration of paid lobbyists should not impede free and open access to government.

The purpose of this Code of Conduct would be to assure the public that lobbying is done ethically and with the highest standards with a view to conserving and enhancing public confidence and trust in the integrity, objectivity and impartiality of government decision making. In this regard, the Code of Conduct would complement the registration requirements.

Lobbyists would be required to comply with the provisions of the Code of Conduct.

The introduction would state the purposes of the Code and would place it in a broader context. Next would come a body of overriding principles, which in turn would be followed by specific rules. The principles would set out, in positive terms, the goals and objectives to be attained without establishing precise standards. The rules then would provide more detailed requirements for behavior in certain situations.

The principles therefore would provide a framework for the Code as expressed in the rules. As a consequence, the powers of investigation which would be provided to the Lobbyists Commissioner in the legislation would only be triggered where there is an alleged breach of the rule.

Example of a Code of Conduct

Principles

Integrity and honesty

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

Openness

Lobbyists should at all times, be open and frank about their lobbying activities, while respecting confidentiality.

Professionalism

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but also the spirit of this Code of Conduct as well as the relevant laws, including the legislation pertaining to the registration of lobbyists and regulations.

Rules

Transparency

1. Identity and purpose

Lobbyists should when making a representation to an office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.

2. Accurate information

Lobbyists should provide information that is accurate and factual to office holders. Moreover, lobbyists should not knowingly mislead anyone and should use proper care to avoid doing so inadvertently.

3. Disclosure of obligation

Lobbyists should indicate to their client or employer their obligations under the legislation pertaining to the registration of lobbyists and their obligation to adhere to this Code of Conduct.

Confidentiality

4. Confidential information

Lobbyists should not divulge confidential information unless they have obtained the informed consent of their client or employer, or the law requires disclosure.

5. Insider information

Lobbyists should not use any confidential information or other insider information obtained in the course of their lobbying activities to the disadvantage of their client or employer.

Conflict of interest

6. Competing interests

Lobbyists should not represent conflicting or competing interests without the informed consent of those whose interests are involved.

7. Disclosure

Lobbyists should advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the consent of each client concerned before proceeding or continuing with the undertaking.

8. Improper influence

Lobbyists should not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on public office holder.

CHAPTER 4 VOLUNTARY CODES

VOLUNTARY CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

In order for Parliament to fulfill its commitment to being open, accessible and responsive to the needs of the public, it needs to encourage participation by organizations and individuals in the decision-making process. Clearly, however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the Parliament conducts its business.

In order to perform their duties effectively, Members need to be able to consider evidence and arguments advanced by a wide range of organizations and individuals.

Some of these organizations and individuals make their views known directly to individual Members and committees of the Parliament. Others choose to employ intermediaries i.e. commercial lobbyists which may include public affairs companies, law firms, management consultancies, investment banks, merchant banks and other providers of professional services to present their views and devise strategies for lobbying the Parliament. The role of commercial lobbyists is not, therefore, limited to the direct representation of a client's interests to Members but may also include or consist of providing strategic advice. Under such arrangements the client undertakes the direct representation element of lobbying on the advice of the commercial lobbyist.

Lobbying is also undertaken by paid staff and by members of business and trade associations, individual companies, trade unions, charities, churches, voluntary organizations and other individuals and groups, many of whom have no professional staff and comparatively few resources.

There is, nevertheless, some uneasiness about the way in which lobbying may be practiced. At the heart of public concern is the nature of the relationship between elected Members and those who seek to influence them. It is important, therefore, to ensure that those relationships are handled with complete propriety so as to maintain the confidence of the public in the decision-making and integrity of its representatives in the Parliament. In particular, it is essential that there is transparency in the relationships between Members and commercial lobbyists, in line with the Parliament's core principles of accessibility and openness.

The rules and standards in a Code of Conduct should set out how Members should conduct themselves in their contacts with those who lobby or seek to lobby them. Such rules and standards would be designed to encourage proper interaction between Members, those they represent and interest groups. As well as setting standards for MP's conduct in relation to lobbyists, such rules and standards would serve to demonstrate that access to the Parliament or its members is open to all.

Provision should be made for the registration and declaration of Members' interests and to prohibit Members from advocating any matter on behalf of a person by specified means or urging other Members to do so in return for any remuneration. Failure to observe the requirements would constitute a breach or a criminal offence.

Members would need to bear in mind these statutory obligations in their contacts with anyone who seeks to lobby them, and particularly when considering whether to accept any remuneration, sponsorship, gift, benefit or hospitality from another person.

Rules and Standards in relation to lobbyists

- A Member should not, in relation to contact with any person or organization who lobbies, do anything which contravenes the Code of Conduct or any other relevant rule of the Parliament or any statutory provision.
- A Member should not, in relation to contact with any person or organization who lobbies, act in any way which could bring discredit upon the Parliament
- The public must be assured that no person or organization will gain better access to, or treatment by, any Member as a result of employing a commercial lobbyist either as a representative or to provide strategic advice. In particular, a Member should not offer or accord preferential access or treatment to commercial lobbyists or their employers. Nor should commercial lobbyists or their employers be given to understand that preferential access or treatment might be forthcoming from another Member of Parliament or group or person within or connected with the Parliament.
- Before taking action as a result of being lobbied, a Member should seek to satisfy himself or herself about the identity of the person or organization who is lobbying and the motive for lobbying. A Member may choose to act in response to a commercial lobbyist but it is important that a Member knows the basis on which he or she is being lobbied in order to ensure that any action the Member takes complies with the standards set out in the Code.
- In addition, Members should
 - (i) consider whether a meeting with one group which is making representations on an issue should be balanced by offering another group with different views an opportunity to make representations;
 - (ii) consider keeping a record of all contacts with lobbyists;
 - (iii) consider arranging for an assistant or researcher to take notes at any meetings with lobbyists.

Rules and Standards in relation to acceptance of hospitality, gifts and benefits

- Members should not accept any paid work which would involve them lobbying on behalf of any person or organization or any clients of a person or organization
- Members should not accept any paid work to provide services as a Parliamentary strategist, adviser or consultant, for example, advising on Parliamentary affairs or on how to influence the Parliament and its Members. (This should not prohibit a Member from being remunerated for activity, which may arise because of, or relate to, membership of the Parliament, such as journalism or broadcasting, involving political comment or involvement in representative or presentational work, such as participation in delegations, conferences or other events).
- Members should decline all but the most insignificant or incidental hospitality, benefit or gift if the Member is aware that it is offered by a commercial lobbyist. Members should not accept any offer that might reasonably be thought to influence his or her judgment in carrying out Parliamentary duties. Since the basis on which many people believe that commercial lobbyists sell their services is by claiming to provide clients with influence over decision-makers, it might reasonably be thought that acceptance of a benefit of any significance from such source could influence a Member's judgment in carrying out Parliamentary duties. If a Member only becomes aware of its source after receiving hospitality a benefit or gift, then he or she should consider reimbursing the costs of any hospitality or benefit or returning any gift.
- Members may participate in events for which others are charged a fee to attend. Participation, for example, in a conference or seminar for which delegates are charged a fee may be a useful means of a Member gathering a range of views on a topic. There could be some concern, however, that events falling into this category could be means of "buying" access to Members of Parliament. It is important that there should be no grounds for such a perception. No preferential treatment should, therefore, be offered or accorded any person or organization as a result of having made initial contact with a Member at such an event.
- Members should not participate in any event if they are aware, or become aware, that the organizers are promoting the event on the basis that those paying to attend the event are "buying" influence over Members of Parliament or that they can expect to receive better subsequent access to, or treatment by Members of Parliament, than would be accorded to any other person or organization.
- If a Member has concerns about the approach or methods used by any person or organization in their contacts with him or her, the Member should seek the guidance of the Standards Committee clerks.
- Members should ensure that staff working for them are aware of and apply the

rules and guidelines when acting on a Members' behalf or in any Parliamentary connection. Staff employed by Members of Parliament are in position to exert influence. It is right that the public have access to information about any interest which might reasonably be thought to influence such staff. A Register of Interests of MP's staff will be established. Members will be held responsible for ensuring that to their best knowledge, any staff working for them fulfill the requirements, when introduced.

Failure to comply with or contravention of the rules in relation to contacts with lobbyists

Failure to comply with or contravention of the rules in the Members' Interests in relation to contacts with any person or organization who seeks to lobby him or her would constitute a breach of the requirements or a criminal offence and could lead to sanctions imposed on a Member by the Parliament. In addition, behavior by a Member of Parliament which falls short of the standards established in the Code could lead to penalties imposed on a Member by the Parliament.

VOLUNTARY CODE FOR MINISTERS AND PUBLIC SERVANTS

Contacts with commercial companies

- Regardless of their responsibilities, all Ministers servants will come into contact with private sector businesses from time to time. Invitations to functions and events are common place and are part and parcel of Ministerial life. It is for Ministers themselves to judge whether to accept any invitation extended to them but they should satisfy themselves that doing so does not place them under any real or perceived obligation nor risks the commercial position of the Executive. Ministers will wish to be guided in reaching their decision by a number of principles.
- Ministers are free to enjoy normal hospitality provided by private sector companies in the course of their duties. No Minister or public servant should accept gifts, hospitality or services from anyone which would or might appear to place him or her under an obligation. Ministers should consider very carefully any repeated or serial hospitality from an individual or a company. Ministers need to be sensitive to the risk that private sector interests might occasionally attempt to use occasions to exercise improper influence and lobby the Minister.
- Ministers receive deputations from many outside interest groups which Ministers will wish to consider as part of the formulation of Government policy. The basic facts of formal meetings between Ministers and outside interest groups should be recorded setting out the reasons for the meeting and the names of those attending and the interests represented.
- Ministers should also avoid promoting an individual company's products or services by association. They should also bear in mind public sector procurement procedures and resist any attempt to influence them in favor of particular products or services. If such attempts are experienced, Ministers should report these to the Director of Procurement Commission.

Guidance for Civil Servants in their Contacts with Lobbyists

Civil servants should conduct themselves with integrity and honesty. They should not deceive or knowingly mislead Parliament or the public. They should not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others. They should not receive any benefits of any kind which others might reasonably see as compromising their personal judgment and integrity. They should not without authority disclose official information which has been communicated in confidence in Government or received in confidence from others.

- Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.
- Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

It is the right of everyone to lobby Parliament and Ministers, and it is for public institutions to develop ways of controlling the reaction to approaches from professional lobbyists in such a way as to give due weight to their case while always taking care to consider the public interest.

The Government's approach, is not to ban contacts between civil servants and lobbyists but to insist that wherever and whenever they take place they should be conducted in accordance with the Civil Service Code and the principles outlined above.

Practical applications to contacts with lobbyists

(Note articulated for UK Civil Servants)

These basic principles apply to all contacts between civil servants and people outside Government, be they businessmen, trades unionists, journalists or campaigners of any kind. What these principles mean in practice will depend on the circumstances in each case. It is not possible exhaustively to cover every situation which may arise, but the main priorities to have in mind in dealings with professional lobbyists, given the nature of their work, is as follows:

- Do not leak confidential or sensitive material, especially market sensitive material to a lobbyist.
- Do not deliberately help a lobbyist to attract business by arranging for clients to have privileged access to Ministers or undue influence over policy.

These would be serious disciplinary offences and trigger procedures under which you would be liable for dismissal.

Much more common are situations where dealings with a lobbyist are acceptable provided that they are handled with care. These are grey areas where common sense has to be used. Here again, breaking the rules may lead to disciplinary action.

- Do not say or do anything that could be represented as granting a lobbyist preferential or premature access to information, Parliamentary or Governmental which you have received because of your official position.

- Do consider whether meeting one group making representations on a particular issue should be balanced by offering other groups a similar opportunity to make representations.
- Do not accept gifts or other benefits from a lobbyist which are offered to you because of your official position and could place you, or reasonably be considered to place you, under an obligation to the donor.
- Do not give the impression to a lobbyist that any particular advice, idea or information from their clients could or will be decisive in the decision-making process. Decisions are for Ministers who will want to weigh up all the evidence and all the advice they receive before they judge the public interest.
- Do not do anything which might breach Parliamentary privilege or offend against the conventions of Parliament. Remember that the papers and reports of Select Committees are the property of the Committees and subject to Parliamentary privilege. If in doubt whether particular papers are in the public domain, seek guidance from the Clerk of the Select Committee.
- Do not use your knowledge about what is going on inside Government to impress your contacts in the lobbyist world. What may seem simple gossip to you may make money for someone else, or amount to improper help.
- Do not use your position to help a lobbyist get a benefit to which he or she is not entitled.
- Do not offer, or give the impression of offering a lobbyist, a lobbyist preferential access to Ministers or their officials, you should tell those concerned and let them decide for themselves.
- Do always declare to your Department any personal or family business interests which may at some time create an actual or potential conflict of interest with the work of your department, and comply with any instructions from the Department designed to eliminate the conflict.

These guidelines must of course be interpreted with common sense. If for instance you have a friend who is a lobbyist, you do not have to sever your friendship and stop meeting them socially. If you are married to one, you do not have to get divorced! But do make sure that the ground rules are understood, that you make proper arrangements to deal with any conflict of interest and that you do not get tempted into doing something which would lay you open to criticism or be misunderstood.

Departments usually have their own rules about accepting hospitality which reflect the circumstances of their work. You should read them. If there is a complete ban on accepting certain kinds of invitations, you must comply with it.

Where the decision whether to accept hospitality is left to your judgment, you need to ask yourself some common sense questions: for instance, whether there is benefit to the Government in your accepting the invitation, whether the entertainment is lavish, on a scale which you could not personally afford; whether you are accepting too much hospitality from the same source; and; if your post is prominent, whether just your attendance at an event may be open to interpretation as a signal of support.

Provided that you are satisfied about the propriety of accepting, it may be legitimate occasionally to take modest hospitality from a lobbyist, if for instance it gives you the opportunity to gain a better understanding of an industry or a group or a particular point of view. But if you find this happening a lot, you should pull back quickly.

If you are in doubt about what is proper, there are three particular things you should do:

- Do err on the side of caution. If you would feel uncomfortable if it became public, do not do it.
- Do consult your line manager, if you are still unsure
- Do consider putting a brief note on the file recording that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with the Civil Service Code, if you decide to go ahead.

The focus of this note has been on professional lobbyists- whether individuals, partnerships or companies- who earn their living by providing their clients with contacts, information and advice about how to persuade the Government and other public sector bodies to do or give them what they want. Remember that you may meet a lobbyist in other roles: for instance as a journalist or consultant. Bear all his or her interests in mind in your discussions. You cannot expect lobbyists to keep their different roles in watertight compartments.

Lobbyists are a feature of our democratic system. There is no ban on civil servants having dealings with them where this serves a proper purpose and is conducted in a proper manner. But the need for propriety is crucial. Lobbyists themselves are bound to want to talk up their own influence and contacts. It is the job of all civil servants to make sure that they conduct their dealings with lobbyists in a manner which is proper and not open to misinterpretation.

CHAPTER 5

PROS AND CON OF STATUTORY REGULATION/REGISTRATION OF LOBBYISTS

Statutory regulation involves the introduction of a statutory code of conduct which all lobbyists covered by the necessary legislation would be required to abide by.

Statutory registration requires all lobbyists covered by the necessary legislation to register as lobbyist. Inevitably, however, a registration scheme involves an element of regulation as lobbyists would be required to keep records and submit information as part of the scheme.

Arguments in support of statutory regulation/registration

- A lobbying registration scheme would provide transparency on the contacts between government and those trying to gain access and influence and hence contribute to greater openness and transparency in the policy-making process. The rationale for the registration of lobbying is that there is a clear public interest in openness and disclosure. The point of registration is not to impose barriers to participation, but to allay public fears and cynicism about the interconnections between money, vested interests more generally (including the non-commercial ones) and the political world. Such cynicism is highly damaging to a participatory democracy.
- The introduction of a compulsory register would provide a clear picture of the extent of lobbying.
- A record of the resources which are devoted to lobbying would be publicly available.
- Given that many lobbyists do not have voluntary code, compulsory regulation could force lobbyists to comply with good practices.
- If the category of registrable lobbyists is sufficiently widely drawn then this would prevent organizations or individuals claiming elite or special status.

Arguments against the introduction of statutory regulations/registration

- The Canadian and American experience of regulation suggests that confidence in statutory schemes tends to be undermined by frequent amendments to the rules to fill a succession of loopholes.

- There are difficulties in defining lobbying; for example, in distinguishing it from the ‘simple provision of information’.
- Given the number of professions now engaged in lobbying it may prove problematic to define ‘lobbyist’ for the purpose of registration.
- Difficulties involved in implementing a regulatory/registration scheme.
- Difficulties involved in monitoring and policing regulation.
- Difficulties involved in enforcement of sanctions for non-compliance.
- The creation of a register of lobbyists may give the impression that access to government may only be achieved through the use of organizations on the register, thus creating an elite group of “recognized” lobbyists.
- May inhibit access to the Parliament and act as a barrier to participation.
- May give the impression that only registered lobbyists can access Members of Parliament.
- Increase in bureaucracy may deter smaller organizations/individuals from lobbying.

CHAPTER 6

ALTERNATIVE VOLUNTARY CODES

Arguments in support of Voluntary Codes

- A universal voluntary code would standardize the standards currently in practice and ensure that all lobbyists whether professional or otherwise adhere to the same standards.
- It would encourage all lobbyists to adopt principles of accountability, accessibility, openness and responsiveness in their dealings with Parliament.
- The availability of sufficient sanctions to enforce voluntary codes such as naming and shaming or suspension of membership from umbrella organizations.
- The willingness of umbrella groups to monitor and enforce voluntary codes through, for example, the appointment of compliance officers, training programs, publication of voluntary register, adherence to voluntary codes as part of an employee's contract or employment, familiarity with the content of codes as part of annual staff appraisal systems.

Arguments against the introduction of Voluntary Codes

- The application of a voluntary code to all forms of lobbying and groups/individuals involved in lobbying would be difficult and complex;
- Very difficult to arrive at a code which would be acceptable to all lobbyists.
- Difficulty of what constitutes lobbying activity would be problematic.
- Difficulty involved in monitoring, policing and enforcing voluntary codes.
- May lead to a two-tiered system of those who are signed up and those that are not.
- May be overly bureaucratic, complex and costly to operate.
- Enforcement of voluntary codes.
- Commercial imperatives mean that commercial lobbying trade associations may not be eager to expose wrongdoings by its members.
- Of little use if not enforced universally.

- May be advantages, commercial or otherwise, in not signing up to a voluntary code.

CHAPTER 7

AMENDED CONCEPTUAL GUIDELINES AND RECOMMENDATIONS

Foreword

The initial Conceptual Guidelines were drafted prior to the Expert's visit to Latvia. It was the Expert's view that the initial Guidelines would serve primarily as a basis for the drafting of a Lobbying Law.

The Conceptual Guidelines were initially presented to the Inter-Institutional Working Group comprised of:

- Diana Kurpniece, Chairwoman of the Inter-Institutional Group
- Ilze Freimane, Senior Specialist, Division of Corruption Analyses and Countermeasures
- Inta Gara, Ministry of Justice
- Valts Kalnins, Public Policy Centre "Providus"
- Martins Graudins, Consensus Public Relations
- Solvita Gulve, State Chancellery
- Baiba Petersone, State Chancellery
- Mihails Pietkevics, Member of the *Saiema*.

As a preamble, the Expert stressed that any lobbying legislation should

- be fair, even-handed and non-discriminatory;
- be clear and unambiguous so persons subject to the requirements can readily understand what is necessary;
- not infringe on citizen's rights to communicate their views directly or through a professional advocate;
- not unduly restrict the rights of those engaged in lobbying work to practice their profession;
- not impose penalties that are excessive or unreasonable in view of the infractions involved;
- not impose unnecessarily burdensome record keeping, reporting and compliance mandates.

Many people in Latvia mistakenly believe that lobbying is bad and that lobbyists are unscrupulous characters who improperly manipulate the legislative process by showering gifts and other benefits on easily corruptible public office holders. Such misperceptions help undermine public trust in and understanding of the working of the democratic process.

In support of the initial Conceptual Guidelines, the Expert stressed that

- lobbying is a legitimate and necessary activity.
- people need to communicate and advocate their interests and concerns to government officials because they are frequently impacted by government decisions.
- people have a right to have a professional lobbying advocate help them.
- lobbyists also have a right to represent their clients and to practice their profession without undue restrictions or attacks.
- lobbying is a legitimate activity and it is not improper or immoral.
- people often need to retain professional lobbyists to monitor developments and communicate their own interests because many do not have the time, resources, or experience to constantly follow legislative proposals or other governmental actions and to effectively impact those decisions. Their interests are best represented by having trained professional lobbyists assist them.
- government officials and MPs cannot make fair and informed decisions without extensive communications with lobbyists. These policy-makers need to be advised of facts and to receive extensive, detailed input and feedback regarding how their actions or inactions will impact various people and groups. In practice, most people cannot effectively or efficiently provide the information directly and the government could not even attempt to develop such information on its own without adding a massive new layer of bureaucracy.
- Everyone's interest are "special": from churches, to senior citizens, children, women, minorities, homeless, environmental groups, newspapers, television broadcasters, trade unions, corporations, local government.

The Expert further indicated that most lobbyists find that the majority of their work does not even involve directly advocating positions to legislators, regulators or their staff. Instead it involves monitoring and reporting on developments, seeking to determine how proposed government actions would impact the people they represent and preparing position papers and other materials needed subsequently to explain peoples' concerns to legislators and regulators and their work involves activities such as reading and analysis of materials, attending meetings, research, drafting and other office work that can hardly be considered sinister.

The Expert explained and defended the initial Conceptual Guidelines as what would be considered as a possible legal framework for lobbying legislation. The initial conceptual guidelines provided several features aimed at enhancing transparency.

1. This transparency would materialize through the keeping of a Register which would indicate
 - who is attempting to influence who,
 - in whose behalf,
 - what decisions are involved,

- made by whom and
 - in exchange of what remuneration
2. To manage the practice of lobbying, the legislator would among other things provide for the implementation of a Code of Conduct for Lobbyists which would be part of the final legislation
 3. To ensure that the prescriptions of the lobbying legislation and the Code of Conduct are respected, the legislator would establish a supervisory control mechanism for lobbying activities. The Lobbyists Commissioner who would be mandated by the *Saeima* would be independent from the government. Under the lobbying legislation, the Code of Conduct for lobbyists would thus be the Commissioner's main reference in exercising this power of supervision and control of lobbying activities.

The Expert argued that

- a lobbying registration scheme would provide transparency on the contacts between government and those trying to gain access and influence and hence contribute to greater openness and transparency in the policy-making process.
- the point of registration would not be to impose barriers to participation but to allay fears and cynicism about the interconnections between money, vested interests more generally (including the non-commercial ones) and the political world.
- the introduction of a compulsory register would provide a clear picture of the extent of lobbying in Latvia.
- a record of the resources which are devoted to lobbying would be publicly available.
- compulsory regulation could force lobbyists to comply with good practices
- if the category of registrable lobbyists was sufficiently widely drawn, this would prevent organizations or individuals claiming elite or special status.

From 19th September thru 23rd September, the Expert was in Latvia essentially to confirm the validity of the Initial Conceptual Guidelines and to seek the views of stakeholders on statutory regulation of lobbying, registration and codes of conduct.

The Expert was able to familiarize himself with the information in place regarding lobbying in Latvia and key legislation as well as consult with stakeholders. In this connection, he received the support of the Prevention and Combating Bureau, who arranged personal visits with key stakeholders. Furthermore, he was able to analyze the results of a questionnaire targeted at stakeholders (see Appendix A), participate in discussions about lobbying regulation in the *Saeima* with MPs, lobbyists and representatives of business and professional associations (see Appendix B) and understand the factors that influence the political thinking and policy-making of Members of the *Saeima* (see Appendix C).

All this work was supplemented by daily discussions with the staff of the Prevention and Combating Bureau.

It became apparent after consultation with stakeholders that the implementation of a formal lobbying legislation as conceived in the initial Conceptual Guidelines was far and away. In the face of strong resistance to any type of lobbying legislation, especially coming from the representatives of economic interest groups, the initial Conceptual Guidelines as drafted do not serve any practical purpose, at least at this stage.

Therefore, the Expert has come up with the following recommendations:

RECOMMENDATIONS

The first set of recommendations directly targets the Members of the *Saeima*, the Civil Servants throughout Government and the Lobbyists themselves.

1. Adjustments to the Law on Prevention of Conflict of Interest in Activities of Public Officials.

Initially, the Conceptual Guidelines called for the Drafting of a Code of Conduct for Members of the *Saeima*, but it may not be necessary as it would duplicate information currently requested under the Law. This said, possible adjustments to the Law on Prevention of Conflict of Interest in Activities of Public Officials could be made with a ban on lobbying for reward or consideration. Although implied under the Law, the language could be strengthened by clearly spelling out that no Member of the *Saeima* shall in consideration of any remuneration, fee, payment or reward or benefit in kind direct or indirect

- (i) advocate or initiate any cause or matter on behalf of any outside body or individual, or
- (ii) urge any other Member of the *Saeima*, including Ministers to do so.

Of course the proper language can be articulated, but the principle would be to place a ban on advocacy for Members of the *Saeima* under Section 12 of the Law (Prohibition to Influence Issue of Administrative Acts)

In the same manner, Section 22 of the Law on the Prevention of Conflict of Interest (Behavioral (Ethical) Rules of Public Officials) could probably have a more specific language dealing with the behavior of public officials in their relations with lobbyists.

3. Development of Guidance for Latvian Civil Servants in their Contacts with Lobbyists

The objective would be to develop basic principles that would apply to contacts between civil servants and people outside government. Essentially the principles would serve as guidance for the conduct of civil servants at all levels, reinforcing the moral values

- Civil servants should conduct themselves with integrity and honesty.
- Civil servants should not deceive or knowingly mislead Parliament or the public.
- Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or the interests of others.
- Civil servants should not receive benefits of any kind which others might reasonably see as compromising their personal judgment or integrity.
- Civil servants should not without authority disclose official information which has been communicated in confidence in Government or received confidence from others.

The Guidance would specifically list completely unacceptable behavior in relation to lobbyists, for example:

- ✓ Leaking confidential or sensitive material, especially market sensitive material to a lobbyist.
- ✓ Deliberately helping a lobbyist to attract business by arranging for clients to have privileged access to Ministers or undue influence over policy.
- ✓ Saying or doing anything that could be represented as granting a lobbyist preferential or premature access to information, Parliamentary or Governmental, which a civil servant has received because of his/her official position.
- ✓ Accepting gifts or other benefits from a lobbyist which are offered to a civil servant because of his/her official position and could place the civil servant, or reasonably be considered to place the civil servant, under an obligation to the donor.
- ✓ Giving the impression to a lobbyist that any particular advice, idea or information from their clients could or will be decisive in the decision-making process.
- ✓ Doing anything that might breach Parliamentary privilege or offend against the conventions of Parliament.
- ✓ Using knowledge about what is going on inside Government to impress one's contacts in the lobbyist world.
- ✓ Using one's position to help a lobbyist get a benefit to which he or she is not entitled.
- ✓ Offering or giving the impression of offering a lobbyist preferential access to Ministers and their officials.

This is a wide Government program which would serve as a warning signal to all civil servants. It is understood that breaking any of the rules would lead to disciplinary action.

The implementation of this Guidance would have a profound impact in terms of public relations vis-à-vis the general public but would need careful planning so the message is well received by all parties.

3. Latvia Principles for the Ethical Conduct of Lobbying

Again, these principles would be intended to provide practical guidance to persons who engage in the process of lobbying at the Latvian level. They would not necessarily be in the form of legislation but rather would serve to set the parameters and the essential considerations that a participant in the process should address and evaluate in order to perform the functions of a lobbyist with professional competence, personal integrity and civic responsibility. The Principles also would address the decisions to be made by persons who retain lobbyists as well as by the persons whom the lobbyists seek to influence, so that lobbyist have a clear understanding of what is properly expected of them in their work as political agents.

The Principles would be issued by the Government of Latvia and made widely available.

Key Principles

1. The pursuit of lobbying must take into account the common good, not merely a particular clients' interest narrowly considered.
2. The lobbyist-client relationship must be based on candor and mutual respect.
3. A policy maker is entitled to expert candid disclosure from the lobbyist, including accurate and reliable information about the identity of the client and the nature and implications of the issues.
4. In dealing with other shapers of public opinion, the lobbyist may not conceal or misrepresent the identity of the client or other pertinent facts.
5. The lobbyist must avoid conflicts of interest.
6. Certain tactics are inappropriate in pursuing a lobbying engagement.
7. The lobbyist has an obligation to promote the integrity of the lobbying profession and public understanding of the lobbying process.

The value of such Principles (see Appendix D) is that they could serve as the basis for possible future lobbying legislation in case they were simply ignored and/or breached. Initially, it is proposed that anyone registering in the public list (see here below) for entering the premises of the *Saeima* would be handed out a copy of the Principles and declare that he/she agrees with both the letter and the spirit of the Principles.

Implementation of a Register

The second set of recommendations deals essentially with the implementation of a Register.

Failing the immediate implementation of a lobbying law, the Expert strongly recommends that the *Saeima* should keep a public list in which all associations of trade and industry as well as all NGOs would be recorded.

Their representatives would be heard only if they have entered themselves in the list, furnishing the following information:

- Name and seat of the association (including address, telephone, fax, e-mail, website);
- Composition of the board of management and the board of directors;
- Spheres of interest of the association and in particular the issues they're interested in;
- Number of members;
- Names of the association's representatives (including address, telephone, personal code etc.).

Passes admitting representatives of such associations to the *Saeima* buildings would be issued only if the information above has been provided.

Entry in the list would not entitle an association to obtain an hearing or a pass.

The list would be published every six months and accessible to the public via Internet.

The Expert is of the opinion that the implementation of such Register is a necessary step for achieving greater disclosure and transparency.

Conclusion

In view of the marked opposition prevailing in Latvia today regarding the formal implementation of a lobbying law, it is suggested that the institutionalization of a Register coupled with Guidelines aimed at Members of the *Saeima*, Civil Servants and the Lobbyists themselves would pave the way towards increased openness, transparency and accountability.

What is needed is the establishment of a climate for increased transparency of lobbying activities. A legal framework which would be certain to be opposed would not produce the desired outcome. On the other side, steps to achieve greater transparency and disclosure can be taken rather rapidly and could lead the way to the eventual implementation of a formal lobbying legislation if the situation deteriorated and/or if lobbying activities were to continue unchecked.

Perhaps the most important part of this assignment has been to raise the issue and the stakes for those that hold the view that disclosure is not necessary.

Latvia must first establish the legitimacy of lobbying and understand the various forms of advocacy directed at policy makers who make policy decisions which affect the well being of citizens. There is an urgent need in Latvia to develop advocacy-oriented training programs so people can become more familiar with advocacy methodologies.

APPENDICES

APPENDIX A CONSULTATION WITH STAKEHOLDERS

A Questionnaire was developed by the Expert to conduct a consultation exercise with a representative sample of interest groups, whose work brings them in contact with the *Saeima* and/or the executive branch of government.

Questionnaire

SECTION 1- LOBBYING ACTIVITY

- 1.1. Please give the name of your organization and state briefly its main activities, including an outline of who you represent.
- 1.2. Has your organization ever lobbied the *Saeima*, e.g. by speaking, e-mailing or writing to a Member of the *Saeima* or to a committee?
- 1.3. Approximately how many times do you contact the *Saeima* when lobbying on one subject or issue?
- 1.4. Between September 2004 and September 2005 approximately on how many issues in total have you contacted the *Saeima* for the purposes of lobbying?
- 1.5. Was the purpose of any of the lobbying to influence a subject under consideration or due to be under consideration by the *Saeima*? If yes, please give the subjects and the aspects you were lobbying about.
- 1.6. Was the purpose of any of the lobbying to highlight an issue that you want the *Saeima* to consider? If yes, please give brief details of the issues.
- 1.7. Do you ever lobby on behalf of an organization or individual separate to your organization. Is this on a paid or an unpaid basis?
- 1.8. If yes, do you always state the individual or organization you are representing? At what stage of the lobbying process do you do this?

SECTION 2- ACCESSING THE SAEIMA

- 2.1. Please state all the methods you use to contact the *Saeima* when lobbying e.g. phone, letter, e-mail, face to face meetings etc.
- 2.2. In your experience are there any methods that have been more effective than others?
- 2.3. Do you have particularly good links and/or contacts with one or more Members of the *Saeima*? Please give brief information on how these links developed.
- 2.4. Do you have particularly good links/contact with one or more Committees? Please give brief information on how these links developed.
- 2.5. In your experience how easy or difficult is it to find information on what's happening in the *Saeima*?
- 2.6. In your experience how easy or difficult is it to know how and when to lobby the *Saeima*?

- 2.7. In your experience are the rules and procedures that govern the *Saeima* easily understandable?
- 2.8. In your experience of lobbying do you view the *Saeima* as being open and transparent in its working? Please give examples of positive and negative experiences, particularly in relation to making contact with Members of the *Saeima*.

SECTION 3- REGULATION OF LOBBYISTS AND CODE OF CONDUCT

Statutory Regulation

- 3.1. Would you support the establishment of a statutory registration scheme for professional lobbyists?
- 3.2. In your view what would be the benefits of the introduction of statutory regulation of lobbyists?
- 3.3. In your view what would be the drawbacks of introduction of statutory regulation of lobbyists?

Registration Framework

- 3.4. Do you envisage any difficulties in the provision of a list of the staff involved in lobbying activity?
- 3.5. Do you envisage any difficulties in the disclosure of clients for whom lobbying services are provided?
- 3.6. Do you envisage any difficulties in the provision of detailed information of subject matters which are lobbied on?
- 3.7. Do you envisage any difficulties in providing details of expenditures in relation to individual lobbying projects?
- 3.8. Do you envisage any difficulties in providing details of fees in relation to individual lobbying projects?
- 3.9. Are you aware of the extent to which, if at all, contingency fee arrangements are employed in providing lobbying services?
- 3.10. Do you envisage any difficulties in maintaining a Register as a 'live' document both in hard copy and on the *Saeima*'s website?
- 3.11. Do you agree that for such Register to be effective it is necessary to introduce adequate sanctions for non-compliance with the scheme?
- 3.12. If so, what level of sanctions do you think are appropriate?

Voluntary Code

- 3.13. Does your organization currently have a voluntary code of conduct? If yes what are the objectives of the voluntary code?
- 3.14. Please give any specific reasons for introducing the code.
- 3.15. How is compliance with the code monitored and enforced?
- 3.16. From your experience, what has been the advantages and disadvantages of the voluntary code?

- 3.17 In your view what would be the benefits of the introduction of a voluntary code of conduct for lobbyists?
- 3.18 In your view what would be the drawbacks of the introduction of a voluntary code of conduct?
- 3.19 In your view what should be the principal components of a voluntary code and how widely should it be drawn? How should it be ‘policed’ and what sanctions would be available.

The specific objectives of the consultation were

- 1) to gather information on the manner in which lobbying groups in Latvia organize themselves and operate in relation to Parliament and/or the executive branch of government as well as
- 2) to invite those groups to provide comments on their own experience of lobbying the *Saeima* and/or the executive branch of government.

We were particularly interested in the following:

- Information on organizations’ lobbying activities.
- Experience of accessing the *Saeima* and/or the executive branch of government
- Views on statutory regulation and registration of lobbyists and codes of conduct in relation to lobbying.

Only 10 replies (2 in English and 8 in Latvian) were received.

The 10 replies can be broken down as follows:

- 5 Trade Organizations (Association of Commercial Banks of Latvia, Latvia Chamber of Trade and Industry, Latvia Merchants’ Association, Confederation of Employers of Latvia, Association of Booksellers of Latvia).
- 1 Professional Society (Society of Physicians of Latvia).
- 2 NGOs (Bureau for the Protection of Patients’ Rights, Transparency International).
- 1 Think Tank (Providus).
- 1 Council of Ethics.

The replies to the questionnaire are summarized here below:

Replies

1. Center for Public Policy (Providus)
2. Council of Ethics (CE)
3. Society of Physicians of Latvia
4. Association of Commercial Banks of Latvia
5. Latvia Chamber of Trade and Industry
6. Bureau for the Protection of Patients’ Rights

7. Latvia Merchants' Association
8. Transparency International (Latvia Chapter) DELNA
9. Confederation of Employers of Latvia
10. Association of Booksellers of Latvia

The above replies correspond to the category of In-House Organization Lobbyists

5 Organizations are clearly **NOT IN FAVOR** of Lobbying Regulation

1. Society of Physicians of Latvia
2. Association of Commercial Banks
3. Latvia Merchants' Association
4. Confederation of Employers of Latvia
5. Latvia Chamber of Commerce and Industry

Society of Physicians of Latvia

- Not engaged in lobbying
- Not in favor

Association of Commercial Banks

- No need for lobbying legislation
- Legislation would strengthen corruption because people would have to go through lobbyists who have privileged access to decision-makers.
- Does not foresee difficulty in collecting information from people.
- Difficulty in disclosing information about clients.
- Difficulty in obtaining information on expenses.
- Association has a Voluntary Code of Conduct, that is monitored for compliance by the Association Council. However, monitoring is proving difficult.
- Association is not in favor of developing a Universal Voluntary Code.

Latvia Merchants' Association

- Not in favor of lobbying regulation, because there are already too many regulations especially after joining the EU.
- Does not see any benefit in introducing lobbying regulation.
- Registration would entail added expenses for administration and maintenance.
- Association does not have a Code of Conduct.

Confederation of Employers of Latvia

- No lobbying regulation needed in Latvia, because the representation of interests is already embedded in current legislation such as Employers' Law, Trade Union Law, Rules of Procedures of the *Saeima* and Government.
- Lobbyists in Latvia are well known and there are a few of them.

- Does not see difficulty in maintaining a register.
- Sanctions for non-compliance?
- Confederation of Employers does not have a Code of Conduct but Statutes.

Latvia Chamber of Commerce and Industry

- Rules of Procedures in the *Saeima* are enough.
- Definition of lobbying needs to be clarified.
- Does see difficulty in disclosing expenses.
- Does not see any problem in maintenance of Register.
- Latvia Chamber has its own Code of Ethics for Members who are expected to comply.

5 Organizations SUPPORT LOBBYING LEGISLATION

Association of Booksellers of Latvia

- In favor of lobbying legislation.
- Does see difficulties in terms of disclosure, registration procedures and maintenance of the Register.
- Advocates criminal sanctions for failure to register.

Bureau for the Protection of Patients' Rights

- In favor of professional registration and legalization of lobbying activities
- Legislation would be good for civic interests organizations.
- Finds it difficult to obtain information about the *Saeima*.
- Would like to see guidelines on how to lobby.
- Does see difficulties initially to obtain information about lobbyists and their clients.
- Does see difficulties in obtaining information on expenses.
- Does see difficulties in maintaining Register.
- Sanctions: Suggesting warnings followed by temporary removal from Register by decision of the Association of Lobbyists (to be created).
- Bureau for the Protection of Patients' Rights does not have a Code of Conduct.

Transparency International (Latvia Chapter) DELNA

- In favor of Lobbying Law in order to avoid illegal and irrational decision-making. State can only control activities that are stipulated by particular laws. Distinguishing Open Lobbying from Hidden Lobbying.

- Difficult to follow activities of the *Saeima's* calendar. There should be public disclosure about *Saeima's* Committee agendas, issues to be discussed, participants etc. Experience of *Saeima* is necessary (internal written rules). The *Saeima* is not transparent because decisions are not taken in plenary sessions. There should be an increase in the transparency of the decision-making process.
- Registration may be the only avenue. Registration should be tied to an incentive for registering.
- Formal procedure should be implemented for interest group representation and meetings between MPs and interest groups should be reported.
- Code of Ethics would be welcome.
- Does see difficulties in obtaining information about expenses related to lobbying.
- Application of sanctions would require administration.
- Transparency International has its own Code of Conduct.
- Does support a Voluntary Universal Code of Conduct.

Providus

- In favor of statutory registration scheme for professional lobbyists. But if these are lobbyists who lobby for a fee, there are only a few of them in Latvia. Lobbying is mostly undertaken by professional associations, individual companies or entrepreneurs who lobby on their own behalf. A registration scheme only for professional lobbyists would impose a somewhat discriminatory burden upon this part of lobbying activities.
- An alternative to lobbying legislation would be adjustments to existing conflict of interest regulations for public officials, to the rules of procedures of the *Saeima* and some other normative acts.
- Benefits of regulations: participation in committee meetings, presentation of policy studies, round table discussions.
- Increased transparency, increased opportunities for outside interests to be heard and diminishing of illegitimate or corrupt lobbying.
- Does see problems in disclosure of clients.
- Does not see difficulties in providing details of expenditures in relation to individual lobbying projects.
- Does not see difficulties in maintaining a Register.
- Sanctions: suggesting soft sanctions e.g. loss of pass, temporary ban in relevant public premises, publication in a list of lobbyists who have breached applicable regulations.
- In favor of a Voluntary Code of Conduct for lobbyists (acceptable and non-acceptable practice and could serve as a benchmark to assess the conduct of lobbyists. Code should contain some basic norms of legitimate lobbying e.g. disclosure of lobbyist's identity, clients, prohibition to use financial or other inducement etc.

Council of Ethics (CE)

- In favor of statutory registration scheme for professional lobbyists.
- Code of Ethics for *Saeima* (elaborating process).
- Does see difficulties in disclosure of clients.
- Does see difficulties in disclosure of issues if the interests are illegal or only self-interested and private.
- Does see difficulties in providing details of expenditures in relation to individual lobbying projects.
- Does see difficulties in providing details of fees, especially on the part of private lobbyists contacts.
- Does not see difficulties in maintenance of Register.
- Code of Conduct to regulate conflicts of interest, knowledge of right conduct in contacts with the *Saeima*

Remarks by the Expert

The relatively low number of replies received only allows general remarks. It certainly would have useful to receive more replies from civic organizations at large including environmental groups, children's rights, women's rights, consumers' groups, environmental legislation, groups fighting social exclusion, disabled persons etc..

Among the organizations that support lobbying legislation, one is a think-tank (Providus) not really engaged in lobbying activities and the other two (Transparency International and Council of Ethics) have obvious interests as part of their mission to enhance transparency and ethics. Their answers are obviously of great interest but they are not really engaged in lobbying. That leaves only two organization that would support lobbying legislation: Association of Booksellers and the Bureau for the Protection of Patients' Rights. That leaves a score of 70% of respondents who are clearly NOT IN FAVOR of lobbying legislation and clearly the majority of these interest groups represent economic interests. Without the leadership of organizations representing economic interests, it is difficult to see how any type of lobbying legislation (at least at this stage) could be effectively implemented.

If anything the Questionnaire has served to illustrate the current climate prevailing in Latvia regarding lobbying activities.

APPENDIX B PUBLIC DISCUSSION WORKSHOP

27 September 2005

RIGA

On 27 September, a Public discussion was held in the *Saeima* for the purpose of explaining the phenomena of lobbying and to seek the views of participants regarding possible lobbying legislation and/or registration scheme. The meeting was held in the presence of the *Saeima*'s Chairwoman of the Anti-Corruption Committee along with other Members of Parliament.

The Public Discussion lasted 1h.45 minutes.

The Expert made a quick 20 minute presentation of Lobbying using a Powerpoint Presentation (see here below).

The presentation was followed by questions asked to the Expert by interest groups representatives and Members of the Parliament with some expressing a positive view towards some type of registration system while others marked a strong hostility.

The discussion proved beneficial in raising the stakes for those who think that disclosure is not necessary.

It is the view of the Expert at least at this stage that there is much resistance to be overcome before the introduction of any type of lobbying legislation.

TRANSPARENCY

Transparency means that the process by which government makes decisions must be one that people can understand, a process which they can access, a process which provides the opportunity to make their voices heard, and to have their say in the law that will govern and affect their lives.

Transparency also means that the public should be able to find out exactly who is talking to government, and what they are talking about.

OPENNESS-TRANSPARENCY-ACCOUNTABILITY FOR GOVERNANCE

AGENDA

- **LEGITIMACY OF LOBBYING**
- **ACTIVITIES NOT CONSIDERED LOBBYING**
- **DEFINITION OF LOBBYING**

- **PURPOSE FOR LOBBYING**
- **PARTICIPANTS**
- **EXPECTED OUTCOME**

- **ARGUMENTS IN FAVOR OF LEGISLATION**
- **ARGUMENTS AGAINST LEGISLATION**

- **EXPERIENCE AND PROBLEMS IN OTHER COUNTRIES IN DEVELOPING AND INTRODUCING LOBBYING REGULATIONS**

LEGITIMACY OF LOBBYING

- Lobbying is a legitimate and necessary activity. It is not improper or immoral.
- People need to communicate and advocate their interests and concerns to government officials because they are frequently impacted by government decisions.
- People have a right to have a professional lobbyist help them.
- Lobbyists also have a right to represent their clients and to practice their profession without undue restrictions or attacks.
- People often need to retain professional lobbyists to monitor developments and help them communicate their own interests, because many do not have the time, resources or experience to constantly follow legislative proposals or other government actions.
- Government officials and MPs cannot make fair and informed decisions without extensive communications with lobbyists. These policy-makers need to be advised of facts and to receive extensive input and feedback regarding how their actions or inactions will impact various people and groups.
- Lobbyists work is multi-facets: Monitoring, reporting on developments, preparing position papers and other materials, meetings, research etc.

ACTIVITIES NOT CONSIDERED LOBBYING

- Oral or written communications with a legislator or public office holder on non-legislative matters.
- Oral or written communications with a legislator or public office holder with respect to the enforcement, interpretation or application of statutes or regulations as long as this does not apply to draft or proposed legislation.
- Endorsing legislation without spending money to promote the endorsement.

- Non-partisan analysis, study or research (provides information on all sides of an issue, made available to the general public).
- Examinations and discussions of broad, social, economic and similar problems.
- Self-defense communications (commenting on public policy proposals).
- Public commentary on legislation without call for action.
- Legislative updates as long as there is no call to action.
- Requests for technical advice or assistance.
- Testimony in response to a written invitation from *Saeima*.
- Publication of broadcasts of news items, editorials or other comments concerning proposed legislation.

DEFINITION OF LOBBYING

- Any communication or arrangement of a meeting with a public office holder pertaining to the
 - development of a legislative proposal;
 - introduction, passage, defeat or amendment of any legislative or regulatory proposal, resolution, policy, program or action plan;
 - issue of any permit, license, certificate or other authorization
 - awarding of any contract, grant or other financial benefit;
 - appointment of any public office holder.

A lobbyist is any individual **who for payment** on behalf of any employer, person or organization engages in such communication.

PARTICIPANTS

- Consultants or Professional Lobbyists (professional advisors who provide lobbying services).
- In-House Corporate Lobbyists (Full-time employees and officers of companies that carry commercial activities).
- In-House Organization Lobbyists (Full-time employees and officers of non-profit organizations such as business, trade, industry, professional or voluntary organizations, trade unions, labor organizations, chamber of commerce, partnership, association, charitable society, coalition or interest group etc.

EXPECTED OUTCOME

Lobbyist is a Knowledge Broker

- Critical role of information in the policy-making process.
- Legislators need complete, up-to-date and accurate information.
- Information must come from people or businesses with an interest in the outcome of legislation.

- Citizens can speak out, make their voices heard and their views known.
- Individuals and businesses may join together as public interest groups or trade and industry associations to discuss issues and speak with government.

ARGUMENTS IN FAVOR OF LEGISLATION

- A lobbying registration scheme would provide transparency on the contacts between public office holders and those trying to gain access and influence which would result in greater openness and transparency in the policy-making process.
- There is a clear public interest in openness and disclosure of lobbying activities.
- The point of any legislation is not to impose barriers to participation, but to allay public fears and cynicism about the interconnections between money, vested interests and the political world.
- The introduction of a compulsory register would provide a clear picture of the extent of lobbying.
- A record of the resources which are devoted to lobbying would be publicly available.
- Compulsory regulation could force lobbyists to comply with good practices.
- If the category of registrable lobbyists is sufficiently widely drawn, this would prevent organizations or individuals claiming elite or special status.

ARGUMENTS AGAINST LEGISLATION

- U.S. and Canadian experience suggests that statutory schemes tend to be undermined by frequent amendments to the rules and create loopholes.
- Difficulties in defining lobbying and distinguishing it from the simple provision of information. Difficulty in defining a lobbyist for purpose of registration.
- Difficulties in implementing a regulatory/registration scheme.
- Difficulties involved in monitoring and policing regulation.
- Difficulties in enforcement of sanctions for non-compliance.
- The creation of a register may give the impression that access to government may only be achieved through the use of such organizations on the register, thus creating an elite group of “recognized lobbyists”.
- Lobbying legislation may inhibit access to Parliament and act as a barrier.
- Lobbying legislation may give the impression that only registered lobbyists can access Parliament.
- The increase bureaucracy as a result of lobbying legislation may deter smaller organizations and/or individuals from lobbying.

EXPERIENCES AND PROBLEMS IN OTHER COUNTRIES

U.S.A.

- Lobbying disclosure statutes contain unclear language, weak administrative and enforcement provisions and has favored loopholes.
- Since 1998, lobbyists have spent almost \$13 billion to influence federal legislation and federal regulations.
- More than 2,000 lobbyists in Washington previously held senior government jobs.
- In the past 6 years, 49 out of the top 50 lobbying firms failed to file one or more required forms.
- Regulation of lobbying activities implicates a variety of policies and political interests and a legislator's view of the public interest may or may not be influenced by his or her own political interest.

CANADA

- The idea was NOT to regulate lobbying but to make the system more transparent by requiring people or group to disclose their lobbying activities. Who is lobbying whom about what?
- Only those interest groups making profits from representation are under state scrutiny.
- Lobbyist legislation is working well.
- Legislation helps clarify what is the appropriate conduct of lobbyists.
- Legislation enables the public to know who is lobbying government and why.
- Citizens expect openness, transparency and accountability in the public decision-making process.

LITHUANIA

- Law that regulates lobbying is not sufficient.
- Implementation of the law is slow.
- There is no incentive mechanism to encourage lobbyists to legalize their activities. The law provides punishment only for carrying out illegal activities.
- Fees for registration are prohibitive.
- There is no common public position on the role and activity of interest groups.
- Interest groups are misunderstood.
- There is only one information channel through the Chief Official Ethics Commission.
- The National Association of Lobbyists only counts 11 lobbyists.
- There is no legal consultation mechanism between interest groups and public authorities.

APPENDIX C STUDY OF ELECTED MEMBERS OF THE SAEIMA AND WHAT INFLUENCES THEIR POLITICAL THINKING AND POLICY- MAKING

A short Questionnaire was developed by the Expert and sent out to all Members of the *Saeima*.

The Questionnaire asked 3 Questions:

1. What influences MPS' political thinking and policy-making?
2. The most effective tool that influences a decision-maker in Latvia
3. What's the best way to influence a decision-maker in Latvia?

52 Replies were received i.e. more than half of all Members of the *Saeima*.

The results are shown hereafter, but what emerges can be summarized as follows:

Question 1:

96.2% of the respondents indicate that National and Local media influences their political thinking and policy-making the most.

Noteworthy regarding "lobbying", 78.2% of the respondents acknowledge that their political thinking and policy-making is most influenced by private organizations, business or industry representatives.

Question 2:

86.2% of the respondents indicate Data and Credible Information as the most effective tool.

Question 3:

84.6% of the respondents indicate the need to understand how government works.

SAEIMA QUESTIONNAIRE RESULTS

A study of elected Members of the *Saeima* and what influences their opinion the most.

Based on 52 replies

1. What influences MPS' political thinking and policy-making in Latvia

	Highly Influential	Influential	Not Very Influential	Least Influential
National and Local Media	30	20	2	-
%	57.7%	38.5%	3.8%	-

96.2% of the respondents indicate that National and Local Media influences their political thinking and policy-making the most

	Highly Influential	Influential	Not Very Influential	Least Influential
Political Individuals And Political Organizations	10	39	1	2
%	19.2%	75.0%	1.9%	3.8%

94.2% of the respondents indicate that their political thinking and policy-making is most influenced by political individuals and political organizations.

	Highly Influential	Influential	Not Very Influential	Least Influential
Local Constituencies or Community	10	31	11	-
%	19.2%	59.6%	21.1%	-

78.8% of the respondents indicate that their political thinking and policy-making is most influenced by local constituencies or community

	Highly Influential	Influential	Not Very Influential	Least Influential
Private Organizations Business or Industry Representatives	11	30	8	3
%	21.1%	57.7%	15.4%	5.8%

78.2% of the respondents acknowledge that their political thinking and policy-making is most influenced by private organizations, business or industry representatives.

	Highly Influential	Influential	Not Very Influential	Least Influential
Research and Opinion Polling	2	31	16	3
%	3.8%	59.6%	30.8%	5.8%

63.4% of the respondents indicate that their political thinking and policy-making is most influenced by research and opinion polling.

2. The most effective tool that influences a decision-maker in Latvia

	Highly Influential	Influential	Not Very Influential	Least Influential
Data and Credible Information	10	33	9	-
%	19.2%	63.4%	17.3%	-

82.6% of the respondents indicate Data and Credible Information as the most effective tool.

	Highly Influential	Influential	Not Very Influential	Least Influential
Direct Approach	18	24	9	1
%	34.6%	46.2%	17.3%	1.9%

80.2% of the respondents indicate Direct Approach as the most effective tool

	Highly Influential	Influential	Not Very Influential	Least Influential
Research and Opinion Polling	-	36	14	2
%	-	69.2%	26.9%	3.8%

69.2% of the respondents indicate Research and Opinion Polling as the most effective tool.

	Highly Influential	Influential	Not Very Influential	Least Influential
Endorsement from				

Trusted Universities	5	21	24	-
%	9.6%	40.4%	46.1%	-

Only 50% of the respondents indicate Endorsement from Trusted Universities as the most effective tool.

	Highly Influential	Influential	Not Very Influential	Least Influential
Expert Third Party Opinion	2	21	29	-
%	3.8%	40.4%	55.8%	-

Only 44.2% of the respondents indicate Expert Third Party Opinion as an effective tool.

4. What's the best way to influence a decision-maker in Latvia?

	Highly Influential	Influential	Not Very Influential	Least Influential
Understanding of how Government works	13	31	8	-
%	25.0%	59.6%	15.4%	-

84.6% of the respondents indicate that the need to understand how government makes decisions.

	Highly Influential	Influential	Not Very Influential	Least Influential
Offering Solutions	10	32	8	2
%	19.2%	61.5%	15.4%	3.8%

80.7% of the respondents indicate that the best way to influence decision-makers is the ability to offer possible solutions to issues.

	Highly Influential	Influential	Not Very Influential	Least Influential
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Pushy or Aggressive Approach	6	12	28	6
%	11.5%	23.1%	53.8%	11.5%

65.3% of the respondents are of the opinion that being pushy or using an aggressive approach is NOT a good way to influence a decision-maker.

	Highly Influential	Influential	Not Very Influential	Least Influential
Overly Commercial Goals	6	23	19	4
%	11.5%	44.2%	36.5%	7.7%

55.7% of the respondents are of the opinion that people who call on them are only pursuing their own economic interests with little or no regard for the common good.

APPENDIX D LATVIA PRINCIPLES FOR THE ETHICAL CONDUCT OF LOBBYING

Purpose:

These Principles are intended to provide practical guidance to persons who engage in the process of lobbying at the Latvian level. They reflect the essential considerations that a participant in this process should address and evaluate in order to perform the functions of a lobbyist with professional competence, personal integrity and civic responsibility. The Principles also address the decisions to be made by persons who retain lobbyists as well as by the persons whom the lobbyists seek to influence, so that lobbyists have a clear understanding of what is properly expected of them in their work as political agents.

Many of the Principles deal with the actual practice of lobbying. Others pertain to the contexts in which lobbying occurs and the consequences of lobbying for governance. These Principles rest on the belief that it is important for the lobbyist to remain ever mindful of an overarching issue: Does the present system of distribution and exercising political power in Latvia satisfy the norms of justice and promote the general well being of the Latvian society?

Definitions:

For the purposes of these Principles, “lobbying” means communications with public office holders and making use of various forms of advocacy directed at policy makers on behalf of another person, organization or group in return for payment.

Participants:

These are the major actors and activities involved in lobbying.

Clients:

Clients include individual persons or organized interests such as business corporations, trade associations, labor unions and not-for-profit advocacy groups who retain lobbyists.

Lobbyists

Lobbyists include those employed in the government relations function of the client organization as well as outside individuals or firms. The lobbyist develops various methods, strategies and tactics (e.g., through the design of a lobbying campaign) to accomplish the following:

- Gain access
- Inform

- Influence
- Pressure

These tactics are directed at **Policy-Makers** (such as Members of the *Saeima* and governmental civil servants and their staffs) who make policy decisions which affect the well being of:

- The client
- The public
- The local, national and
- Present and future generations of citizens.

Means and Ends:

In the conduct of lobbying, the lobbyist uses various means such as

- Personal reputation
- Professional obligation
- Cultivated rapport

These are used to achieve selected political goals, such as the gaining of trust, which in turn can lead to:

“Earned” access through which the lobbyist can share information and opinions that influence the formation of public policy, or “positional” influence that is based on one’s standing in the public realm rather than “earned” through other means.

PRINCIPLES

1) The pursuit of lobbying must take into account the common good, not merely a particular client’s interest narrowly considered.

A genuine commitment to the common good, the comprehensive and enduring well being of the political community as a whole, by clients, lobbyists, and policy makers, is essential if the integrity of the Latvian democracy is to be preserved and enhanced. To secure this end, the concerns of all citizens who may be affected by specific legislative and policy decisions should be effectively represented in the decision-making process.

- a) Since the purpose of lobbying is to influence the making of public policy, lobbyists should recognize that their responsibilities are different from those of an advocate in a purely private controversy between two adversaries, such as the parties to a lawsuit. By its nature, the lobbying process is designed to influence policy makers whose choices will have much broader political consequences.
- b) Therefore, in deciding whether to undertake an engagement or assignment and in determining what arguments to advance in support of, or in opposition to, a

position a lobbyist should weigh the implications of their efforts for the well being of the country as a whole; and should inform both their client and the policy maker to the probable economic, social and political consequences of the policy objectives being pursued.

- c) The lobbyist should give special attention to the effects of government action or inaction on the least advantaged and most vulnerable citizens.
- d) While serving as an advocate for a client's position, the lobbyist retains a personal responsibility as a citizen for the fairness, integrity and effectiveness of the policy making process as well as for the substantive political outcomes to which it leads.

2) The lobbyist-client relationship must be based on candor and mutual respect.

The lobbyist should only undertake or pursue an assignment for a client whose senior management is genuinely committed to acceptable ethical conduct. The lobbyist has a responsibility to advise the client about the potentially harmful impact of the lobbying objectives, strategies and tactics being considered. This principle applies not only to the client's explicit interests and public reputation, but also to the probable effect of the lobbying goals and strategies on the common good and on the legitimate concerns of other groups, especially the poor or under-represented.

- a) In determining whether to retain a particular lobbyist, a client should examine and evaluate the lobbyist's ethical history in the practice of lobbying. A client should not knowingly retain a lobbyist or lobbying firm found to have acted unethically, without first candidly discussing this history with the lobbyist and evaluating the response.
- b) In discussing potential retention by a prospective client, the lobbyist should not misrepresent his/her experience, political skills, and probable access in lobbying for a particular policy. If the lobbyist or the lobbyist's firm lacks adequate resources or the relevant political contacts to represent a client effectively on a particular matter, the lobbyist should inform the client or prospective client. The lobbyist should also inform the client or potential client of all prior lobbying efforts on the issue in which the lobbyist has engaged.
- c) Before accepting an engagement or assignment from a prospective client, the lobbyist should examine and evaluate the prospective client's history as it relates to lobbying. The lobbyist should not knowingly accept an engagement from a client found to have acted unethically, without first candidly discussing this history with the prospective client and evaluating the response.
- d) The lobbyist should only undertake an assignment or continue with an assignment from a client to the extent that the lobbyist is satisfied that the senior management of the client is committed to acceptable ethical standards.

- e) The lobbyist should inform the client about ethically acceptable lobbying options and strategies and give the client the opportunity, whenever appropriate to choose between those options and strategies.
- f) In formulating advice, the lobbyist is not limited only to issues of political feasibility and legal compliance but should also discuss the moral, economic, social and civic factors that may be relevant to the client's situation and objectives.
- g) The lobbyist should inform the client whether the proposed lobbying objectives and strategies are, in the lobbyist's judgment, ethically questionable.
- h) The lobbyist has a responsibility to give advice to the client concerning the potentially harmful impact of the lobbying objectives, strategies and tactics. This Principle applies not only to the client's objectives and public reputation, but also to the probable effect of the lobbying objectives and strategies on the common good or on the legitimate interests of other persons or groups, especially the poor or under-represented.
- i) The lobbyist should maintain appropriate confidentiality of client information and should not disclose confidential information without the client's informed consent.
- j) The lobbyist should inform the client of all significant actions taken on its behalf, including coalitions formed and political contacts pursued.
- k) It is wrong for the lobbyist to claim credit for accomplishments to which he/she did not contribute or to which the contribution was minimal.

3) A policy maker is entitled to expert candid disclosure from the lobbyist, including accurate and reliable information about the identity of the client and the nature and implications of the issues.

Ethically responsible lobbying should serve a valuable educational function, as honest, well-informed lobbyists provide policy makers and their staffs with relevant information and incisive arguments and analysis bearing on matters of public debate.

- a) In any presentations to a policy maker, the lobbyist should seek to provide factually correct, current, and accurate information. The lobbyist should not intentionally mislead or misinform any other party. It is wrong for the lobbyist to omit or fail to disclose information that is necessary to keep important statements made to the policy maker from being misleading.
- b) In order to discharge these responsibilities, the lobbyist should undertake whatever inquiry is reasonably necessary to learn the salient facts bearing on the position being advanced and the statements being made.

- c) The lobbyist should provide accurate and updated information to the policy maker if a change in the facts underlying important information that the lobbyist has already provided makes the information inaccurate, or if the lobbyist learns that the underlying facts were not as previously understood and that the information was inaccurate, and if the lobbyist knows that the policy maker may still be relying upon the information.
- d) If the lobbyist believes that there is a substantial risk that the policy maker may be unaware of important information adverse to the position being advocated and that no one else is likely to bring that information to the policy maker's attention, the lobbyist should do so, but may explain why the policy maker should not find the adverse information influential or decisive.
- e) The lobbyist should not conceal or misrepresent the identity of the client whose interests and positions are being advanced. Because the policy maker's choice may turn not only on the arguments advanced by proponents and advocates of a position, but also on their identity, the lobbyist should not participate in creating or representing a "front organization" that conceals the true identity of the clients whose interests and positions are being advanced.
- f) The lobbying strategies used with policy makers should not compromise their real or perceived independence. This could occur in several ways, such as when fund raising efforts or campaign contributions or the threat of negative publicity are linked to support of a particular policy objective.

4) In dealing with other shapers of public opinion, the lobbyist may not conceal or misrepresent the identity of the client or other pertinent facts.

Latvia public opinion is heavily influenced by the communications media. The democratic process requires that the policy maker, the communications media and the public are accurately informed about who is promoting a particular policy and who is funding and supporting the efforts made on its behalf. The use of the media in lobbying campaigns is therefore subject to the following Principles.

- a) The lobbyist may implement a lobbying strategy that involves attempting to influence policy makers through media reporting and editorial commentary. In pursuing such a strategy, the lobbyist should not engage in conduct with the media that would be improper if addressed directly to the policy maker. This principle includes the obligations to avoid misleading statements of fact and to avoid misrepresenting the identity of the client.
- b) In dealing with the media on behalf of a client, and subject to the obligation to maintain the confidentiality of the client's confidential information, it is wrong for the lobbyist to intentionally obstruct or manipulate a journalist's efforts to seek accurate information that affects public policy decisions and to report on that

- information fairly and objectively.
- c) It is wrong for the lobbyist to use campaign strategies that create unfair advantages in the decision making process for their clients. Such strategies could include “phantom” grass roots campaigns, “front” groups intended to conceal the true identity of the clients whose interests are being advocated, saturation advertising that distorts the merits of a particular issue, unscrupulous pressure on public officials, or the inordinate expenditure of money to create a very uneven playing field. This principle is particularly important in the use of political advertising in which the public has the right to know the true identity of the clients whose interests are being advocated.
 - d) In the pursuit of the client’s objectives, the lobbyist should show the same respect for the public and its right to accurate and relevant information as is shown to policy makers and their staffs.

5) The lobbyist must avoid conflicts of interest

In addition to civic obligations, the lobbyist has professional obligations to clients, and personal obligations to his/her conscience. Fulfilling these diverse obligations may lead to conflicts of interest and responsibility.

- a) Except with the informed consent of all of the clients or potential clients involved, it is wrong for the lobbyist to undertake or continue a representation that creates or is likely to create a conflict of interest.
- b) A conflict of interest exists (i) if the lobbyist will be called upon, to advocate a position on an issue when the lobbyist is also representing another client on the same issue with a conflicting position or (ii) if the lobbyist’s own personal beliefs, relationships or interests, including a sense of civic obligation, are likely to compromise the effort with which the lobbyist advocates the client’s position on an issue.

6) Certain tactics are inappropriate in pursuing a lobbying engagement

The responsible exercise of the lobbying profession constrains the selection of lobbying strategies and tactics.

- a) It is wrong to knowingly sponsor or disseminate false information about a candidate, person, or issue. Unless the information is not likely to be harmful to another person or to affect a policy-maker’s decision, the lobbyist must promptly take steps to rectify the situation after learning that he/she has disseminated such false information without knowing that it was false.
- b) It is wrong to engage in attacks on person’s character, or participate in the process of doing so, unless the information offered is directly relevant to the merits of the issue being advocated.

- c) It is wrong for the lobbyist to design a campaign that is intended to divert attention from the actual impact of the policy being advocated by focusing on irrelevant or “phantom” issues intended to frighten any group or divert the public’s attention from the true issues at stake.
- d) Because a policy maker’s judgment may inappropriately consider not only the nature of a proposal but also the identity of the active proponents or opponents of a position, the integrity of the lobbying process requires, that except in extraordinary circumstances, the lobbyist should clearly identify all of the interests being represented in the attempt to influence policy.

7) The lobbyist has an obligation to promote the integrity of the lobbying profession and public understanding of the lobbying process.

The lobbyist has an important and legitimate role to play in the Latvian political and decision-making process. At this time there is much public ignorance and distrust of the lobbying profession. Many members of the public are openly critical of lobbyists’ political influence. Many other critics misunderstand the nature of the lobbying process and its appropriate role in shaping public policy. It is in the common interest of the lobbying profession and Latvian citizens that the public become better educated about the systemic effects of lobbying on the health of Latvia democracy. The responsibility for this educational mission clearly rests in part with lobbyists themselves.

- a) The lobbyist should help educate the public about the appropriate role of lobbying in a democratic society and should promote understanding of and confidence in the lobbying process.
- b) The lobbyist should be actively concerned not only about personally observing standards of ethical conduct, but also about enhancing the public image and reputation of the lobbying profession.
- c) As a particularly active and influential participant in the democratic political process, the lobbyist should recognize that the quality, depth and fairness of public debate on a question of public policy is more important than the quantity of pressure used to influence the policy makers.
- d) As a citizen engaged in a profession with a central role in the political process, the lobbyist should inform and educate both the client and the policy maker rather than simply reinforcing that person’s pre-existing views. The lobbyist should inform clients and public officials about any significant, unjust consequences of a policy position being advocated.
- e) In dealing with other lobbyists, including those representing clients with adverse interests, the lobbyist should (i) treat the other lobbyist as a professional colleague

entitled to respect, (ii) refrain from misleading the other lobbyist, and (iii) avoid casting unwarranted aspersions on the integrity of the other lobbyist.

- f) To promote the integrity of the profession, the lobbyist who obtains information establishing that another lobbyist has engaged in unlawful conduct as part of the lobbying process, including violation of the laws regarding bribery, gratuities should bring this information to the attention of the appropriate public officials charged with dealing with such violations.

APPENDIX E **LAW ON PREVENTION OF CONFLICT OF INTEREST IN ACTIVITIES OF PUBLIC OFFICIALS**

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

- 1) **office**- work or service within the scope of specified authorization in a State or local government institution, public, political or religious organization, as well as in a commercial company;
- 2) **work-performance contract**- a contract governed by civil law by which a public official undertakes to perform work of a specified amount for the benefit of another person for certain remuneration;
- 3) **authorization**- a set of rights which has been granted to a public official by another person in order that the public official shall act in the name and interests of the authorizing person;
- 4) **counterparty**- a natural or legal person or an association of natural or legal persons established on the basis of a contract, which in accordance with the provisions of this Law is in declarable business relations with a public official;
- 5) **conflict of interests**- a situation where in performing the duties of office of the public official, the public official must take a decision or participate in taking of a decision or perform other activities related to the office of the public official which affect or may affect the personal or financial interests of this public official, his or he relatives or counterparties;
- 6) **relative**- father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-sister, half-brother, spouse;
- 7) **creative work**- journalistic, literary or artistic work for which royalties or fees are received;
- 8) **State or local government authority**- a State or local government institution (a unit thereof) or capital company (a branch thereof);
- 9) **head of a State or local government authority**- the head of a State or local government institution (in a Ministry- State Secretary) or the executive board of a capital company.

Section 2. Purpose of the Law

The purpose of this Law is to ensure that the actions of public officials are in the public interest, prevent the influence of a personal or financial interest of any public official, his or her relatives or counterparties upon the actions of the public official, to promote

openness regarding the actions of the public officials and their liability to the public, as well as public confidence regarding the actions of public officials.

Section 3. Scope of Application of this Law

This Law provides for:

- 1) restrictions and prohibitions upon public officials;
- 2) prevention of conflict of interest in actions of public officials; and
- 3) declaration of the financial status of public officials and a mechanism for the verification of the declaration of public officials.

Section 4. Public Officials

(1)Public officials are:

- 1) the President;
- 2) members of the *Saeima*;
- 3) the Prime Minister, Deputy Prime Ministers, Ministers for Special Assignments, State Ministers and Parliamentary Secretaries;
- 4) the head of the Chancellery of the President of Latvia and his or her deputy, the Director of the *Saeima* Chancellery and his or her deputy;
- 5) advisors to the President, advisors, consultants and assistants, as well as heads of the Offices of the Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments and State Ministers;
- 6) the Governor of the Bank of Latvia, his or her deputy and members of the Board of Governors of the Bank of Latvia;
- 7) the Auditor General, members of the Council of the State Audit Office, members of the Collegia of the Audit Departments of the State Audit Office and the administrator of the Chancellery of the State Audit Office;
- 8) the Chairperson of the Central Electoral Commission, his or her deputy and the Secretary of the Central Electoral Commission;
- 9) the Director of the Constitution Protection Bureau and his or her deputy;
- 10) the head of the Prevention and Combating of Corruption Bureau and his or her deputy;
- 11) the head of the Prevention of the Laundering of Proceeds from Crime Service and his or her deputy;
- 12) the Director of the National Human Rights Office and his or her deputy;
- 13) members of the National Broadcasting Council of Latvia, members of the Council of the Public Utilities Commission, members of the Council of the Finance and Capital Market Commission;
- 14) chairpersons of local government city councils (parish or district councils) and their deputies, executive directors of local governments and their deputies;
- 15) councilors of local government city councils (parish or district councils);
- 16) heads of State or local government institutions and their deputies;
- 17) civil servants of the general or specialized State Civil Service;

- 18) members of councils or executive board of those capital companies in which the State or local government share of the equity capital separately or in aggregate exceed 50 percent;
- 19) members of councils or executive boards of State or local government capital companies;
- 20) representatives of the holder of the State or local government share of capital and their authorized persons;
- 21) judges, prosecutors, sworn notaries and sworn bailiffs; and
- 22) professional service soldiers and military employees of the National Armed Forces.

(2) Persons who in the performance of the duties of the office in the State or local government authorities, in accordance with regulatory enactments have the right to issue administrative acts, as well as to perform supervision, control, inquiry or punitive functions in relation to persons who are not under their direct or indirect control, or to deal with the property of the State or local government, including financial resources, shall also be considered to be public officials.

(3) Persons who perform duties of office outside the State or local government authorities shall also be considered as public officials if in accordance with the regulatory enactments the State or local government has permanently or temporary delegated to them any of the functions referred to in Paragraph two of this Section.

Section 5. Control of the Implementation of this Law

(1) The Prevention and Combating of Corruption Bureau, as well as other authorities and public officials in conformity with the competence specified in this Law or other regulatory enactments shall control the implementation of this Law.

(2) The activities of the Prevention and Combating of Corruption Bureau shall be regulated by the Prevention and Combating of Corruption Bureau Law.

Chapter II Restrictions and Prohibitions with Respect to Public Officials

Section 6. General Restrictions on Combining Offices of Public Officials

Public officials are permitted to combine an office of the public official with another office, in the performance of a work-performance contract or authorization if restrictions on the combining of the offices of the public official are not provided for in this Law or other regulatory enactments.

Section 7. Special Restrictions on Combining Offices of Public Officials

(1) Combining the office of the President with another office shall be determined by the Constitution of the Republic of Latvia.

(2) Members of the *Saeima*, the Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, State Ministers and Parliamentary Secretaries are permitted to combine their office as public officials only with

- 1) offices that they hold in accordance with laws, or international agreements ratified by the *Saeima*;
- 2) offices in public, political or religious organizations;
- 3) the work of a teacher, scientist, doctor or creative work, or
- 4) other offices or work in the *Saeima* or the Cabinet, if such is specified in decisions of the *Saeima* and its institutions, or regulations or orders of the Cabinet.

(3) The Governor of the Bank of Latvia, his or her deputy and members of the Board of Governors of the Bank of Latvia, the Auditor General, members of the Council of the State Audit Office, members of the Collegia of Audit Departments of the State Audit Office and the administrator of the Chancellery of State Audit Office, the Chairperson of the Central Electoral Commission, his or her deputy and the Secretary of the Central Electoral Commission, the Director of the Constitution Protection Bureau and his or her deputy, the Director of the National Human Rights Office and his or deputy, the head of the Chancellery of the President of Latvia and his or her deputy, the Director of the *Saeima* Chancellery and his or her deputy, members of the National Broadcasting Council of Latvia, members of the Council of the Public Utilities Commission, the chairperson of the Finance and Capital Market Commission, the Director-General, directors of administration of the State Revenue Service and their deputies, directors of territorial authorities and their deputies, judges, prosecutors, sworn notaries and worn bailiffs, officials of Prevention and Combating of Corruption Bureau, the head of Prevention of the Laundering of Proceeds from Crime Service and his or her deputy, and professional service soldiers and military employees of the National Armed Forces are permitted to combine the office of public official only with:

- 1) offices which they hold in accordance with laws, or international agreements ratified by the *Saeima*, Cabinet regulations and orders, and
- 2) the work of a teacher, scientist or creative work.

(4) The Chief of the State Police and his or her deputy, the Chief of the Security Police and his or her deputy, the Chief of the State Border Guard and his or her deputy, the Chief of the State Fire-fighting and Rescue Service and his or her deputy, the Chief of the Local Government Police and his or her deputy is permitted to combine the office of public official only with:

- 1) offices which they hold in accordance with the Law or international agreements ratified by the *Saeima*, cabinet regulations and orders; and
- 2) the work of teacher, scientist or creative work.

Chairpersons of local government city councils (parish or district councils), deputy chairpersons republic city councils, executive directors of local governments and their deputies, heads of State and local government institutions and their deputies, as well as

members of executive boards and councils of such State and local government capital companies, in which the State or local government share of the equity capital separately or in aggregate exceeds 50 percent, are permitted to combine their office of public official only with:

- 1) offices which such persons hold in accordance with laws, or Cabinet regulations and orders;
- 2) offices in public, political or religious organizations;
- 3) the work of teacher, scientist, doctor or creative work; or
- 4) other offices in a State or local government institution if such combination does not result in a conflict of interests and written permission has been received from the public official or collegial authority which has elected, appointed or approved the relevant person in the office.

(6) Civil servants of the general or specialized State Civil Service, as well as officials of the local government police and the officials referred to in Section 4, Paragraph two of this Law for whom special conditions for combining of the office are not specified in this Section, may combine the office of public official only with:

- 1) offices which such persons hold in conformity with laws, and cabinet regulations and orders;
- 2) the work of teacher, scientist and creative work; and
- 3) other offices in the performance of a work-performance contract or authorization if combination thereof does not result in a conflict of interests and written permission of the head of the relevant State or local government institution or a person authorized by him has been received.

(7) Civil servants of the National Armed Forces are permitted to combine the office of public official with another office, in the performance of a work-performance contract or authorization, if written permission of the commander (head) of the unit has been received.

(8) In cases referred to in Paragraph five, Clause 4 and Paragraph six, Clause 3 of this Section the relevant public official or collegial authority is entitled not to issue permission for combining the office of the public official if the permission may create a conflict of interest situation or is in conflict with ethical norms binding on the public official, or harms the performance of the direct duties of the relevant public official. A refusal shall be substantiated and drawn up in writing. A public official may dispute the refusal, by appealing to a higher public official or collegial authority.

(9) A public official who is registered in the commercial register as an individual merchant in accordance with the procedures specified in the regulatory enactments and whose annual turnover of economic activity does not exceed 30 000 lati, is permitted to combine the office as public official with the economic activities of an individual merchant, if the individual merchant receives income only from the agricultural production, forestry, fishery or rural tourism.

Section 8. Procedures for Implementation of Restrictions on Combining the Offices of Public Officials

(1) A person, who, after assuming office as a public official, concurrently holds an office (performs a work-performance contract or authorization) the combining of which with the office of public official is not permitted, has a duty in writing:

- 1) to notify a higher public official or collegial authority of the fact that he or she holds an office (performs a work-performance contract or authorization) the combining of which is not permitted; and
- 2) to submit a submission requesting the release of him or her from the relevant office (notification regarding withdrawal from the work-performance contract or authorization) to the authority in which the person holds the office (to the person with whom he or she has entered into a work-performance contract or from whom an authorization has been received) the combining of which with the office of public official is prohibited.

(2) The authority (person) which has received the submission of a public official referred to in Paragraph one, Clause 2 of this Section, has a duty, within a time period of one month, to take a decision regarding the release of the person from the office (regarding the termination of a work-performance contract or authorization) and to send such decision to the relevant public official.

(3) If a public official has not received the decision referred to in Paragraph two of this Section due to circumstances beyond his or her control, he or she has a duty within the time period of seven days after the expiry of the time period referred to in Paragraph one of this Section:

- 1) to notify in writing a higher public official or collegial authority, as well as the Prevention and Combating of Corruption Bureau thereof;
- 2) to suspend the performance of the duties of the relevant office (work-performance contract or authorization); and
- 3) to suspend the receipt of remuneration for the performance of the duties of the relevant office (work-performance contract or authorization).

(3) If the authority (person) referred to in Paragraph one, Clause 2 of this Section has not fulfilled the provisions of Paragraph two of this Section, the public official shall be considered as released from the relevant office (the work-performance contract or authorization shall be considered as terminated) as of the last day of the time period referred to in Paragraph two of this Section.

Section 9. Restrictions on obtaining of Income

(1) A public official is permitted to concurrently receive remuneration for the performance of duties of office as public official and remuneration for the performance of such duties of office, work-performance contract or authorization as are not prohibited to

the official by this Law and other laws, as well as to obtain income from commercial activity which is not prohibited to the official by this law and other laws.

(2) If the performance of the duties of office of a member of the *Saeima* is combined with the office of the Prime Minister, Deputy Prime Minister, Minister, Minister for Special Assignments, State Minister or Parliamentary Secretary, he or she is permitted to receive the remuneration intended only for one office.

(3) A public official shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories in accordance with the list approved by the Cabinet.

(4) A public official while he or she is a representative of the holder of the State or local government capital share in a capital company, as well as three years after the fulfillment of these duties is prohibited:

- 1) to receive, directly or through the intermediation of third parties, any kind of financial benefit, including financial resources, not related to the performance of his or her duties;
- 2) to accept gifts from the relevant capital company or members of its supervisory or executive bodies;
- 3) to acquire capital shares, stocks or property of the relevant capital company; and
- 4) to hold other offices in the relevant capital company.

Section 10. Restrictions on Commercial Activities

(1) The President, members of the *Saeima*, the Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, State Ministers or Parliamentary Secretaries and their deputies, the Governor of the Bank of Latvia and his or her deputy, members of the Board of Governors of the Bank of Latvia, the Auditor General, members of the Council of the State Office, members of the Collegia of the Audit Departments of the State Audit Office, the Director of the Constitution Protection Bureau and his or her deputy, the head of Corruption Prevention and Combating Bureau and his or her deputy, the Director-General and the directors of administration of the State Revenue Service, members of the Council of Public Utilities Commission, members of the Council of the Finance and Capital Market Commission, as well as relatives of the public officials referred to shall not be the shareholders, stockholders and partners of such commercial companies or such individual merchants as receive orders for procurement for State and local government needs, State financial resources, State-guaranteed credits or State privatization fund resources, except the cases where they are granted as a result of an open competition.

(2) The relevant public officials and their relatives shall comply with the provisions specified in Paragraph one of this Section also for two years after the public officials have ceased to perform the duties of the relevant office of the public official.

(3) Members of the council or executive board of a State or local government capital company shall not obtain any type of income from merchants who receive orders for procurements for State and local government needs from the respective capital company, except the cases where orders have been granted as a result of an open competition. These restrictions do not apply to income from the remuneration for the office in a capital company in which the State or local government share of the equity capital separately or in aggregate exceeds 50 percent.

(4) Chairpersons of the local government city councils (parish or district councils), their deputies and councilors, as well as executive directors of local governments shall not be the shareholders, stockholders and partners of such commercial companies or such individual merchants as receive orders from the respective local government for procurements for local government needs, financial resources, local-government-guaranteed credits or privatization fund resources, except the cases where they are granted as a result of an open competition.

(5) Chairpersons of republic city and regional councils and executive directors of these local governments shall observe the provisions of Paragraph four of this section also two years after they have ceased to perform the duties of the relevant office of public official.

(6) The exceptions referred to in Paragraph one, three and four of this Section are not permissible if the public official manages a State or local government authority which has announced an open competition or if this official has appointed to the office any of the members of the procurement commission, or if any of the members of the procurement commission are under his or her direct or indirect subordination.

(7) A public official, for two years after he or she has ceased to perform the duties of the relevant office of the public official in a State or local government authority, is prohibited to obtain the property of such merchant, as well as to become a shareholder, stockholder, partner or hold an office in those commercial companies, in relation to which during performing his or her duties this public official has taken decisions on procurement for State and local government needs, allocation of State or local government resources and State or local government privatization fund resources or has performed supervision, control or punitive functions.

Section 11. Restrictions on Issuing Administrative Acts, Performance of Supervision, Control, Inquiry or Punitive Functions and Entering Into Contracts

(1) A public official is prohibited, in the performance of the duties of the public official, to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which such public officials, their relatives or counterparties are personally or financially interested.

(2) A public official shall not issue administrative enactments, perform supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in

relation to his or her counterparties also for two years after the termination of the contractual relationship.

(3) A person who, prior to assuming the office of the public official, has been a member of the supervisory, executive or control body of a commercial company, is prohibited, for two years after he or she has become a public official and ceased employment or other relationship governed by civil law with the commercial company, to issue administrative acts which affect the activities of the relevant commercial company.

(4) The restrictions on the issue of administrative acts specified in Paragraph three of this Section do not apply to such public officials who, before assuming the office of public official have been members of the supervisory, executive body or control body of a commercial company in which the State or local government share of the equity capital separately or in aggregate exceeds 50 percent.

(5) The restrictions on the issue of administrative acts specified in this Section do not apply to members of the *Saeima* and the Cabinet who participate in the issue of administrative acts in accordance with regulatory enactments.

Section 12. Prohibition to Influence Issue of Administrative Acts, as well as the Performance of Supervision, Control, Inquiry and Punitive Functions

A public official is prohibited to influence in any manner other public officials using his or her office position when preparing or issuing administrative acts or performing supervision, control, inquiry or punitive functions with respect to:

- 1) this official, his or her relatives or counterparties;
- 2) issues the deciding on which shall influence or may influence the personal or financial interests of the official, his or her relatives or counterparties;
- 3) those natural or legal persons from whom the official or his or her relatives obtain any type of income; and
- 4) such commercial company the shareholder, stockholder, partner or the member of supervisory, control or executive body of which the official is his or her relatives are, as well as with respect to an individual merchant who is a public official himself or herself or his or her relatives.

Section 13. Restrictions on Accepting Gifts

(1) A public official is prohibited from accepting gifts directly or indirectly, except the cases specified in Paragraphs three and six of this Section.

(2) Within the meaning of this Law, a gift is any financial or other kind of benefits including services, transfer of rights, release from obligations, refusal from any rights in favor of a public official or his or her relatives, as well as other activities by which any benefit is granted to such persons. Within the meaning of this Law, diplomatic gifts are gifts that official representatives of foreign states present to the President, Chairperson, Chairperson of the *Saeima*, Prime Minister, Minister for Foreign Affairs and officials of the Ministry of Foreign Affairs, referred to in Section 4, Paragraph one, Clause 17 and Section 4, Paragraph two of this Law, during official or work visits in accordance with protocol.

(3) A public official in relation to his or her activities in the office of the public official is permitted to accept only diplomatic gifts and gifts which are presented:

- 1) by official representatives of foreign states during official or work visits abroad;
- 2) by foreign delegations or official representatives of foreign states during the State, official or work visits in the Republic of Latvia;
- 3) by official representatives of foreign states to the public officials of diplomatic and consular representation offices of the Republic of Latvia;
- 4) by official representatives of foreign states during work visits in the Republic of Latvia- to the President, Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments and State Ministers.
- 5) on public holidays of the Republic of Latvia and days of commemoration and celebration;
- 6) on the anniversary of the State or local government authority in which the official works; or
- 7) in other cases provided for in laws.

(4) A public official is prohibited from accepting gifts in cases specified in Paragraph three of this Section, if a gift is a benefit of another type referred to in Paragraph two of this Section.

(5) The gifts referred to in Paragraph three of this Section shall be the property of the State or the relevant government. Diplomatic gifts shall be registered in the Unified State Protocol Register of the Ministry of Foreign Affairs, and the Minister for Foreign Affairs shall decide on their utilization. The head of the State or local government authority in which the recipient of the gift holds the office of the public official shall decide on the utilization and redemption of the remaining gifts in accordance with the procedures provided for in Cabinet regulations.

(6) Public officials are permitted to accept gifts from their relatives outside the performance of the duties of office of the public official. It is permitted to accept gifts from other natural or legal persons outside performance of the duties of office of the public official only if the value of the gift received from one person within a time period of one year shall not exceed the amount of a minimum monthly salary and the public official has not issued an administrative act or performed supervision, control, inquiry or punitive functions in relation to the donor within a time period of two years before the receipt of the gift. If a public official has accepted gifts from natural or legal persons outside the performance of the duties of office of the public official, he or she is not entitled to issue administrative acts or perform supervision, control, inquiry and punitive functions in relation to the donor for the time period of two years after the acceptance of the gift.

Section 14. Restrictions on Acceptance of Donations

(1) Within the meaning of this law, a donation is the allocation (transfer) of financial resources, goods or services without compensation for specified purposes.

(2) A public official or collegial authority is prohibited from requesting or accepting a donation from a natural or legal person, as well as other types of financial aid for public needs if the donation or aid affects the taking of a decision in relation to such natural or legal person.

(3) A public official, as well as a State or local government authority may accept a donation and other type of financial aid for State or local government needs- for the improvement of staff training or work organization or technical support if the donation is provided by any non-involved third party and it has been accepted in compliance with the restrictions specified in Paragraph two of this Section, as well, it does not place the public official in a conflict of interest situation. Prior to the acceptance of the donation or financial aid, permission from a higher official or collegial authority shall be necessary.

(4) A public official or collegial authority is prohibited to take any decisions in relation to the donor for a time period of two years after the acceptance of the donation or financial aid referred to in Paragraph three of this Section.

(5) A public official is prohibited from requesting donations directly or through the intermediation of other persons or accepting donations or participating in any other way in the collection thereof:

- 1) for the needs of the public official himself or herself or the needs of his or her relatives, except cases where it is necessary for the treatment of a serious illness;
- 2) for the needs of those natural or legal persons from which the public official or his or her relatives acquire or have acquired any type of income during the performance of the duties of office of the public official, except the income from the capital shares in capital companies if the capital share does not exceed one percent of the capital of the relevant capital company; or
- 3) for the needs of those merchants where the State official or his or her relatives are members of their administration or audit authorities, or where the official or his or her relatives own more than one percent of the capital.

Section 15. Prohibition to be a Representative

(1) A public official may not be a representative of a State or local government authority:

- 1) if this official or his or her relatives are financially or otherwise personally interested in the matter to be examined or also if the interests of the official or his or her relatives are in conflict with the interests of the State or local government authority which the official represents;
- 2) in relations with such natural or legal persons from whom the official or his or her relatives obtain any type of income;
- 3) in relations with the counterparties; and
- 4) in relations with such commercial companies the shareholder, stockholder, partner or member of supervisory, control or executive body of which the public official is or his or her relatives are, as well as in relations with individual merchants who themselves are public officials or their relatives.

(2) A public official shall not be a representative of the holder of the State or local government capital shares, except in the cases provided for by the Law On the Shares of the State and Local Government Capital and Capital Companies.

Section 16. Prohibition to Receive Supplementary Payments

(1) A public official who, in performing the duties of office of a public official, must provide free services or take decisions, is prohibited from accepting payments for the performance of such duties.

(2) A public official who, in performing the duties of office of a public official, must provide services or take a decision for a fee set by the State or local government, is prohibited from accepting a supplementary payment for the performance of such duties.

(3) Within the meaning of this Law payment is:

1) the transfer without compensation of property, including financial resources, to the relevant public official or his or her relatives;

2) the transfer of property without payment or for reduced payment for the use of the relevant public official or his or her relatives; or

3) the provision of services without payment or for reduced payment to the relevant public official or his or her relatives.

Section 17. Restrictions on Advertising

(1) A public official is prohibited from working in any kind of advertising or from utilizing his or her name for advertising, except in cases where such is included in the duties of office of the public official.

(2) Within the meaning of this law, advertising is the public expression of any kind of personal evaluation of a public official regarding a specific merchant or the goods produced or services provided by the merchant, if the official has received remuneration for such expression.

Section 18. Restriction to Act with regard to State or Local Government Property

(1) A public official may act with regard to State or local government property, including financial resources, in accordance with the procedures provided for in law, Cabinet regulations, as well as in binding regulations of local government city councils (parish or district councils).

(2) Within the meaning of this Law, actions with State or local government property, including the financial resources, are the preparing or taking of a decision of an authorized public official regarding the acquisition of the State or local government property or transfer for ownership or use, or alienation for other persons, as well as the re-allocation of the financial resources.

Section 19. Prohibition to Utilize Information

It is prohibited to disclose unlawfully the information accessible to the public official in connection with the performance of the duties of the public official or utilize such information for purposes not related to the performance of the duties of the office of the public official or fulfillment of specific terms of reference.

Chapter III
Duties of the Head of a State or Local Government Authority
and the Public Official in Prevention of Conflict of Interest

Section 20. Duties of the Head of a State or Local Government Authority

(1) The head of a State or local government authority has a duty, in conformity with his or her competence, not to allow the public officials working in this authority to be in a conflict of interest situation and in such situation implement the powers of office of the public official.

(2) The head of a State or local government authority has a duty to transfer by a written order the performance of any function or task to another public official if the public official who should perform the specific function or task in conformity with the duties of office is in a conflict of interest situation.

(3) In cases provided for in this Law and in accordance with the procedures provided for in the Law the head of a State or local government authority has a duty to decide upon the issue regarding the possible combining of office of the public official with another office, in the performance of a work-performance contract or authorization.

(4) In order that the head of a State or local government authority, in organizing the work of public officials, shall not allow their being in a conflict of interest situation, he or she has a duty in conformity with the competence specified in this Law, if necessary (for example, appointing to the office, or controlling decisions), to ensure the verification of declarations of the public officials working in this State or local government authority by verifying the information indicated in the declarations in person or assigning its performance to the internal audit unit of such authority or another public official.

(5) The head of a State or local government authority has a duty to provide, in accordance with the procedures determined in this Law or in Cabinet regulations, the drawing up of lists of persons holding the office of public official in the State or local government authority and submission thereof to the authority controlling the implementation of this Law.

(6) The head of a State or local government authority has a duty to inform without delay the Prevention and Combating of Corruption Bureau or in cases determined in this Law the Constitution Protection Bureau, regarding detected violations of this Law committed by public officials and regarding the facts that have become known to him or her during verification of declarations of public officials, which facts indicate such utilization of financial resources or other financial benefits of the public official as exceeds the income and savings declared, as well as such income and savings based on the sources of income not prohibited by law.

Section 21. Duties of Public Officials

(1) Public officials shall without delay provide information in writing to a higher public official or collegial authority regarding:

- 1) their financial or other personal interest, as well as financial or other personal interest of their relatives or counter-parties regarding the performance of any action included in the duties of their office;
- 2) commercial companies the shareholder, stockholder, partner, member of a supervisory, control or executive body of which the public official is or his or relatives are, or on the fact that the public official himself or herself or his or her relative is an individual merchant who receives orders from the relevant State or local government authority for the procurement for the State or local government needs, State or local government financial resources, credits guaranteed by the State or local government or State or local government privatization fund resources, except the cases where they are allocated as a result of an open competition.

(2) A higher public official or collegial authority after the receipt of the information referred to in Paragraph one of this Section shall assign the performance of the functions of the relevant public official to another public official.

Section 22. Behavioral (Ethics) Rules of Public Officials

- (1) Public officials shall act in conformity with the behavioral (ethical) codes approved in the relevant profession, field or sector.
- (2) A public official shall refuse the performance of the duties of office or the combining the office of the public official in all cases where due to ethical reasons the impartiality and neutrality of his or her actions might be doubted.

Chapter IV Declaration of Public Officials

Section 23. Procedures for Submission of Declarations

- (1) Public officials have a duty to submit the following declarations of public officials within the time period specified and in accordance with the procedures specified:
 - 1) a declaration to be submitted upon assuming the office;
 - 2) a declaration for the current year;
 - 3) a declaration to be submitted upon terminating the duties of office; and
 - 4) a declaration to be submitted after the performance of duties of office has been terminated;
- (2) Public officials, except public officials referred to in Paragraphs three and four of his Section, shall submit the declarations to the Prevention and Combating of Corruption Bureau.
- (3) The public officials working in the State security authorities shall submit declarations only to the director of the Constitution Protection Bureau. The director of the Constitution Protection Bureau and his or her deputy shall submit the declarations to the head of the Prevention and Combating of Corruption Bureau.

(4) Public officials working in the Prevention and Combating of Corruption Bureau shall submit the declarations to the head of the Prevention and Combating of Corruption Bureau, and the head of the Prevention and Combating of Corruption Bureau shall submit his or declaration to the Prime Minister.

Section 24. Information to be Indicated in Declaration

(1) In the declaration a public official shall specify the following:

- 1) his or her given name, surname, personal identification number and place of residence, as well as the given name, surname, personal identification number, place of residence and relationship of his or her spouse, parents, brothers, sisters and children.
- 2) his or her office as a public official;
- 3) information on other offices that the public official holds in addition to the office as a public official, as well as the work-performance contracts or authorizations which he or she performs or in which he or she performs specified obligations;
- 4) information on the immovable property in his or her ownership, possession, usage (also on the properties rented from other persons), also on such immovable property as in his or her possession in connection with guardianship or trusteeship;
- 5) information on the fact that the public official is an individual merchant, on commercial companies the shareholder, stockholder or partner of which he or she is, as well as on the capital shares, stock and securities owned by the public official;
- 6) information on means of transport to be registered and owned by the public official, as well as on such means of transport which are under his or her possession, usage or which have been acquired by him or her on the bases of a leasing contract;
- 7) information on cash or non-cash savings if their amount exceeds twenty minimum monthly wages;
- 8) information on all kinds of income obtained during the reporting period;
- 9) information on transactions performed by him or her if their amount exceeds twenty minimum monthly wages, by specifying the amount of such transactions and the parties to the transactions;
- 10) information on his or her debts the amount of which exceeds twenty minimum monthly wages, by specifying the amount of such debt and the debtor or creditor respectively;
- 11) information on loans given (amount thereof) if the total amount of such loans exceeds twenty minimum monthly wages; and
- 12) other information which he or she wishes to specify in the declaration.

(2) The information specified in Paragraph one of this Section shall be specified in the declaration both with respect to Latvia and foreign states.

(3) The Cabinet shall determine the reporting period for which the declaration shall be submitted, as well as the procedures for completion, submission, registration and keeping thereof.

Section 25. Time periods for Submission of Declarations

(1) A person, upon assuming office shall submit the declaration referred to in Section 23, Paragraph one, Clause 1 of this Law within one month from the day when a decision was taken regarding his or her appointment, election or approval in the office of the public official from the day the term of office of members of the *Saeima* or the councilors of local government city councils (parish or district councils) has begun in accordance with this law.

(2) A public official shall submit each year by 1 April the declaration referred to in Section 23, Paragraph one, Clause 2 of this Law.

(3) If a person has held the office of a public official for more than three months, he or she, upon terminating the duties of office of the public official, shall submit the declaration referred to in Section 23, Paragraph one, Clause 3 of this Law within a time period of 15 days after the last day of the performance of the duties of the office.

(4) The declarations of public officials referred to in Section 23, Paragraph one, Clause 1 and 3 of this Law shall not be submitted if the public official continues to hold another office of public official or assumes a new office of public official.

(5) The President, members of the *Saeima*, Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, State Ministers and Parliamentary Secretaries, chairpersons of the local government city councils (parish and district councils) and executive directors of local governments shall submit the declaration referred to in Section 23, Paragraph one, Clause 4 of this Law if they have performed the duties of the relevant office longer than three months. Such declaration shall be submitted for the 24 months following the termination of performance of the duties of office of public officials. The declaration for the first 12 months shall be submitted not later than in the 15th month, for the next 12 months- not later than in the 27th month after termination of performance of the duties of office of public official.

Section 26. Public Access to Declarations

(1) In order to ensure the protection of personal data, the declarations shall contain a part that is publicly accessible and a part that is not publicly accessible. The public official or the head of the authority which verifies declarations in accordance with this Law, as well as the head of the State or local government authority who has received a copy of the relevant declaration shall be responsible for ensuring public access.

(2) The part of the declaration that is publicly accessible is all the information included in the declaration, except the information that is specified in Paragraph four of this Section.

(3) Within the meaning of this Law, public access is the right of employees of the mass media and other persons to become acquainted with the declarations of any public official, as well as to publish the information included therein.

(4) The part of a declaration that is not publicly accessible is the place of residence and personal identification number of the public official, his or her relatives and other persons specified in the declaration, as well as counterparties, including debtors and creditors specified in the declaration.

(5) Only such public officials and authorities which examine the declarations in accordance with this Law, as well as in cases determined in this Law-prosecutors and investigative institutions or State security authorities may become acquainted with the information in the part of the declaration that is not publicly accessible.

The declarations of the President, members of the *Saiema*, Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, State Ministers, Parliamentary Secretaries and councilors of republic city councils (parish or district councils) shall be published in the newspaper *Latvijas Vestnesis* [the official Gazette of the Government of Latvia] not later than within one month after submission thereof, and concurrently publishing them also electronically. The Prevention and Combating of Corruption Bureau shall send these declarations for publishing.

Chapter V. Examination of Violations and Verification of Facts

Section 27. Verification Procedures

(1) Violations of this Law committed by public officials, as well as the facts that it is mandatory to be verified shall be examined and verified in accordance with the procedures specified in this Law and other regulatory enactments.

(2) This Law and other regulatory enactments shall determine the rights and duties of public officials and authorities regarding the fulfillment and control of the requirements of this Law.

(3) The Prevention and Combating of Corruption Bureau shall verify the declarations of all public officials referred to in Section 4, Paragraph one of this Law, as well as the declarations of the public officials referred to in Section 4, Paragraphs two and three of this Law taking into account the information on the activities of the relevant public officials.

Section 28. Verification of Declarations and Facts

(1) The Prevention and Combating of Corruption Bureau, the Constitution Protection Bureau and the Prime Minister have a duty in cases provided for this Law to verify whether:

- 1) the declaration has been submitted in accordance with the specified procedures;
- 2) the declaration has been submitted within the specified time period;
- 3) the declaration has been completed correctly and completely; and
- 4) the declaration contains information that is indicative of violation of the restrictions provided for in this Law.

(2) the head of a State or local government authority in accordance with the provisions specified in Section 20, Paragraph four of this Law has a duty to ensure the verification of declarations in order to determine whether declarations contain information that is indicative of violation of the restrictions provided for in this Law.

(3) The Prevention and Combating of Corruption Bureau and the Constitution Protection Bureau have a duty to verify whether:

- 1) the head of a State or local government authority has submitted the lists of persons holding the office of the public official within the specified time period and in accordance with the procedures determined by the Cabinet;
- 2) the lists of persons holding the offices of the public officials submitted by the head of a State or local government has been completely correctly and are complete; and
- 3) the head of the State or local government authority has ensured the verification of the declarations of relevant public officials.

(4) If necessary, in the course of the verification of a declaration the Prevention and Combating of Corruption Bureau, the Constitution Protection Bureau or the Prime Minister has the right to request and receive information and documents from the relevant public official, State or local government authorities, merchants, public or political organizations and associations thereof, religious organizations and other institutions, as well as from the persons that are specified or in accordance with the provisions of this Law should have been specified in the relevant declaration.

(5) If in the course of the verification of a declaration facts are discovered that indicate that the public official has utilized property, including financial resources, exceeding the sources of income specified in the declaration of such public official and permitted in accordance with this Law, as well as in cases where information has been received on the possibility of such facts, the Prevention and Combating of Corruption Bureau, the Constitution Protection Bureau or the Prime Minister has a duty to perform verification of the relevant facts or information. Within the limits of verification the Prevention and Combating of Corruption Bureau, the Constitution Protection Bureau or the Prime Minister has the right, if necessary to request and receive explanations in writing and documents from any person, as well as to verify the legality of acquisition of the property of the official by involving the State Revenue Service.

(6) If in the course of the verification of a declaration violations are discovered, the examination of which is not in the competence of the authority or public officials performing the verification, or if facts are discovered the evaluation of which is not in the competence of the authority or public officials performing the verification, or if information is received on the existence of such facts, the relevant authority or public official shall inform, in accordance with the procedures specified in this Law and other regulatory enactments, the authority or public official whose competence includes further examination or verification of the facts.

Section 29. Duties of Public Officials Regarding Verification of Declarations, Facts and Violations

- (1) A public official has a duty to provide and justify the information requested by an authority or a public official authorized by law.
- (2) A public official has a duty to justify the fact that his or her expenses have been covered and financial status has improved from legal sources of income to the authority or public official authorized by law.

(3) If a public official does not provide the information required by the authority or the public official authorized by law regarding the sources of acquisition of property, including financial resources, or cannot justify the acquisition of income or financial benefit from a legal source, it shall be presumed that the public official has acquired the property prohibited by this Law, including financial resources, and he or she is hiding this fact from the State.

Section 30. Liability of Public Officials and Other Persons

(1) Persons shall be held liable for violations of this Law as specified in regulatory enactments, Civil liability shall also apply to public officials in accordance with the provision of this Section.

(2) Income and financial benefits obtained by violating the restrictions specified in this Law or a proportional augmentation thereof shall accrue to the State, by presuming that by violating the restrictions determined by the State and illegally obtaining income or financial benefits, the public official has caused such harm to the State administrative order as is to be evaluated in financial terms and is proportional to the value of augmentation of income, financial benefits and property that are obtained in a prohibited way.

(3) If a public official does not compensate voluntarily the losses caused to the State, the State authority or the public official authorized by law has a duty to perform the necessary actions in order to claim compensation for the losses caused in accordance with the procedures determined by law.

(4) Compensation for losses shall be requested in accordance with the procedures determined in the Civil Procedure Law.

(5) The recovery of losses from the public official shall take place regardless of whether the public official is subject to administrative or criminal liability for violating the provisions of this Law.