

**Complaint to the European Parliament and European Commission's
Joint Transparency Register Secretariat**



**Submitted by Corporate Europe Observatory (CEO) on 8 October
2013**

**Organisation being complained about: Philip Morris International Inc., Identification
number in the Register: 51925911965-76**

Complaint about breaches of the code of conduct

Clause(s) you think has/have been breached:

d. ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities within the scope of the register is complete, up-to-date and not misleading;

In September leaked internal Philip Morris International (PMI) documents were covered in a large number of European media, including The Guardian, Spiegel, Le Parisien, European Voice and EUobserver. The documents outline the company's very comprehensive lobbying strategy to influence the revision of the EU's Tobacco Products Directive and shows that PMI had by 2012 met with more than 233 MEPs (some MEPs were met 4-5 times). The leaked documents gave a stark insight into the intensity of PMI's lobbying, as well as its access and influence and added to worries that the tobacco industry might be succeeding in delaying and weakening the TDP. Considering the concerns that have arisen about undue tobacco industry lobbying influence over EU decision-making on public health, it is of great importance to get clarified whether PMI's entry in the Transparency Register is according to the rules. Our analysis of the leaked documents leads us to conclude that PMI's registration violates the rules by strongly under-estimating both the costs of the company's lobbying and the number of lobbyists involved.

In PMI's entry in the Transparency Register for 2012, the "estimated costs to the organisation directly related to representing interests to EU institutions in that year" is said to be 1,000,000 € - 1,250,000 €. The number of lobbyists working for Philip Morris is said to be 9 ("persons engaged in activities falling under the scope of the Transparency Register"). This number is based on an internal PMI document (seen by Corporate Europe Observatory) which also calculates the company's costs of lobbying related to the EU tobacco products directive for 2012 to be 1,249,402 €. Included in this amount are 'travel' costs of PMI employees (139,375 €), expenses for 'consultancy' (561,100 €) and 'membership/events' (548,927 €). The hours of lobbying related to the EU tobacco products directive in 2012 are said to be a total of 1.876.

In a press release issued on September 9, PMI reacted to media articles interpreting this specific leaked document and presented the company's explanation of its costs and hours spent on lobbying. As part of the process of expressing PMI's views, the press release argues, "some PMI employees spend time meeting with EU officials to share the company's views and provide industry expertise not only on the TPD, but other complex policy issues as well, and we voluntarily reported this activity on the EU's Transparency Register. Using the

EU's recommended methodology, we surveyed a total of 161 employees who potentially spent a portion of their time, in addition to their other job responsibilities, with EU officials. We then calculated -- again, using the EU's methodology -- the figure, which is a fraction of the number of employees surveyed and that appears on the Transparency Register. This number includes those employees in the Brussels office who interact with EU officials and are listed by name."

A closer look at the leaked document shows that PMI's estimation of lobbying costs and number of lobbyists is far too low, for at least five reasons:

- 1) The list with names of 161 employees surveyed by PMI is not complete. The list does not include all employees in the Brussels office: four of the six employees who are listed by name in the transparency register as accredited lobbyists are missing in the document.
- 2) The leaked documents seen by Corporate Europe Observatory also includes a second list (titled "Guide to Initials") with names of PMI employees who contacted members of the European Parliament's ENVI committee. Of the 40 employees named in this second list only 21 appear in the list mentioned by PMI in the press release (surveying 161 employees). This means that another 19 lobbyists appear to be missing from PMI's calculation.
- 3) Out of the 161 employees that were surveyed by PMI, only 126 filled out the forms that they were sent. This means that 35 employees who may have been involved in lobbying were not included in PMI's calculation. Taking into account these employees (27,7% of the surveyed staff), estimated costs of PMI lobbying in 2012 might have been 350,000 € higher than declared.
- 4) The PMI calculations include only three categories of costs: 'travel' costs', 'consultancy' and 'membership/events'. Judging from the leaked document, the costs of office rent, secretariat and other expenditures of the Brussels office in the year 2012 appear not to be included in the 1,000,000 - 1,250,000 € lobbying expenditure declared by PMI. There might even be a more general problem of 'in-house' lobbying costs missing from the calculation. One Philip Morris employee, for instance, declares to have worked 75 hours on lobbying, but only mentions expenses of 2000 euro ('travel costs'). Salary and other costs related to these 75 hours of lobbying appear not to have been included in the calculation.
- 5) Many of the 126 employees who participated in the PMI survey appear to have filled out the form in a way which is not compatible with the rules of the Transparency Register. There are cases in which an employee spent 2.500 € for traveling or 210.000 € for consultancy or 74.000 € for events, but declares "0" hours of time spent on lobbying. For an employee responsible for lobbying expenses of this size, also the working hours spent on preparations and other organising of these activities should be included in the calculations. The number of hours spent on lobbying ("activities falling under the scope of the Transparency Register") by PMI employees is likely to be far higher than declared.

More generally, there is reason to believe that PMI might have wrongly interpreted the rules of the EU's Transparency Register. The press release refers to PMI employees "spending a portion of their time with EU officials" as the basis of the calculations. This sounds like the focus has been on the number of hours employees have spent on direct lobbying contacts with EU officials. The EU register, however, has a much broader definition of lobbying activities that need to be included. Registrants are expected to provide an estimate of the costs associated with the activities falling under the scope of the register, which covers "all activities carried out with the objective of directly or indirectly influencing the formulation or implementation of European policies, irrespective of the channel or medium of communication used." Also PMI's entry in the Transparency Register states that the figures refer to "direct lobbying of EU institutions" (as opposed to the far broader range of activities covered by the Transparency Register, including the time spent on preparing lobbying activities).

Finally, in its internal documents, PMI mentions expenses for 'consultancy' worth €561,100. In the Transparency Register however, the only lobby consultancy that reports lobbying for PMI is Europtimum Conseil, which reports this consultancy work cost between €150,000 and €200,000 in 2011. It also reports that it carried out €50,000 - €100,000 consultancy for Philip Morris France. Adding up both of these (upper) figures and assuming that similar sums were also spent in 2012, it means that lobbying consultancy services provided to PMI worth more than €260,000 could be missing from the register. This could either be due to registered consultancies not disclosing their lobbying for PMI or due to PMI hiring unregistered lobbying services. CEO considers that this is a loophole in the current rules of the EU lobby register that needs to be addressed in the ongoing review process.

Material evidence for these breaches:

- Philip Morris press release issued on September 9 "Philip Morris International Addresses Misguided Attacks on Role in Tobacco Products Directive Debate"; http://www.pmi.com/eng/media_center/press_releases/Pages/201309090402.aspx (accessed 7 October 2013)
- Leaked Philip Morris documents seen by Corporate Europe Observatory (and mentioned in numerous mass media over the last weeks). We would like to encourage you to ask Philip Morris International to present these documents to the Transparency Register Secretariat to enable you to assess the methodology used in calculating the company's EU lobby expenses and number of lobbyists. This would allow us to protect the whistle-blower who leaked the documents. If PMI refuses to show the documents to the Transparency Register Secretariat, please contact us and we will look for a way to enable you to get to see the documents.