

Revolving door provides privileged access

Why the European Commission needs a stricter code of conduct



Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU)

February 2011



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The **Alliance for Lobbying Transparency and Ethics Regulation** (ALTER-EU) is a coalition of over 160 civil society groups, trade unions, academics and public affairs firms concerned with the increasing influence exerted by corporate lobbyists on the political agenda in Europe, undermining democratic decision making in the EU and resulting in urgently needed progress on social, environmental and consumer-protection reforms being delayed, watered down or even blocked.

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Executive summary

The revolving door between the EU institutions and the private sector is turning increasingly fast, resulting in a range of conflicts of interests. This is unlikely to change unless the European Commission's proposal for the revision of the Code of Conduct for Commissioners is dramatically improved. ALTER-EU believes the Code should include a clear definition of lobbying and of conflicts of interests and should prohibit ex-Commissioners from taking any lobby-related job to for a period of at least three years. Since the end of the last Commission's term in early 2010, almost half of José Manuel Barroso's first college of Commissioners (Günter Verheugen, Charlie McCreevy, Benita Ferrero-Waldner, Joe Borg, Meglena Kuneva and Louis Michel) have gone through the revolving door and taken positions with either corporations or industry associations, often jobs that involve lobbying. Former Commissioner Peter Mandelson (now Lord Mandelson) who left the Commission in 2008 to return to national politics also moved on to join the lobbying industry in 2010.

Going through the revolving door implies the risk of a conflict of interest between the loyalty owed to the former employer – the Commission – and the likely demands of the new employer. In several of these cases the potential for such a conflict is very tangible. The former Irish Commissioner for the Internal Market Charlie McCreevy, for instance, was hired by financial investment company NBNK Investments PLC, a company that was created specifically to profit from the rules that McCreevy had put in place while Commissioner. Under these rules bailed out financial companies such as Lloyds TSB and Allied Irish Banks (AIB) were required to sell some of their assets. NBNK intended to establish itself as a new big bank by buying up those assets. In October 2010 the Commission decided for the first time ever to reject a former Commissioner's job request and blocked McCreevy's move, but this decision was exceptional, as can be seen by the way in which the other five Commissioners' requests to move to new jobs were handled. McCreevy's job as a director at Ryanair was approved, despite the fact that this role clearly involves lobbying the Commission. The former Commissioner for Enterprise and Industry Günter Verheugen co-founded his own lobbying consultancy; and failed to tell the Commission about it, even though they had requested information about his planned activities. It has been six months since the news broke about Verheugen's lobbying consultancy at the time of writing (February 2011) and the Commission has still not made an

official decision on the case. The Austrian former Commissioner Benita Ferrero-Waldner, who used to be in charge of the external relations portfolio, has taken a position with reinsurance giant Munich Re and with energy company Gamesa. Both companies have big financial interests in the Mediterranean Solar Plan (also known as the Desertec project) which Ferrero-Waldner enthusiastically supported during her tenure as Commissioner.

The Commission's weak enforcement of the current lax rules are a key part of this scandal. The proposed new Code of Conduct doesn't effectively address these problems. The Commission currently relies on the advice of an Ad-hoc Ethical Committee, including members who have themselves been accused of conflicts of interest after they went through the revolving door. The chair of the Committee is a former Commission official who went through the revolving door into industry lobbying. Furthermore, the Committee and the Commission appear to base their decisions on rather superficial inquiries, relying on information volunteered by ex-Commissioners rather than any sort of independent investigation by external experts. These conflicts, coupled with the high allowances paid to many ex-Commissioners (from taxpayers' money) years after they have left public office, have shaken the public's trust in the Commission's ability to safeguard the public interest. The Commission insists that the generous post-employment terms enjoyed by Commissioners is an insurance against their reliance on private sector jobs when they leave office. But as the traffic from the Commission to the private sector continues, this seems a rather ineffective protection of the public interest. Instead what is needed is greater scrutiny and a robust approval process to ensure that the system pays close attention to potential conflicts of interest rather than giving green lights and excessive parachute payments to former Commissioners.

After years of pressure from the European Parliament and from NGOs, in December the Commission finally agreed on a new draft Code of Conduct. The text, which was leaked the following month, included a number of improvements, but failed to effectively tackle the problem caused by revolving doors. The changes announced are far too weak to prevent potential conflicts of interest when ex-Commissioners take up new roles. Among the most serious omissions is the lack of an effective cooling-off period for jobs involving lobbying and lobby advice. It is therefore

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crucial that the European Parliament substantially improves the draft Code of Conduct during the negotiations with the Commission in spring 2011. The Commission must clarify and strengthen its ethics rules, including the following key areas:

- ▶ prolonging the notification period for new jobs to three years in order to match the period for which transitional allowances are given;
- ▶ providing clear definitions of lobbying and of conflicts of interests;
- ▶ introducing a general ban on lobbying and lobby advice for at least three years;

- ▶ installing a genuinely independent ethical committee that actively investigates potential conflicts of interest regarding ex-Commissioners' new employers, with effective sanctions to enforce its decisions;
- ▶ ensuring transparency around the decisions made by the Ethical Committee.

Introduction

The revolving door is a metaphor for the movement of people between senior public and private sector positions. It is usually applied to the movement of personnel from executive and regulatory bodies to the private sector. Inherent in such post-public sector employment is the risk of conflicts of interests when former Commissioners or ex-officials gain employment in the private sector. The concern is that their previous status and contacts as well as valuable insider knowledge can be exploited by new employers to gain privileged access and influence in the European Union institutions. A related concern is that senior officials or Commissioners modify their behaviour while in office in anticipation of private sector employment once their term in office or public service ends. This poses profound democratic and ethical problems as large corporations and others who can afford to hire ex-Commissioners are able to obtain undue influence. Furthermore, it gives the impression that private interests can “buy” favours from EU officials by offering lucrative positions once the officials have left office.

At the European Commission, the revolving door has been turning steadily for a long time. Most recently six Commissioners from the first Barroso Commission (2004-2010) accepted private sector positions with potential conflicts of interests. This report reviews the evolution of the Code of Conduct for Commissioners and explains how we have arrived at such a lax system of oversight. This report then analyses, on the basis of internal Commission documents released under freedom of information rules, six cases to illustrate some of the deep-seated problems with the current procedure. It concludes with a detailed assessment of the Commission's very weak draft proposal for a new Code of Conduct and ALTER-EU's recommendations to effectively tackle the revolving door problem. The European Commission has for too long chosen to ignore public concern about these issues. It is now high time to act in the public interest and introduce a new Code of Conduct that secures the highest ethical standards and prevents conflicts of interest.

Revolving doors – an ongoing saga in the EU

Since the end of the first Barroso Commission's term at the start of 2010, six ex-Commissioners have passed through the revolving doors at the Commission's Berlaymont building in Brussels for positions in the private sector. Judging from the sudden interest in this issue from the mainstream media, this might appear to be a recent phenomenon. In fact, the revolving doors have been turning consistently for a long time now. The well publicised conflict of interest cases of ex-Commissioners McCreevy and Verheugen are the latest additions to the ongoing saga, but the scale of the problem is growing. Since 1968, a Council decision has ensured that outgoing Commissioners receive a generous transitional allowance, supposed to guarantee their independence. While such allowances, on a more modest level, could be justified, the reality is that many potential cases have emerged, mainly due to weak ethics guidance and a relaxed culture relating to conflicts of interest.

Revolving doors since the 1980s

In the 1980's there were several high-profile examples, including the case of former Commission President and Economic and Monetary Affairs Commissioner François-Xavier Ortoli who in 1984 went straight into the job of president for the Total oil company.¹ In 1985, within a year of leaving office, Commission Vice-President Etienne Davignon joined Belgian bank Société Générale de Belgique (which became Fortis and is now part of BNP-Paribas). Between 1986 and 2001, Davignon lobbied the Commission as a member of the European Roundtable of Industrialists (ERT) representing Société Générale de Belgique.² In 2006, Davignon became a special adviser to the Development Commissioner Louis Michel, despite

Suez' direct interests in infrastructure projects in Africa and other parts of the developing world. Peter Sutherland, who was Competition Commissioner between 1984 and 1988, joined the Allied Irish Banks a year after stepping down (and later Goldman Sachs, BP, ABB, Royal Bank of Scotland and numerous corporate lobby groups.³

1999 scandals force the Commission to react

But it was only 10 years later, in the aftermath of the collapse of the Santer Commission in 1999 – due to allegations of corruption and maladministration – that the Commission was forced to introduce rules concerning post-Commission employment.

Three months after the fall of the Santer Commission, acting Industry Commissioner Martin Bangemann announced that he wanted to resign from his post in the Commission in order to join Spanish telecommunications company, Telefónica. Bangemann was Industry Commissioner and had been in charge of EU information and telecommunications policies for years. After widespread media criticism of this glaring conflict of interest, the Council brought a case before the European Court of Justice to suspend Bangemann's pension rights – but then withdrew the case.⁴ The remarkable career move by another Commissioner from Santer's team received far less attention. Trade Commissioner Sir Leon Brittan moved on to become vice-chairman of US investment bank Warburg Dillon Reed (a subsidiary of Swiss bank UBS) and joined lobbying law firm Herbert Smith, specialised in international trade issues. As a Commissioner, Brittan had been responsible for negotiating the

The relevant paragraph in the current Code of Conduct (from 1.1.1 Outside Activities):

“Whenever Commissioners intend to engage in an occupation during the year after they have ceased to hold office, whether this be at the end of their term or upon resignation, they shall inform the Commission in good time. The Commission shall examine the nature of the planned occupation. If it is related to the content of the portfolio of the Commissioner during his/her full term of office, the Commission shall seek the opinion of an ad hoc ethical committee. In the light of the commit-

tee's findings it will decide whether the planned occupation is compatible with the last paragraph of Article 213(2) of the Treaty.”

The last paragraph of Article 213(2) of the Treaty states: “The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising

therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 216 or deprived of his right to a pension or other benefits in its stead.”

WTO agreement on financial services and had worked closely with the Financial Leaders Group in which UBS was a prominent member.

All these events forced the Commission to acknowledge that there was a problem with conflicts of interests. In 1999, it introduced provisions on post-public employment in a new Code of Conduct for Commissioners. The Code included an obligation for Commissioners to declare financial interests and introduced a one-year notification period whenever a Commissioner left public office. Commissioners were now required to notify the Commission if they intended to take up new employment and the Commission would decide whether the new role involved any conflicts of interests relating to issues falling under the Commissioner's former mandate. If necessary, the Commission could also ask an ad-hoc ethical committee to assess whether the ex-Commissioner's new occupation was in breach of the EU treaty.

The Code of Conduct under José Manuel Barroso's presidency

When José Manuel Barroso assumed the presidency of the Commission in 2004, the Code of Conduct was amended. Among the changes was introduction of the right of the Commission President to ask a Commissioner to resign. In December 2004, the shortcomings of the amended Code were exposed when the former Commissioner for Health and Consumer Affairs Pavel Telička was allowed to co-found lobby firm BXL Consulting, representing clients such as Microsoft and energy giant RWE.⁵ Criticism of the Code of Conduct has intensified in the last few years, particularly from MEPs in the Budget Control Committee. The weaknesses of the Code on a wide range of issues, including post-employment, were spelled out in detail in the European Parliament's May 2009 study "The Code of Conduct for Commissioners – improving effectiveness and efficiency".⁶

In September 2009, when seeking Parliamentary approval for his re-appointment, Barroso promised

MEPs that the Commission would review its Code of Conduct. In February 2010, the Barroso I college gave way to Barroso II. In the following months, six of the thirteen members that left the Commission went through the revolving door into industry jobs, many involving lobbying. Media revelations about ex-Commissioners' new jobs continued throughout 2010. Confronted by this public outcry, the European Parliament took a strong stance and in the autumn threatened to block part of the ex-Commissioners' allowances unless the Code of Conduct was seriously strengthened, including the introduction of a lengthy cooling-off period.

ALTER-EU organised public petitions and together with campaign group Avaaz collected more than 50,000 signatures from citizens all over Europe demanding a three-year cooling off period and a ban on all lobbying jobs for ex-Commissioners. ALTER-EU also contributed to the pressure that led a grudging McCreevy to resign from the Board of NBK.

Despite the outcry, and despite a public promise to bring forward a new draft Code of Conduct before the end of 2010, the Commission appeared not to be in any hurry to tighten its ethics rules. The Commission did approve a draft internally just before Christmas, but only shared this with the President of the Parliament, Jerzy Buzek, initially bypassing other MEPs. This draft was leaked to the press in January 2011.

While the provision referring to post-employment was expanded in the new text and there is now an explicit reference to restrictions on ex-Commissioners lobbying, very little has changed compared to the previous Code of Conduct. The notification period has only been extended by six months (from 12 to 18 months) and while lobbying is now off-limits for ex-Commissioners (again for 18 months), this is poorly defined and limited only to the issues that fell directly within the ex-Commissioner's former portfolios. (A detailed assessment of the shortcomings of this draft text is available in the final section of this report.)

Conflicts of interest emerging from revolving door moves:

- ▶ The Commission must prevent (the appearance of) private interests buying favours from public officials by offering lucrative jobs once the officials leave public service;
- ▶ Commissioners could potentially exploit their previous status to unduly influence their former staff and colleagues on behalf of new employer(s);
- ▶ By hiring ex-Commissioners, companies might receive valuable inside information and connections with decision-makers that are not available to those that cannot afford to hire an ex-Commissioner.
- ▶ So many ex-Commissioners rushing into industry jobs raises questions about the ability of Commissioners (and the Commission as a whole) to regulate in the public interest and guard against the possibility that post-employment considerations may impact on their decision making while still in public office;

The class of 2010 – where are they now?

2010 – and particularly the last four months of the year – saw unprecedented media attention and political controversy around the jobs of ex-Commissioners, sparked by the controversial career choices made by Günter Verheugen, Charlie McCreevy, Benita Ferrero-

Waldner, Joe Borg, Meglena Kuneva and Louis Michel. Based on internal Commission documents related to the assessment of these cases (released through freedom of information requests), this section of the report documents the failure of the Commission to prevent conflicts of interest emerging from the career moves of ex-Commissioners.

A large number of Commission documents related to the approval process of ex-Commissioners' jobs (obtained through access to documents requests under regulation 1049/2001) are online at: <http://www.alter-eu.org/conflicts-of-interest-former-Commissioners-relevant-documents>

► Günter Verheugen

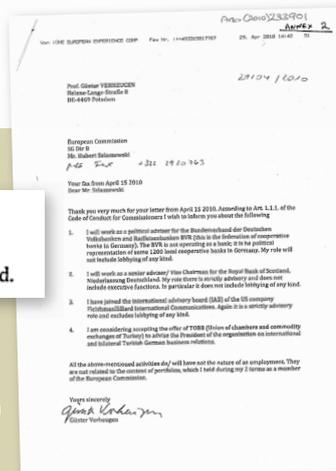
Günter Verheugen was the German member of the European Commission from 1999 until 2010 and most recently served as Commissioner for Enterprise and Industry and as one of Barroso's vice presidents. Since Verheugen withdrew from the Commission in February 2010, he has been busy taking up positions at various companies and industry associations. He is now a senior adviser at the Royal Bank of Scotland, a European Affairs adviser for the Federation of German Co-operative Banks (BVR), a member of lobbying consultancy Fleishman-Hillard's international advisory board and an adviser at the Turkish Union of Chambers and Commodity Exchanges. Fleishman-Hillard works for, among others, oil giant BP, Coca Cola and Barclays Capital.⁷ Besides all those advisory jobs for lobby players, in April 2010, Verheugen founded together with his former head of cabinet Petra Eler the European Experience Company, a new consultancy firm. Verheugen is an unpaid managing director of this firm and holds 50% of the shares. This last position in particular has been the source of much controversy. According to its website, the European Experience Company offers services that fit neatly into the Commission's definition of lobbying. For example, the company offers to design "the best strategy for your success in dealing with European institutions". Lobby groups and Companies with the resources to pay for such services can easily buy privileged access to the European Commission. This means a further tilting the already serious imbalances between the power and influence of wealthy, large corporations and citizens in European Union decision-making. Verheugen also failed to inform the Commission

about this new company, despite having been asked to inform them about all his planned activities in April 2010, having taken all the other advisory jobs without informing the Commission. When his involvement in the European Experience Company was uncovered by the German weekly newspaper Wirtschaftswoche in August 2010, Günter Verheugen explained that this didn't constitute a paid job – despite the fact that he owns half the shares in the company (and presumably half of its profits) and so clearly benefits from his position. Not only is this interpretation of the Code of Conduct quite "creative" (as the European Ombudsman described it in a public meeting last September, but Verheugen also seems to disregard the fact that the Commission explicitly asked him to inform them about any planned activities early in advance.⁸

The four other positions have now been cleared by the ad-hoc ethical committee after a superficial inquiry which appeared to be entirely based on Verheugen's own assessment of the nature of his new positions without any checks with the employers, and which concluded that the jobs "do not entail any risk of conflict of interests". Verheugen's claims that the jobs do not involve lobbying were also taken for granted by the Committee without any further clarifications or definitions being sought. Yet the Royal Bank of Scotland readily admitted that they had hired Verheugen because of his experience and contacts in European politics, and the BVR announced that they employed

2. **I will work as a senior adviser/ Vice Chairman for the Royal Bank of Scotland, Niederlassung Deutschland. My role there is strictly advisory and does not include executive functions. In particular it does not include lobbying of any kind.**

The Ad-hoc Ethical Committee accepted ex-Commissioner Verheugen's claim that his job at the Royal Bank of Scotland does not involve lobbying, despite the fact that RBS clearly stated that they hired Verheugen for his experience and contacts in European politics.



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Verheugen in order to make the voice of the cooperative banking group better heard in the EU debates about banking regulation.⁹ A decision on whether to allow Verheugen to remain involved in the European Experience Company is still pending at the time of writing, five months after the story broke in August 2010. The fact that the Commission has failed to make a decision on Verheugen's European Experience Company underlines the inadequacy of the current

► **Charlie McCreevy**

Charlie McCreevy was Commission President Barroso's choice for the powerful post of Commissioner for Internal Market and Services. The former Irish Finance Minister was at the helm during a period of intense liberalisation in the financial sector and carries some of the blame for the vulnerable financial system devoid of adequate checks and balances that led to the financial bubble, its collapse and the ongoing economic crisis. McCreevy afterwards admitted that the actors with the biggest lobby budgets had too much of an impact on EU legislation.¹¹ In spite of McCreevy's close involvement in the financial sector, he still accepted a generously paid position as board member of NBNK Investments PLC, a new financial investment company set up to buy up banking assets in the very market McCreevy helped to create. This obvious conflict of interests prompted the ad-hoc ethical committee to issue the first-ever negative opinion on any Commissioner's job plans which was followed some weeks later by Catherine Day, the Commission's Secretary General, telling McCreevy that the Commission would have to take a formal decision of disapproval of his post.¹² In the wake of mounting public pressure, the Commission put pressure on McCreevy, who had ignored the ad-hoc ethical committee until then. The Commission continues to say it has not received any information regarding Mr McCreevy's shares in NBNK which probably means he still owns shares in the company. This would contradict the draft new Code of Conduct. Nonetheless, the Commission had earlier in the year given the green light to McCreevy to take up a position at low-price air carrier Ryanair, again raising potential conflicts of interest as the Commission had been taking a number of collective decisions concerning Ryanair during McCreevy's period as Commissioner. The Dutch newspaper de Volkskrant

Code of Conduct. The Commission did give a green light to Petra Erler, Verheugen's partner and former head of Cabinet, to work as the company's manager in October 2010, but failed to announce the decision to the public.¹⁰ While this case clearly contravenes the regulations, the Commission must also review the approvals given for the four other jobs given the inadequate way in which they were assessed.

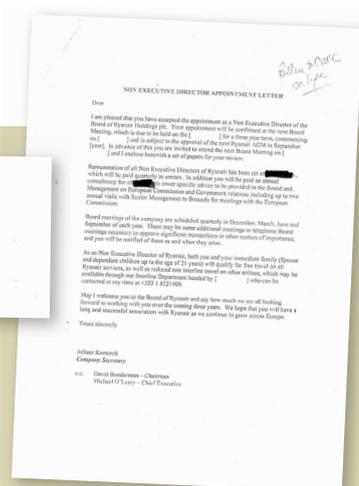
pointed out in September that McCreevy regularly dealt with Ryanair during his time as Commissioner. The airline had refused to comply with EU rules to compensate delayed passengers and challenged a decision by the Commission to block the takeover of Aer Lingus. "As a Commissioner McCreevy decided not to appeal a decision by the European Court of Justice about illegal state aid which was beneficial for Ryanair. The company can now continue to cash in millions of euros tax payers money for flights to regional airports. This is good for the share options which McCreevy now receives as part of his remuneration".

The final conclusions of the ad-hoc ethical committee, tasked with approving McCreevy's move, did mention that McCreevy was involved in these decisions on competition matters and state aid cases, but saw no problem because "McCreevy was not directly in charge".¹³ The Committee also argued that the decisions were not "related to the content of the Internal Market portfolio for which Mr. McCreevy was in charge". But in that case, why would McCreevy be consulted on these matters? Also the non-executive character of McCreevy's directorship at Ryanair is brought forward as an additional argument, although in fact this does not actually limit the range of activities he may undertake for the firm and is therefore irrelevant.

McCreevy's appointment letter shows that he will be paid an additional fee for "specific advice to be provided to the Board and Management on European Commission and Government relations including

Remuneration of all Non Executive Directors of Ryanair has been set at [redacted], which will be paid quarterly in arrears. In addition you will be paid an annual consultancy fee of [redacted] to cover specific advice to be provided to the Board and Management on European Commission and Government relations including up to two annual visits with Senior Management to Brussels for meetings with the European Commission.

The Ad-hoc Ethical Committee concluded that McCreevy only needs to abstain from lobbying the Commission on behalf of RyanAir when the lobbying issue relates directly to cases that McCreevy dealt with at DG Internal Market.



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up to two annual visits with Senior Management to Brussels for meetings with the European Commission".¹⁴ It was therefore entirely clear that McCreevy's job would involve lobbying the Commission. The ad-hoc ethical committee, however, only suggested instructing McCreevy to "abstain from providing advice where it would relate to a case involving Ryanair for which he, or his Cabinet [...] has been consulted during his term of office, as this could create at least the perception of a conflict of interest". The Commission

followed the ethical committee's feeble advice word for word. This means that McCreevy received approval for lobbying the Commission on any issue other than those he was directly involved in during his time as Commissioner. Ryanair was given permission to hire an ex-Commissioner to boost its lobbying efforts by using his contacts to open doors and provide insider knowledge. This decision should clearly be reviewed by the Commission, on its own terms and for the very dangerous precedent it sets.

► Benita Ferrero-Waldner

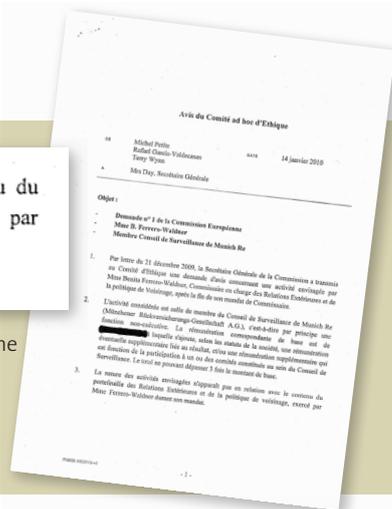
Austrian politician Benita Ferrero-Waldner became Commissioner for External Relations in 2004 when Barroso took over from Romano Prodi. During her tenure as Commissioner she was a firm supporter of the Mediterranean Solar Plan calling it "a necessity, not an option" and promoting it on various occasions. The Mediterranean Solar Plan is part of the Desertec initiative, a massive scheme intended to supply Europe with electricity from solar and wind power installations in North Africa.

After Ferrero-Waldner retired from the Commission, she took up paid positions on the board of German reinsurance giant Munich Re and Spanish energy company Gamesa, which specialises in renewable energy. Ferrero-Waldner had already started negotiating her future job with Munich Re while she was still in office. Both companies have huge interests in the Mediterranean Solar Plan. Munich Re is one of the main

economic muscles behind the Desertec project while Gamesa is among the firms likely to win lucrative contracts connected to the plan.¹⁵ In the boardroom of Munich Re, Ferrero-Waldner will also fraternize with representatives from Siemens and E.ON, which are both heavily involved in the project. This clear link between her new employers and her former portfolio appears to have been completely overlooked by the ad-hoc ethical committee in its assessment of her jobs, which concluded that there was no connection at all to Ferrero-Waldner's Commissioner's portfolio. Approval was given to Ferrero-Waldner on the basis that her role in Munich Re was a 'non-executive' one, a demand that does not change anything as she still strengthens Munich Re's lobbying efforts, regardless of her job title. Ferrero-Waldner is also a paid member of the advisory board of the architect Norman Foster's company.

3. La nature des activités envisagées n'apparaît pas en relation avec le contenu du portefeuille des Relations Extérieures et de la politique de voisinage, exercé par Mme Ferrero-Waldner durant son mandat.

The Ad-hoc Ethical Committee wrongly concluded that the job has no link with the Ferrero-Waldner's former portfolio.



► Joe Borg

Former Maltese Foreign Minister Joe Borg was appointed Commissioner for Maritime Affairs and Fisheries by Barroso in 2004. Leaving the Commission in 2010, he was quickly hired by lobbying consultancy FIPRA which lobbies on maritime issues. In summer 2008, FIPRA also managed to recruit the former director of the EU's Maritime and Fisheries Department, John Richardson, who became its special adviser on maritime policies.

Richardson was one of Borg's top officials and closest colleagues at the Commission's DG Mare during Borg's time as Commissioner until he was poached by FIPRA. With Borg also in place, FIPRA has become a powerhouse when it comes to lobbying the EU not only on maritime issues, but also more generally, as it can take advantage of Borg and Richardson's general insights and contacts. Borg, however, was only given the green light from the Commission after stating that he wouldn't lobby on matters relating to his Commission portfolio. Following extensive media coverage of his

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move to FIPRA, Borg had second thoughts. He wrote to the Commission on 10 October 2010 complaining that “the actions of certain quarters of the media and of investigative bureaus amount to witch-hunting and to mud slinging.” He asked the Commission to clarify whether the ethics committee could “assess whether the very acceptance by me of a contract with FIPRA conflicts with my obligations under the Code of Conduct for Commissioners, or not.” Borg added that

“I am sending a separate note to FIPRA informing them that I am suspending the contract signed by me and by FIPRA on the 10th August with immediate effect and that I will not accept any request for consultancy or advice until further notice.” Borg’s reaction underlines the need for the revised Code of Conduct to be far more clearly worded in terms of which jobs are off-limits for ex-Commissioners and which are not.

► **Meglana Kuneva**

Meglana Kuneva became Commissioner for Consumer Protection on 1st January 2007 after serving as Minister of European Affairs in Bulgaria. After her tenure as Commissioner was over, she was approached by controversial French banking giant BNP Paribas, which wanted her as a member of its board. It is also a major trader in controversial speculative financial products, including derivatives. BNP Paribas knew Kuneva as she had worked on a major EU directive on consumer credit loans, intended to boost the cross-border market in retail financial services. Kuneva had also led a crack-down on European banks for their lack of transparency, to the detriment of consumers.¹⁶ In other words, while banks were not directly under the auspices of Kuneva’s former portfolio, the Bulgarian had considerable and important dealings with the sector, creating a potential conflict of interests. Yet the Commission did not question the move. Kuneva is also currently a Special Advisor to the Transport Commissioner Siim Kallas which suggests that she is still on the Commission’s payroll while at the same time being employed by a mega-bank. Internal Commission documents relating to Kuneva’s move to BNP Paribas

reveal that the ad-hoc ethical committee appeared to be more pre-occupied with rubberstamping ex-Commissioners’ moves to industry than with seriously and objectively assessing any conflict of interest. The ad-hoc ethical committee found that the job “could possibly present a link” with Kuneva’s previous responsibilities within the Commission, “notably concerning studies related to bank tariffs in Europe”, but claimed “that such [a] situation would not create a conflict of interest”.¹⁷ No arguments were given to back this up, so it remains unclear how the Committee reached this counter-intuitive conclusion, which was endorsed by the Commission. The Committee suggested just one condition that Kuneva should inform the Commission if she joined one of the committees set up within the BNP Paribas board. If she joined “say a ‘consumers committee’ with the board, this might have to be further evaluated”.¹⁸ Remarkably, the Commission did not include this or any other condition in its approval letter to Kuneva.¹⁹ She was left entirely free to advise and otherwise assist BNP Paribas with lobbying. Reservations expressed by the ad-hoc ethical committee were ignored by the Commission.

► **Louis Michel**

Belgian Louis Michel, the former Commissioner for Development Policy and Humanitarian Aid, has been a member of the European Parliament since the June 2009 elections. Despite giving statements to the Belgian press that he has not taken any jobs in the private sector, it soon surfaced that Michel had in fact accepted a position on the board of Credimo, a Belgian mortgage and life insurance company. The move was approved by the Commission. Later, when

the debate about the ex-Commissioners allowance system broke through, the Belgian daily *De Standaard* quoted Michel as saying: “Do they rather want me to use the contact book I had as Commissioner in the private sector?”²⁰ Michel is, on top of the allowance, also receiving an MEP’s basic salary as well as money from Credimo.

Revolving doors scandals elsewhere in the EU institutions

The revolving door also turns for Commission staff. Between January 2008 and September 2010, 201 Commission staffers requested permission for new jobs. Just one of these was turned down. The Commission has refused to disclose the names of those who went through the revolving door, but examples occasionally appear in lobby sector magazines. Michel Petite, as mentioned earlier, went from being the head of the Commission's powerful Legal Service from 2001-2008 to Clifford Chance, a leading law firm with a blossoming lobbying business. Petite now heads the Commission's ad-hoc ethical committee, responsible for assessing conflicts of interest related to job moves by ex-Commissioners. In 2009 the Commission allowed Jean-Philippe Monod de Froideville (a personal advisor and member of Competition Commissioner Kroes' cabinet) to move to lobby consultancy Interel Cabinet Stewart, where he works for industry clients on "competition and trade matters". In 2010 it also approved a move by Mogens Peter Carl to Kreab Gavin Anderson (KGA). Carl, who works for KGA clients on energy issues, was director-general in DG Environment at the European Commission and also served as director-general in DG Trade. The latest controversial

case involves John Bruton, former Irish Prime Minister and the EU's ambassador in Washington DC until November 2009, who in December 2010 joined Brussels-based lobby consultancy Cabinet DN as a Senior Advisor.²¹

The European Council, even more than the Commission, seems to lack serious procedures to prevent conflicts of interest around job moves. In 2009, Javier Solana, the former Secretary-General of the Council of the EU and High Representative for the Common Foreign and Security Policy, moved to Acciona, the Spanish construction, energy and services group as an advisor on international strategy. Solana went into this new job without seeking permission from the Council.

MEPs and parliamentary assistants are increasingly head-hunted by firms and lobby groups. A prominent example was Finnish conservative MEP Pii-Noora Kauppi, who in January 2009 went directly from the European Parliament's Economic and Monetary Affairs Committee to work as director of the Federation of Finnish Financial Services.²²

A weak approval procedure and a compromised committee

When a former Commissioner plans to take up a new post within the first year of leaving the Commission, he or she must inform the Commission to receive approval. The Commission will then, if the occupation is related to the ex-Commissioner's former portfolio, refer the case to an ad-hoc ethical committee which will submit an opinion on whether the occupation is in breach of the last paragraph of Article 213(2) of the EU Treaty, as required by the Code of Conduct. The current approval procedure has some clear weaknesses and has so far failed to prevent ex-Commissioners from moving into jobs where they face a conflict of interest.

A compromised ad-hoc ethical committee

At the moment the committee is made up of Michel Petite, Terry Wynn and Rafael Garcia Valdecasas. Both Petite and Wynn have previously been in the spotlight for potential conflicts of interests and Petite was nominated for the Worst Conflict of Interest Award 2008 (organised by several civil society groups) after leaving his position as head of the Commission's Legal Service to take up employment in the EU and competition policy unit of law firm Clifford Chance. Clifford Chance is one of the largest law firms offering EU lobbying services and Petite himself is actively involved in the firm's activities in this field. Wynn was a MEP for 17 years during which he chaired the Forum for the Future of Nuclear Energy and was a board member of the European Energy Forum. Both these cross-party groups have been criticised as industry lobby vehicles. These circumstances suggest that the current ad-hoc ethical committee can hardly be seen as independent or objective when it comes to determining the risk of conflicts of interest. The current composition of the committee means it is ill equipped to act effectively against conflicts of interest.

Process too reliant on biased information

Although the Committee submitted its first ever negative opinion on an ex-Commissioner's choice of occupation (Charlie McCreevy at NBNK Investments) last autumn, internal Commission documents show that in many cases the work process has been superficial and has relied too heavily on the information supplied by the Commissioner under scrutiny. When McCreevy was appointed by Ryanair, the Committee didn't contact Ryanair at any point to inquire about Mc-

Creevy's role with the airline.²³ Instead the Committee relied on McCreevy's assertion that nothing would entail a conflict of interests. Another example is the committee's decision to approve Günter Verheugen's four new jobs based purely on information provided by Verheugen. Even though many of the activities that he described in fact boil down to lobbying or lobbying advice, the committee still took Verheugen's assurances at face value. Clearly, an ex-Commissioner going through the revolving door has an incentive to deny any wrong-doing which makes it all the more imperative that the committee double checks all information via other sources.

Lack of restrictions and vague limitations

In the case of Benita Ferrero-Waldner's move to Munich Re and Gamesa, the ad-hoc ethical committee didn't find any link between Ferrero-Waldner's former portfolio and the interests of her new employers despite their common – and well-known – interest in the Mediterranean Solar Plan. The Commission followed the committee's recommendation and approved Ferrero-Waldner's new position, subject to a limited and vaguely defined confidentiality clause. This case is a good example of the inadequacy of the restrictions put in place by the Commission.

Narrow definition of conflicts of interests

The ad-hoc ethical committee and the Commission's decisions seem to be based on a far too narrow definition of conflicts of interests and a vague definition of "occupation". It is uncertain whether the current Code of Conduct covers the purchase of shares and equity investments which surely constitute potential conflicts of interests. For example, while Verheugen might not receive a formal salary for his work as manager for the European Experience Company, the number of shares he holds still allows him to cash in on the success of the firm. Verheugen has also argued that the Code doesn't cover setting up new companies but only "occupation" in the narrow sense of employment. So far the Commission doesn't appear to disagree. McCreevy's appointment at Ryanair is another example of the inadequate definition. While the cases against Ryanair weren't directly related to McCreevy's portfolio, he was still a member of the College of Commissioners which took several collec-

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tive decisions benefiting Ryanair during McCreevy's tenure as Commissioner. The current Code of Conduct only considers the risk of conflicts of interests when Commissioners move to private sector jobs that are narrowly related to the content of the Commissioner's former portfolio. This is far too limited given that the Commission takes a lot of important decisions collectively in which all Commissioners are involved.

The current procedures clearly lack sufficient rigour to present any real check on potential conflicts of interests. The ad-hoc ethical committee isn't made up of independent experts and the inquiries made by both the committee and the Commission lack the necessary depth. Furthermore, the fundamental definitions that the decisions are based on are too narrow and vague to account for different types of conflict of interests and neglect the close links that exist between many actors in the corporate sphere. The results of this flawed process are flawed conclusions and so the Commission continues to allow the revolving door to turn with ever-gathering speed, resulting in serious conflicts of interest and undue influence for those employing the ex-Commissioners.

The effectiveness of the new UK and US initiatives have yet to be demonstrated but they at least constitute more determined efforts to curb conflicts of interest resulting from the revolving door.

An overly generous allowance system – and continued scandals

Another widely-cited problem in the media in the last year has been the overly generous allowance scheme for ex-Commissioners entitling them to between 40 and 65 percent of their final basic salary for three years. While the system apparently was introduced to ease Commissioners into the job market while enabling them to preserve their independence, the fact that Commissioners still receive thousands of euros a month, years after having taken up new positions has been a matter of consternation in a Europe with soaring unemployment. If a former Commissioner gets a new job, the amount of the new job's salary, combined with the allowance from the Commission, cannot exceed the wage as a Commissioner. But considering that a Commissioner earns on average about €20,000 a month, that still amounts to a potentially large amount of money. The Commission defends the scheme by arguing that it is designed to maintain the independence of Commissioners after leaving office.²⁴ Commission spokesperson Michael Mann for instance has said: "The aim of this system is to ease their return to the labour market, to maintain their independence after their time as Commissioner."²⁵ But while this would be a sound approach, recent cases show that the system does nothing of the sort.

Revolving doors rules elsewhere

While the European Union's rules on revolving doors seem lax and inadequate, in the United States, in spite of the many known problems with lobbying, there is a much more rigid system in place. After Barack Obama's inauguration as president, he introduced a two-year cooling-off period for appointees effectively banning them from lobbying government officials during that period (or for the remainder of the Administration). In the UK, new government rules on revolving doors have been put into place dictating a cooling-off period that prohibits ministers from lobbying the government for two years after leaving office. Neither of the systems are dependant on the need to prove a potential conflict of interest. Appointees and ministers aren't allowed to lobby their former colleagues and employees under any circumstances within that period. In the EU, the Commission will only block a former Commissioner or official from lobbying if there is a clear risk of a conflict of interests– and even then, experience has shown that the Commission is very reluctant to actually refuse an ex-Commissioner's request to take up a new position.

Half measures will not end revolving doors scandals around former EU Commissioners

The European Commission's new draft Code of Conduct, approved internally in mid-December 2010 and leaked to the media in early January, includes a number of improvements, but fails to effectively tackle the revolving doors problem. The changes announced are far too weak to prevent potential conflicts of interest when ex-Commissioners take up new roles. Therefore, it is crucial that the European Parliament substantially improves the draft Code of Conduct during the negotiations with the Commission in spring 2011.

ALTER-EU's main comments on the leaked draft Code of Conduct for Commissioners are:

- ▶ The Commission proposes to extend the notification period to 18 months (from the current 12 months) to deal with the problem of potential conflicts of interest. Instead of this tiny extension, it would be logical to introduce a three-year period during which ex-Commissioners must seek permission for new jobs to correspond with the three-year period during which ex-Commissioners are entitled to a transitional allowance. Given that this system of generous allowances is supposed to safeguard the independence of Commissioners by ensuring they are not under pressure to take employment that could result in a conflict of interest, it would be logical for them to be prevented from taking such jobs during that period.
- ▶ As with the current Code, only activities related to an ex-Commissioner's portfolio are to be assessed and there is no definition of conflicts of interest. This narrow approach (limited to the Commissioner's portfolio) ignores the fact that the Commission takes decisions collectively, which means that Commissioners are involved in decisions on issues that go beyond their own portfolio.
- ▶ In addition to the above-mentioned general procedure, the Commission has said that former Commissioners will be explicitly banned from lobbying and advocacy. This is a very positive step, but the ban only applies for 18 months and only covers issues within the ex-Commissioner's former portfolio.
- ▶ The draft Code does not define lobbying, but presumably the definition from the Commission's Transparency Register (Register of Interest Representatives) will apply. This must be clarified in the Code.
- ▶ The text on 'post-term activities' in the Code is vague on many key issues, including the composition and function of the ad-hoc ethical committee, which assesses potential conflicts of interest. Commissioner Šefčovič told MEPs in November that membership of the committee would be broadened, but this is not mentioned in the draft. Šefčovič also said that the committee's recommendations and its justification should be published, alongside the new mandate for the Committee's work, but the draft Code does not mention any such improvements in transparency.
- ▶ ALTER-EU welcomes the stricter rules on 'hospitality' (following reports of Commissioners enjoying holidays on millionaire's yachts) and the ban on spouses and partners serving as Cabinet members (Commissioner Günter Verheugen's partner Petra Erler served in his Cabinet).
- ▶ The draft Code of Conduct has been released ahead of any decision as to whether ex-Commissioner Verheugen can continue running his own lobbying consultancy (the European Experience Company). An investigation was launched 18 weeks ago. In the meantime the ex-Commissioner continues his activities for the firm. The new Code of Conduct should make it clear that it is unacceptable for an ex-Commissioner to go straight into lobbying consultancy work; the Commission's draft text fails to do so.

ALTER-EU is calling for the following key improvements and clarifications to be included in the new Code of Conduct:

- ▶ The lobby ban and notification period must be extended to three years.
- ▶ Lobbying and lobbying advice should be off-limit on all issues, not just those that were in the former Commissioner's portfolio. This is the only way to prevent ex-Commissioners from being hired by large companies and their lobby groups for their inside information and contacts acquired in public office, boosting corporate access and influence.
- ▶ The advice of the ad-hoc ethical committee and the Commission's decisions regarding post-Commission employment should be made public
- ▶ There should be safeguards to ensure that the ad-hoc ethical committee is fully independent from the lobbying sector and made up of experts in public administration ethics, (such as academics and national government ethics regulators). The Committee should actively scrutinise possible conflicts of interest, instead of relying on former Commissioners' claims that their new jobs do not involve lobbying.
- ▶ There should be a clear definition of 'conflict of interest' in the Code and an explicit reference to the definition of lobbying as used in the Commission's lobby register.

Appendix

Detailed recommendations on the current Code of Conduct, first published by ALTER-EU in October 2010

The current Code of Conduct for Commissioners contains only a short eight-sentence paragraph on the important issue of conflicts of interest. The revolving doors cases that emerged recently show that the rules need to be much clearer, include more detail and be overseen by an effective and independent body. ALTER-EU recommends extending the notification period from one to three years and introducing far stricter scrutiny of potential conflicts of interest for the jobs and activities referred by ex-Commissioners. This would create a three-year cooling-off period and constitute an effective safeguard against conflicts of interest.

The relevant paragraph in the Code of Conduct (from 1.1.1 Outside Activities):

“Whenever Commissioners intend to engage in an occupation during the year after they have ceased to hold office, whether this be at the end of their term or upon resignation, they shall inform the Commission in good time. The Commission shall examine the nature of the planned occupation. If it is related to the content of the portfolio of the Commissioner during his/her full term of office, the Commission shall seek the opinion of an ad hoc ethical committee. In the light of the committee’s findings it will decide whether the planned occupation is compatible with the last paragraph of Article 213(2) of the Treaty.”

The following is a more detailed version of the recommendations as presented by ALTER-EU in open letters to the European Commission in November 2009 and May 2010.²⁶ Our recommendations are based on a clear trend towards a more serious approach to post-employment conflicts of interest, reflected for instance in the ‘Revolving Door Ban’ introduced by the Obama administration in early 2009²⁷ and the Ministerial Code introduced by the new UK Government (May 2010)²⁸, discussions in the framework of the OECD²⁹ as well as proposals for more broadly defined revolving door restrictions made by leading US lawmakers.³⁰

Recommendations

1. **Three-year notification period:** the period during which ex-Commissioners must ask permission before taking up new posts should be extended from the current one year to at least three years. A three-year period would correspond with the period during which ex-Commissioners receive allowances (the scheme that was recently widely criticised as overly generous). Allowances provided to guarantee the independence of ex-Commissioners is not in itself a bad idea (at more appropriate levels), but this should be combined with strict interventions to prevent conflicts of interest during the course of these three years.
2. **Early notification:** the notification should happen well before an ex-Commissioner starts in a new job or activity; in fact notification should happen as soon as contract talks start (this could be defined as the point in which both the potential employer and Commissioner have expressed mutual interest in employment opportunities). Ideally, employment negotiations should not take place while a Commissioner is still ‘in office’.
3. **Clear definition:** a clear definition of what constitutes a conflict of interest and clear criteria for assessing conflicts of interest are needed, incorporating the concerns that have emerged over the potential conflicts of interest of six members of the previous Barroso Commission.³¹ The new Code of Conduct must clarify what type of activities will be prohibited. The term “planned occupation” must be replaced with a clearer term.³² The rules should cover any activity that can lead to conflicts of interest, such as for instance the purchasing of shares or equity investments. It is irrelevant whether the jobs are described as “non-executive positions”.³³ It should become impossible to hire former Commissioners to strengthen a firm’s lobbying activities, regardless of the job title they are given.
4. **A broader view of conflicts of interest:** the current rules are limited to conflicts of interest that occur when a planned activity “is related to the content of the portfolio of the Commissioner”. This is far too limited. Considering that all decisions taken by the college of Commissioners are collective decisions, Commissioners also face potential conflicts of interest when moving into a private sector job not directly related to their former portfolio. Moreover, by employing former Commissioners, large corporations and lobby groups can unduly benefit from their insider knowledge and networks within the institutions.
5. **Lobbying and lobby advice should be off-limits:** ALTER-EU proposes a three-year cooling-off period for all (remunerated) activities involving lobbying and/or lobbying advice (following the definition of interest representation in the Commission’s Register of Interest Representatives). The cooling-off

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period must not only cover direct interest representation, but also the preparation of lobbying, strategy work and supervision of lobbying activity and other efforts intended to facilitate lobbying. There should obviously also be a three-year cooling-off period for business activities where the ex-Commissioner's previous role (including insider information and networks developed while in the Commission) might unduly benefit the new employer. Clearly any employment with private interests that may have significantly benefited from policies the Commissioner has formulated during his/her term in office must be off limit.

6. **Revolving door exit plans:** when a Commissioner's new role is approved under specific conditions (restrictions), it must be made explicit and clear which activities and/or issues are off-limit.³⁴ This could take the form of a binding revolving door exit plan that outlines the areas of activity and the policy issues which the former Commissioner is banned from working on. Such exit plans should be available to the public.
7. **Revolving door reports:** when former Commissioners are given approval for a new job under certain conditions (restrictions), both the former Commissioners and their new private sector employers should on an annual basis submit revolving door reports attesting that they have complied with the agreed revolving door exit plan. Such reports should be available to the public.
8. **Independent assessments by ethics experts:** the ad-hoc ethical committee must be fully independent and composed of experts on public administration ethics, such as academics and national government ethics regulators. The Committee should actively scrutinize possible conflicts of interest, including through communication with the planned employer and other pro-active steps. The input from third parties should be considered in the assessment process.
9. **Transparency:** there should be comprehensive online transparency around the Commission's decision to approve or reject requests for post-employment approval (see for instance the website of the UK Advisory Committee on Business Appointments). Decisions should be available online and be searchable, sortable and downloadable.
10. **Effective sanctions:** the new Code of Conduct should include sanctions for ex-Commissioners who violate the rules or who refuse to follow decisions by the College of Commissioners regarding their post-Commission activities. These sanctions should be strong enough to act as a deterrent and they should follow clear criteria.

ALTER-EU would also like to restate some important related points:

- ▶ The revised Code of Conduct must secure stricter enforcement of financial transparency by Commissioners, in order to enable the public to assess potential conflicts of interest: financial declarations must be completed and updated at least annually.
- ▶ The new Code of Conduct should include clear rules on acceptance of gifts, including hospitality and other benefits, with a view of ruling out conflicts of interest.
- ▶ The above-mentioned 10 points are all relevant for the ongoing review of the conflicts of interest rules for European Commission staff (Staff Regulations suffer from many of the same weaknesses as the Code of Conduct for Commissioners). Instead of the current case-by-case approach, a clear definition of what constitutes a conflict of interest and an effective cooling-off period is required. Clearer new rules on the acceptance of gifts and hospitality are also needed.

Notes

- ¹ François-Xavier Ortolu was President of the Commission between 1973 and 1977 and Economic and Monetary Affairs Commissioner between 1977 and 1984. In 1983, he participated in drafting the first gathering of the European Round Table of Industrialists (ERT), a highly influential group composed of the leaders of 40+ multinational companies, inside Berlaymont. In 1988, he became the ERT member representing Total.
- ² Davignon was Vice President of the European Economic Community's Commission and Commissioner for Industry between 1977 and 1984. From this post Davignon played an indispensable role in the formation of the ERT. Together with Volvo's Pehr Gyllenhammar, Davignon drew up the first list of potential members. Davignon personally recruited most of the members of the original group of ERT. The first associates of ERT developed the organisations agenda from inside Berlaymont, in the presence of Davignon.
Viscount Etienne Davignon, Curriculum Vitae, Corporate Europe Observatory website, undated, accessed 27 January 2011
- ³ Peter Sutherland, Wikipedia article, accessed 27 January 2011
- ⁴ Back to Business: Revolving Doors in Brussels, Corporate Europe Observer, Issue 6, April 2000.
- ⁵ "Failure to Act – The Commission Turns a Blind Eye to Conflicts of Interest", Olivier Hoedeman, in Bursting the Brussels Bubble, ALTER-EU, 2010.
- ⁶ The Code of Conduct for Commissioners – improving effectiveness and efficiency, European Parliament Directorate General for Internal Policies, External Study, 2009.
- ⁷ Registration of Fleishman Hillard, Register of Interest Representatives, accessed 27 January 2011.
- ⁸ Hubert Szałaszewski (Secretariat General), Email to Günter Verheugen, 22 April 2010.
- ⁹ Leigh Phillips, Ex-industry-commissioner takes job with RBS, Euobserver.com, 28 April 2010.
- ¹⁰ Internal Commission documents released to Friends of the Earth Europe in response to an 1049/2001 access to documents request (accessed 27 January 2011).
- ¹¹ Charlie McCreevy, The Credit Crisis – Looking ahead, speech at the Institute of International & European Affairs, Dublin, 9 February 2009.
- ¹² Hubert Szałaszewski (Secretariat General), letter to Yiorgos Vassalos (Corporate Europe Observatory), 15 October 2010.
- ¹³ Document 55 in the pdf containing internal Commission documents released to Friends of the Earth Europe in response to an 1049/2001 access to documents request (accessed 27 January 2011).
- ¹⁴ Document 51 in the pdf containing internal Commission documents released to Friends of the Earth Europe in response to an 1049/2001 access to documents request (accessed 27 January 2011).
- ¹⁵ Donya Feki, Maha GANEM, When former Commissioners go for private sector, theEuros.com, 26 July 2010.
- ¹⁶ Jim Brunsten, Kuneva targets banks over hidden charges, European Voice, 17 September 2009.
- ¹⁷ Document 67 in the pdf containing internal Commission documents released to Friends of the Earth Europe in response to an 1049/2001 access to documents request (accessed 27 January 2011).
- ¹⁸ Document 70 pdf containing internal Commission documents released to Friends of the Earth Europe in response to an 1049/2001 access to documents request (accessed 27 January 2011).
- ¹⁹ Document 73 pdf containing internal Commission documents released to Friends of the Earth Europe in response to an 1049/2001 access to documents request (accessed 27 January 2011).
- ²⁰ Constant Brand, Louis Michel defends allowance, European Voice, 24 September.2010.
- ²¹ Olivier Hoedeman, Commission - belatedly - investigates John Bruton's revolving door move to Brussels lobby consultancy, Brussels Sunshine blog, 26 January 2011.
- ²² Nomination text for Piia Noora Kauppi, nominated for the Worst Conflict of Interest Award, Worst EU Lobbying Awards 2008 website (accessed 27 January 2011).

²³ [European commission in the dark over McCreevy's Ryanair job](#), statement posted on website of MEP Nessa Childers, 21 October 2010.

²⁴ Ex-Commissioner Louis Michel told the European Voice: "The rule was implemented because Commissioners do not have the right to get a job in the private sector connected to their previous policy areas in the first three years after the end of their mandate". In: Constant Brand, [Louis Michel defends allowance](#), European Voice, 24 September 2010.

²⁵ [Former EU Commissioners still paid years after leaving](#), BBC News, 23 September 2010

²⁶ ALTER-EU wrote to the Commission in November 2009 and May 2010 calling for a swift review of the Code of Conduct and the introduction of a cooling-off period to prevent ex-Commissioners from moving into jobs with conflicts of interest. On 17 May 2010, ALTER-EU [wrote to President Barroso, and Commissioners Sefcovic and Semeta](#) to raise concerns about potential conflicts of interest for former Commissioners. On 24 November 2009, ALTER-EU sent [a letter to Commission President Barroso](#), asking him to address conflicts of interest in the revision of the code of conduct for EU Commissioners.

²⁷ Barack Obama, ["Executive Order – Ethics Commitments by Executive Branch Personnel"](#), The White House, January 21, 2009

Precedents and practice

4. Revolving Door Ban Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment.
5. Revolving Door Ban Appointees Leaving Government to Lobby. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non career Senior Executive Service appointee for the remainder of the Administration.

²⁸ [UK Ministerial Code](#), Cabinet Office, May 2010 (page 14 and 17)

7.7 Ministers must scrupulously avoid any danger of an actual or perceived conflict of interest between their Ministerial position and their private financial interests. They should be guided by the general principle that they should either dispose of the interest giving rise to the conflict or take alternative steps to prevent it. In reaching their decision they should be guided by the advice given to them by their Permanent Secretary and the independent adviser on Ministers' interests. Ministers' decisions should not be influenced by the hope or expectation of future employment with a particular firm or organisation.

7.25 On leaving office, Ministers will be prohibited from lobbying Government for two years. They must also seek advice from the independent Advisory Committee on Business Appointments about any appointments or employment they wish to take up within two years of leaving office. Former Ministers must abide by the advice of the Committee.

²⁹ See for instance: Prof. David Miller, Professor of Sociology, Department of Geography and Sociology, University of Strathclyde, Glasgow, United Kingdom, [Revolving doors, accountability and transparency: Emerging regulatory concerns and policy solutions in the financial crisis](#), 6 July 2009.

³⁰ Amendments for cooling-off periods to cover both lobbying contacts and lobbying activities, tabled by Senators Wyden and Grassley.

³¹ The six ex-Commissioners are Benita Ferrero-Waldner (Munich Re and Gamesa), Meglena Kuneva (BNP Paribas), Günter Verheugen (RBS, lobby consultancy Fleishman Hillard, European Experience Company, the Turkish Union of Chambers and Commodity Exchanges and a German banking lobby group), Charlie McCreevy (NBNK and Ryanair), Joe Borg (lobby consultancy FIPRA) and Louis Michel (Credimo). ALTER-EU, [Revolving door scandal - call for three-year cooling off period](#), press release, 27 September 2010.

³² Ex-Commissioner Verheugen claims that the Code of Conduct does not apply to his involvement in the lobby firm European Experience Company, arguing that he does not receive a salary so it is not an 'occupation'. Verheugen is managing director and owns 50% of the firm.

³³ Ex-Commissioner Ferrero-Waldner was given approval to take up a paid board position in Munich Re, with the argument that this is a "non-executive" function. The documents related to the approval procedure are [available on the ALTER-EU website](#).

³⁴ Ex-Commissioners Verheugen, Borg and Ferrero-Waldner were given a green light move into jobs on the basis of very weakly defined restrictions on what they are not allowed to do in these jobs. Verheugen, for instance, was given the go-ahead on the basis of his statement that the new jobs "exclude any type of any lobby", without any further definition of the term 'lobby'. At the same time the description of his tasks for these new employers indicate that he will be assisting their lobbying efforts, at the very least with strategic advice. The documents related to the approval procedure are [available on the ALTER-EU website](#).

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