



**Friends of
the Earth
Europe**

Brussels, 21st February 2011

Mr Gerard Legris
European Commission
Secretariat General
Directorate E – SG-E-3

gerard.legris@ec.europa.eu

Subject: Appeal against Commission's decision on complaint for alleged breach of the Code of conduct of interest representatives by Royal Dutch Shell

Dear Mr Legris,

This letter refers to the Commission's response to Friends of the Earth Europe's (FoEE) complaint for alleged breach of the Code of conduct of interest representatives by Royal Dutch Shell (Shell) that is dated 4th February 2011.

The Commission concludes that "based on the available evidence, a violation [...] of the Code of conduct for interest representatives has not taken place."

However your letter does not provide sufficient valid arguments for this conclusion. FoEE raised several important points in the complaint that have not been addressed properly by the Commission. If the Commission is of the opinion that the doubts of FoEE are incorrect, we expect it to give argumentation supporting why it believes that the registration of Shell is correct and that confirms that no violation of the Code of conduct has taken place. The Commission is compelled to do so according to article 296 of the TFEU.

The main argument for the Commission to reject our complaint is that the United States (US) and the European Union (EU) lobby registration systems cannot be compared. In addition the Commission states that Shell's lobby budgets have been calculated with a methodology that "is clear and in conformity with all guidance material offered by the European Commission to registrants". However the Commission fails to provide additional details on the methodologies it refers to.

The Commission might be right that comparisons with similar companies might not establish that the information provided by Shell is false. However, the Commission fails to give a



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credible explanation how it is possible that Shell - objectively a much bigger company than ENI and Statoil, which objectively has a much stronger lobby presence in Brussels than those two companies - reports a substantially lower lobby budget than the other two companies. We believe the Commission is specifically compelled to give such explanation considering that the register's main aim is to promote transparency while the current lobby budget of Shell compared to those of ENI and Statoil mainly creates an impression of unreliability.

It is surprising that the Commission refers to a 'clear methodology' that Shell uses, despite the fact that the European Ombudsman in a draft (and still confidential) proposal for a friendly solution on a similar complaint of FoEE against the registration of BusinessEurope concluded that 'the use of an acceptable methodology does not necessarily ensure that the total lobbying budget declared is accurate'¹. It seems that the Commission does not take the conclusions of the Ombudsman into consideration.

It is disappointing that, unlike other bodies including the OECD, EPACA and the European Ombudsman, the Commission's complaint mechanism does not provide with specific arguments for rejecting our complaint, especially when it comes to transparency issues.

The Commission's answer fails to provide clarifications on several of the specific points raised in our complaints. These include:

- the disclosure of membership fees of professional associations and think tanks, costs related to the organisation of joint events, memberships for third-party organisations, and how these relate to the calculation of overall lobby budgets;
- the amounts of money devoted to sponsoring and co-organising events with high-profile media such as Euractiv or European Voice;

Again, this is all the more relevant since the European Ombudsman concluded in the abovementioned proposal for a friendly solution that the Commission's failure to comply with its duty to provide an accurate statement of reasons could be an **instance of maladministration**. Also in that case the Commission failed to provide clarifications on some of the specific arguments that were put forward by FoEE in its complaint.

We request the Commission to provide us with sufficient valid arguments for rejecting our complaint, addressing all of the specific points and queries mentioned in the original complaint that was filed by FoEE.

¹ Proposal of the Ombudsman to the Commission regarding complaint 3072/2009/MHZ, dated December 14 2010



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Further on, **in accordance with regulation 1049/2001**, we would be grateful if you would provide us with a substantiation of the calculation of the lobby budget of Shell that supports the argument that the registration of Shell is correct.

We also request you to provide us with all the copies of the supporting documents related to Shell's lobby registration, including all correspondence, held by the Secretariat General, and agendas as well as minutes in respect of each meeting held with Shell's representatives, and/or in respect to their respective lobby registration.

We look forward to your response,

Yours sincerely,

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