

# Comment on the Draft Proposal on the Lobbying Act

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American Chamber of Commerce in Croatia *Američka gospodarska komora u Hrvatskoj*

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# Introduction

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The American Chamber of Commerce in Croatia (AmCham) has always advocated for transparent and public communication with all stakeholders, respecting the highest business and ethical standards and strictly respecting all laws and regulations. The AmCham's Code of Business Conduct speaks in favor of this and must be observed by all AmCham members. Relationships of AmCham members with Government institutions, officials and employees should adhere to the highest legal and ethical standards of anti-corruption and transparency.

Although the Croatian Government's intention to bring greater transparency in public and political life is positive, we are of the opinion that the current Draft Proposal of the Lobbying Act will not lead to the desired result stated in the introductory part of the Draft Proposal of the Act.

## Comments

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### *Definition of lobbying*

We are of the opinion that the definition of lobbying under Article 2, paragraph 1 is too broad and, as such, leaves room for ambiguity, unequal interpretation, and consequent punishment of the private sector due to the lack of clarity (exactly which activities to report) and the overload of necessary and unnecessary information of the Conflicts of Interest Prevention Commission.

We suggest an **exact definition of the lobbying process**, not of the term lobbying, that is, an exact definition of how the lobbying process takes place and what activities and communication it includes. We also propose an exact definition of **activities that are prohibited by the Act** in the lobbying process.

We suggest that the definition of lobbyist from the preamble be included in the text of the Act itself.

### *Register of Lobbyists*

Article 11 of the Draft Proposal of the Act reads:..."

(1) Lobbying for a fee can be done by a natural or legal person who is registered in the Register of Lobbyists, which is kept in electronic form by the Commission.

(2) Registration in the Register is a condition for starting lobbying for a fee.

- (3) Registration in the Register of lobbyists who do not lobby for a fee is voluntary.
- (4) A natural person who lobbies on behalf of a legal entity referred to in paragraph 1 of this article must be registered in the Register.
- (5) The minister responsible for justice and judicial affairs prescribes the content of the Register and the way it is maintained, as well as forms of requests for registration in the Register, requests for changes to data in the Register, requests for deletion from the Register, and a list of documents to be attached to requests.

AmCham proposes **changes to Art. 11** as follows:

- (1) Lobbying can be done by a natural or legal person who is registered in the Register of Lobbyists, which is kept in electronic form by the Commission.
- (2) Registration in the Register is a condition for starting lobbying.
- (3) A natural person who lobbies on behalf of a legal entity referred to in paragraph 1 of this article must be registered in the Register.
- (4) The minister responsible for justice and judicial affairs prescribes the content of the Register and the way it is maintained, as well as forms of requests for registration in the Register, requests for changes to data in the Register, requests for deletion from the Register, and a list of documents to be attached to requests.

We also suggest **deleting paragraph 3** of the Draft Proposal of this Act.

Likewise, the benefits of registration and establishment of the Register of Lobbyists itself are not clear, that is, it is unclear what exactly registration in the Register brings (for example, registration in the European Transparency Register provides automatic access to information on planned changes to legislative activities). Therefore, we suggest to connect Register of Lobbyists to e-consultation in order to receive timely and in advance information about planned legal changes (not notifications about legal changes when they are already in public consultation process, but when consideration is being given to drafting legal changes), planned establishment of working group etc. We propose that lobbyists registered in the Register should also be given access to the sessions of the Croatian Parliament, as is the case in the European Parliament.

The issue of additional administrative burden on entrepreneurs arises as well. That is, what about private and legal entities that are registered in the European Transparency Register maintained by the European Commission? Do they have to be registered in the Croatian register once again or can they legally carry out their lobbying activities in Croatia?

### ***Reporting obligations***

Article 19 of the Draft Proposal of the Act stipulates:

“(1) The lobbyist shall file a report on lobbying in written form electronically on the prescribed form.”

AmCham believes that filing a written report on lobbying primarily must be, as in all developed world countries, **primarily an obligation of the lobbied persons**, not the lobbyists, in accordance with GRECO's recommendations.

We propose that the obligation to inform the public about meetings with organizations or self-employed persons cover public and civil servants, as is the practice in the European Transparency Register managed by the European Commission as well as obligatory introduction of public calendars of public and civil servants.

Although we advocate that the obligation to register in the Register of Lobbyists is introduced for all lobbyists, the question arises as to the meaning of the obligation and the content of reporting on lobbying activities by legal and natural persons who are not required to be registered in the Register of Lobbyists.

### *Unlawful lobbying activities*

AmCham believes that Article 8 of the Draft Proposal of the Act is too broadly defined and as such open to the discretionary assessment of competent authorities, where the interpretation of inaccuracy or incompleteness can refer to anything that was said or written, even in complete faith of that information. We believe that the focus should be on providing accurate and complete information on the client for whom the lobbyist works and the goal and purpose of lobbying. We recommend that the mentioned article be defined in much more detail and precision in order to avoid different interpretations, as in accordance with OECD guidelines.

## Conclusion

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Given the large number of ambiguities and unclarities that will lead to different interpretations, and due to the great importance of the Draft Proposal of the Lobbying Act, we suggest that **the Draft Act in this form be withdrawn from the public debate** and that a **working group** be re-established that will include all relevant stakeholders, including AmCham representatives and that such a joint draft proposal be submitted for a new public consultation procedure.

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