Dealing with the lobby at the European Commission: organisational reforms and individual views

By Andreea Năstase

ABSTRACT

In the last decade, in the context of growing popular discontent with the EU project, the European Commission has undertaken a series of administrative reforms meant to improve internal standards of conduct and to boost transparency. Regulating the interaction with the lobby represents a part of this effort. It came against accusations of blatant conflicts of interest and corporate capture due to “revolving door” situations, as well as juicy (and damaging) press scandals featuring officials treated to expensive gifts and free dinners in Brussels' top restaurants.

Taking a micro-level implementation perspective, this exploratory paper investigates how Commission officials frame and decide on their interaction with lobbyists, in the wake of the above reforms. Relying on 30 in-depth interviews with staff members (a maximum variation sample), findings suggest that, overall, officials evaluate similarly the boundaries of acceptable behaviour, as they prioritize their duty of loyalty to the Commission over keeping good working relations with external actors. They also display a high sensitivity regarding the ethical risks involved in this interaction. The implication for lobbyists is that exercising influence on the European decision-making process could become more laborious, despite the Commission’s heavy reliance on external policy expertise.

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INTRODUCTION

During the past decade, in the context of growing deterioration of the legitimacy of the EU, the European Commission has undergone wide-ranging administrative reforms. The so-called Kinnock reforms (2000-2004) represent the largest modernization effort in the history of the organization – to paraphrase Kassim (2008), an impossible mission, but one accomplished nonetheless. Continuing the change agenda, Commissioner Siim Kallas (2004-2009) launched the less extensive but well-publicized European Transparency Initiative (ETI), to which his successor, Maroš Šefčovič, has largely remained faithful. Throughout this series of interventions, improving standards of ethical conduct has been a constant concern. Regulating the interaction with private interests represents an important and hotly debated component in this effort.

To criticism regarding transparency and accountability in the relationship with lobbyists, the Commission has most visibly responded by introducing a registration system, supplemented by a code of conduct. Set up in 2008, in the framework of the ETI, the Register of Interest Representatives represented an acknowledgement, on the part of the Commission, of the need to open up and control the rapidly growing Brussels lobby scene. In their own words:

“Concerns have been voiced [...] about lobbying practices which are considered to go beyond legitimate representation of interests. This applies not only to practices which are clearly unlawful (fraud and corruption), but also to other improper lobbying mechanisms which abuse the EU institutions' policy of openness or are plainly misleading.” (Commission 2006a: 5)

Therefore, unlike earlier policy interventions, such as the Communication on the minimum standards for consultation of interested parties (2002), the Register is not simply tool for participatory democracy, but targets quite explicitly the probity of the exchanges between the Commission and the lobby. After a quick evolution, it was merged in 2011 with the European Parliament’s similar database under the name Transparency Register.

In parallel, the Commission has introduced measures aimed at the conduct of its own employees. In fact, since the disgraceful resignation of the Santer Commission in 1999, amidst accusations of fraud, mismanagement and nepotism, the organization has gradually built up an ethics management system, i.e.: a coherent array of policy instruments, structures and processes aimed specifically at stimulating integrity,

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1Both are accessible online at: [http://europa.eu/transparency-register/index_en.htm](http://europa.eu/transparency-register/index_en.htm). By registering, organizations implicitly adhere to the code of conduct.
and preventing and punishing transgressions\textsuperscript{2}. In doing so, the Commission has aligned itself with a “global movement towards the institutionalization and formalization of public service ethics” (Lewis and Gilman 2005: 331). A very important part in these changes was the amendment of the \textit{Staff Regulations} (SR) after 2000, whereby standards of expected behaviour were clearly laid down, and controls tightened. Not only were officials barred from dealing with any matter where they had “any personal interest such as to impair their independence” (Art. 11a), but also the declaration of interests (for them and their spouses) became mandatory. Engaging in any type of secondary work assignments (paid or not) outside one’ main employment (Art. 12(b)), receiving gifts, honours and hospitality (Art. 11), or publishing works related to the activity of the Communities (Art. 17a) are all subject to authorization. Additionally, post-employment restrictions entitle the Commission to forbid former employees to take up new positions which might conflict with “the legitimate interests of the institution” (Art. 16). The Kinnock reforms also strengthened organizational capacities for monitoring and punishing transgressions, by (among others) setting up the IDOC (the Commission’s internal disciplinary office) in 2002, providing a framework for whistleblower protection (SR, Art. 22a and 22b), and tightening financial controls.

Kinnock’s successor shifted the focus on improving internal communication and staff guidance in the area of professional ethics. In 2008 the \textit{Communication for Enhancing the Environment for Professional Ethics in the Commission} (the \textit{Ethics Communication}) was launched, with the stated objective to “consolidate and promote an ethical culture within the Commission” (Commission 2008: 3). This has lead to an explosion of ethics trainings, presentations, codes of conduct and so on, at both central and DG-level, all designed to signal the importance of ethics in organizational life\textsuperscript{3}.

The Commission’s pronounced preoccupation with public ethics – illustrated by the policy developments outlined above – can potentially impact on its relationship with private interests. Traditionally, the two are understood to be in a state of mutual dependence: private interests supply an understaffed and time-poor Commission with policy expertise, in exchange for access to the EU decision-making process (see, for instance, Mazey and Richardson 1993, Bouwen 2002, Chalmers 2012). The Commission is thus reputed for initiating and welcoming contact with a wide variety of interests, and for practicing open access as an “institutional ideology” (Mazey and Richardson 2006). However, with the probity of these exchanges

\textsuperscript{2} “Ethics management” is a term which gained traction as regulation in the area of workplace ethics has grown throughout the past two decades, in the public and private sectors alike. At its core lies the idea that was the idea that ethics can, and should be \textit{managed} “in the same breath and manner in which we talk about managing budgets, policies or people” Menzel (2001: 355).

\textsuperscript{3} These developments are covered in detail in Năstase 2012.
contested, the European executive may have become more selective about whom it consults with, and how.

In this light, it seems appropriate to re-examine the assumption of open access. The paper takes a step in this direction, by analyzing how Commission officials frame their interaction with lobbyists, and what they consider as acceptable (ethical) behaviour in this context. To be sure, the analysis proposed here is an exploratory one, based on document analysis and 30 semi-structured interviews. The aim is to determine whether officials’ views have been shaped by changes in the Commission’s policy (i.e.: regulation regarding lobbying activities, as well as internal ethical standards). The focus is on the administrative services of the Commission (more precisely, the lower hierarchical levels), because this group of employees has a central role in the early stages of the EU legislative process. And, as Bouwen (2009) explains, lobbyists are most active in this phase, when changes to policy proposals can be done relatively easily. The space for intervention narrows once documents move up through the Commission hierarchy and become more formalized.

The paper contributes to the small body of literature on ethics in the European Commission (Cini 2004, 2007, 2008, 2010, 2013, Dercks 2001, Hine and McMahon 2004, Giusta 2006, Năstase 2012), which deals entirely with policy responses. This piece offers an account of how Commission officials interpret an aspect of their work (i.e.: the interaction with lobbyists), which has proven particularly sensitive from an ethics viewpoint. In doing so, it illuminates the impact that (part of) the reforms have had within the Commission, thereby going beyond the existing research on the subject.

The inquiry proposed here has several limitations. Firstly, the research deals strictly with individuals’ views, and does not go further to make inferences about actual behaviour (although the text does cover what officials report they would do in certain situations). From this perspective, any conclusions about actual lobby access to the Commission are necessarily tentative. Secondly, the paper takes an empirical, not normative perspective. As such, it does not go as far as making value judgements regarding Commission officials’ views, but is limited to a mapping exercise. To be clear, it is beyond my purpose to determine whether those who work for the Commission are ethical or not – rather, I simply explore their interpretations of ethical behaviour. By extension, the paper does not make a diagnosis on the ethical health of the Commission overall, or on the effectiveness of its policies in improving this state.

The paper is structured as follows. The first section presents the analytical framework, while the second explains choices made in terms of research design and methodology. The rest of the paper is dedicated to the empirical analysis. The third section offers an overview of the messages which pervade the Commission’s internal communication regarding ethics, and puts them into perspective by considering the
historical and political conditions surrounding the introduction of ethics reforms. The following section gives an in-depth and nuanced account of the views that Commission officials hold regarding the “ethical” way to interact with lobbyists. The last part of the paper deals with the overlap between official messages regarding ethics, and the comments and positions expressed by employees on the subject. Conclusions will follow.

PUBLIC ETHICS AND ORGANIZATIONAL SOCIALIZATION

This section defines the core concepts and establishes the analytical framework within which the research questions will be addressed.

To begin with, ethics (or, more precisely, public ethics), which is the focus of this paper, refers to appropriate behaviour in public office. It is connected to the performance of public roles and duties, and as such does not refer to absolute, universal principles, but has a limited, situational character. It is best conceived as “role morality”, because it covers only a particular aspect (or role) in one's life (Rohr 1998). The term view is used here in a broad sense, to describe what individuals think about ethics. For the most part, it refers to judgements of acceptability regarding certain types of behaviour (i.e.: what is ethical and what is not), but it also covers related aspects, such as the justifications evoked in assessing acceptability, or opinions on the appropriate course of action. Finally, ethics management (or, alternatively, ethics policy) is “a systematic and conscious effort to promote organizational integrity” (Menzel 2005: 29). It is a regulatory exercise, representing purposeful action aimed at shaping individual conduct. Within an organization, ethics management is expressed through an “ethics infrastructure” – an umbrella term coined by the OECD (1996, 1998, 2009) which covers a range of institutional structures and procedures that, taken together, fulfil four complimentary functions: defining, guiding, monitoring and enforcing integrity.

The investigation builds on the premise that “ethical behaviour is learned behaviour” (Menzel 2007: 22) – meaning that individuals’ views towards ethics are not static, but can change and evolve over time – and, furthermore, that the organizational context is crucial to shaping this evolution. As members of an organization, individuals undergo a process of social learning by which they “come to appreciate the values, abilities, expected behaviours and social knowledge essential for assuming an organizational role and for participating as an organizational member” (Louis 1980: 229-30). To put it simply, this process of organizational socialization (OS) pertains to learning what it means, and what it takes, to be part of an organization. As a part of it, individuals also “learn” about the content and limits of ethical behaviour (including the appropriate way of dealing with lobbyists).
Put in those terms, the aim is to determine whether the Commission’s system of ethics management shapes the process of organizational socialization, more specifically whether it informs the formation (adjustment) of views regarding public ethics. It is helpful to think of this question in terms of the sources that feed individuals’ learning about their organizational roles. This framing is standard in the specialized OS literature (e.g.: Louis 1980, Ostroff and Kozlowski 1992, Miller and Jablin 1991, Morrison 1993, Chao et al. 1994). Broadly speaking, this body of research suggests that learning sources fall in two categories: formal ones (such as training programs, manuals, guides, designated coaches), and informal sources (peers and superiors in the immediate work circle) – see review by Cooper-Thomas and Anderson 2006. Therefore, the aim here is to analyze the Commission’s ethics policy as a (formal) learning source, more concretely to decode the messages which the organization sent internally, to its staff, regarding ethically acceptable behaviour.

This will be done by analysing official documents (e.g. the Staff Regulations), as well as internal materials intended for staff use (such as codes of conduct and administrative guides, training manuals, presentation leaflets), which were obtained in hardcopy during fieldwork in Brussels. Additionally, the historical and political circumstances of the reforms will be explored, not only because they have shaped in important ways the internal communication about ethics, and but also because they highlight the type of behaviour for which the Commission came under fire.

The influence of policy changes on individual officials’ views (or, in keeping with the terminology above, the organizational socialization outcome) is defined here by two elements. The first is homogeneity in individuals’ assessment of ethical questions. It is reasonable to assume that people do not enter the European Commission with quite the same notions about ethics, especially since they come from different backgrounds (in terms of nationality, work experience etc.). Therefore, the fact that staff members think in similar terms may be considered an effect of organizational socialization. Although the process of influence is definitely more complex, managerial elements do have a role to play – after all, one of the purposes of having an organizational ethics management system is precisely to get everybody on the same page about what is acceptable behaviour, and what is not. Still, homogeneity alone is not enough to indicate the impact of ethics policy on the work-floor. To better isolate these effects, I also look at the fit between official messages regarding ethics, and the comments and positions expressed by employees on the subject. If the specific concerns and framing which pervade the “formal” discourse are reflected in the officials’ ethical

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4 Although the focus of this literature is on newcomers, its theoretical insights have applicability for other organizational members as well, considering that role-related learning can occur outside the initial adaptation phase as well (although surely to a lesser degree), if there are organizational changes important enough to require a re-adjustment.
reasoning, this would more clearly indicate that they have learned about ethics (at least partially) from this source.

**RESEARCH DESIGN AND METHODOLOGY**

This paper uses a maximum variation sample of 30 officials, which reflects the heterogeneity of the staff in the European Commission services. As the name suggests, this type of sample is composed by deliberately selecting participants who represent “all the important dissimilar forms present in the larger population” (Weiss 2004: 23). Because it contains very different cases, a maximum variation sample permits generalization based on the logic that any common patterns which characterize a highly heterogeneous group would hold for the wider population as well (Patton 2002, Weiss 2004).

The criteria for selecting interview participants were: nationality, organizational position (within the Commission), professional background, and type of employment contract. (i.e.: different nationalities, professional backgrounds, organizational posts and types of employment contracts). All these aspects can make a difference in the process of organizational socialization, specifically with regard to the subject of ethics. Nationality matters because EU Member States are diverse in their political and administrative norms, and levels of (perceived) corruption. In fact, after the Santer resignation in 1999, there was widespread talk of a “clash of cultures” in Europe, between the “clean” North and the “corrupt” South (see Pujas and Rhodes 1999), with such divisions being documented inside the Commission as well (McDonald 1997, 2000). Therefore, insofar as they are bearers of their respective national cultures, officials’ understandings of what constitutes appropriate behaviour in public office may diverge. On the other hand, their organizational position is significant because not all DGs deal with equally sensitive issues, or, at the very least, they face different types of ethical challenges – for instance, DGs with a policy initiation focus are more exposed to lobbying, while those which are big spenders are vulnerable to irregularities and financial fraud.

Individuals’ professional background is also significant – those who join the Commission from a private-sector job may naturally have more familiarity in dealing with private interests, and/or a different tolerance of what passes as acceptable in order to get things done. After all, the private and public sectors operate on different logics, therefore what might be labelled as initiative in a business organization could well

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5 Sometimes called a maximum diversity sample, or a maximum heterogeneity sample (List 2004).

6 For instance, Transparency International’s Corruption Perception Index shows striking divergence between the 27 EU Member States. In 2012, the scores varied from 9.4 (Denmark and Finland) to 3.3. (Bulgaria), where 10 is “completely clean” and 0 “completely corrupt”.


constitute misconduct in a public bureaucracy (OECD 1996). Finally, officials’ the type of employment contract matters. While as a rule Commission employees enjoy tenure, an increasing number are on temporary contracts. This population, which lacks the security of a permanent position, may be more susceptible to pressures from politicians or powerful private interests, and espouse different standards regarding their loyalty to the Commission.

Concretely, in terms of nationality, the sample includes 19 staff members from the “old” EU-15 Member States (8 from Northern countries, and 11 from Southern ones), and as well as 11 officials from the “new” Member States. Most of the interviewees were permanent officials, with the exception of two temporary agents, and two seconded national experts. 10 people held managerial positions (Heads of Units or Deputy Heads of Units), while the rest occupied lower ranks in the staff hierarchy. A bit over half of the respondents (17) had previously worked in public administration, either at national or local levels, while 8 had a background in the private sector, 4 had been employed by other EU institutions, and 1 held an academic position before joining the Commission. Finally, in terms of organizational position, the recruited officials came from four DGs, which illustrate the core institutional functions of the Commission: the Directorate-General for the Internal Market and Services (policy initiation), the Directorate-General for Regional Policy (policy execution), the Directorate-General for the Environment, and the Directorate General for Competition (policy enforcement). Specifically, in each DG interviews were carried out with officials who belonged to the same administrative unit (i.e.: the smallest organizational component of the Commission, containing on average 20 members), or to units which were working closely together.

Furthermore, all participants had at least one year of work experience in the Commission (but in many cases significantly longer), which translates into a reasonably long period of exposure to the organization. Also, most of them have reported participating, at some point in their career, at a work event dedicated to ethics (usually either a specialized training, or a session in a more general-purpose training), and/or having used internal literature on the subject (be it an ethics guide/brochure, or the Intranet pages dedicated to ethics). All this means that their views about ethics are (at least partially) informed by their organizational

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7 The EU literature generally lists five or six functions of the Commission – e.g.: Nugent (2001) enumerates policy initiation, legislative functions, executive functions, legal guardianship, external representation, mediation and brokerage of interests, and mobilization of policy support. There is, however, significant overlap between those functions to justify the more crisp approach used here (for example, policy initiation implies a legislative exercise, as well as consensus-building, brokering between opposed interests etc.). Admittedly, the classification neglects the attributions of external representation, although there are reasons to consider them part of the Commission’s managerial/executive role (Cini 1996: 25).

8 The selected units fulfilled the function for which their DG was selected (i.e.: a policy initiation unit in DG MARKT, a policy execution unit in DG REGIO etc.).

9 OS research shows that socialization effects occur rather quickly after newcomers join the organization (approximately one month), and do not change much afterwards (Saks and Ashforth 1997).
experience in the Commission.

To be clear, the maximum variation sample described above illustrates, in a balanced way and within some pre-defined limits, the different characteristics of the staff who populates the Commission services. All this allows for findings to be extrapolated to other (significant) parts of the Commission, despite being drawn from a small sample of 30 interviewees. However, due to its size, this sample is not appropriate for isolating the influence of the variables described above.

Owing to the sensitivity of the research topic, all interviews were confidential. Participants’ names have been replaced with randomly assigned numbers, and, in some quotes, their nationality was obscured. Furthermore, the data is presented without indicating the DG affiliation, except for the few instances when this piece of information was considered relevant for the analysis.

All interviews had a semi-structured format and included a vignette (i.e.: a detailed hypothetical scenario), which displayed an ethically ambiguous situation. Specifically, while there was no outright transgression of the Commission's ethics regulations, the conduct of the central character in the scenario – “John” – was certainly disputable, with reasons to both criticize and justify it. Interviewees were asked to judge whether the behaviour described in the vignettes was ethically acceptable or not. The ambiguousness precluded a simple yes/no answer – instead, officials were prompted to engage in an evaluative exercise, through which their views towards ethics (particularly, the interaction with lobbyists) were revealed. The vignette technique was chosen because it minimizes social desirability bias and thus increases validity – namely, because respondents find commenting on fictional situations less threatening than answering direct questions about themselves, they are less likely to dissimulate their attitudes (Finch 1987; Renold 2002). Unsurprisingly, this has made vignettes particularly popular in empirical ethics research.

ETHICS IN INTERNAL COMMUNICATION IN THE EUROPEAN COMMISSION

Two central, inter-related features dominate the internal communication regarding ethics in the European Commission. Firstly, ethics is justified as a way of protecting the organization’s public image. The Ethics Communication stated, in its opening lines, that “meeting the highest standards of professional ethics is of

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10 The coverage of the legal framework was defined through my own analysis, and confirmed by several senior ethics experts in the Commission, whom I asked for input.

11 For instance, O’Fallon and Butterfield (2005) find in their review that scenarios are the most widely used method for probing ethical decision-making in the business ethics field. With regard to the administrative ethics literature, Frederickson and Walling (2001) argue that vignettes are often used in studies which take an experimental approach.
paramount importance with respect to the accomplishment of the Institution's tasks and its credibility and reputation” (Commission 2008: 1). The same point was conveyed in the various codes of conduct and internal ethics guidelines adopted at DG level. For instance, a brochure in the Secretariat General advises staff to “always bear in mind that you are the human face of the Commission, and make sure that your conduct is beyond reproach” (Commission 2010b: 5). Similarly, the manual for newcomers’ ethics training highlights that “high ethical standards and behaviour help to improve the reputation of the Commission and its staff”, and that “the diffusion of a good image stimulates higher ethical performance” (Commission 2006b: 5), and goes on to explain the internal and external controls to which the Commission is subject. The internal codes of conduct in DG COMP and DG MARKT add that the ethics rules are meant to protect Commission staff members from “malicious allegations or misrepresentations” (Commission 2010a: 1).

Secondly, official communication stressed the value of regulations in the area of ethics. Staff members were expected to be aware of them, and to demonstrate an attitude of prudence by asking when in doubt. Ethics codes in the Commission tend to be heavily prescriptive documents, which offer detailed explanations of ethics rules, practical advice on their interpretation, and hypothetical examples. For instance, the Code on Ethics and Integrity of DG COMP Staff is a 36-page long document (excluding annexes), where only two pages are dedicated to outlining general ethical principles. The Administrative guide on the conduct expected of Commission officials, introduced in 2003, with Commission-wide applicability, reads much along the same lines.

**Ethics scandals, scrutiny and political costs**

The twin messages of rule compliance and care for public image are closely related to the external context in which the Commission introduced and developed ethics management. More to the point, the emphasis on public reputation (and on sticking to the rules in order to protect it) is understandable given that the Commission engaged in ethics reforms after the full-blown crisis of the Santer resignation. Although the reports of the Committee of Independent Experts (CIE) did not contain evidence to confirm widespread misconduct and corruption, their strongly moralistic tone suggested otherwise (Cini 2004, 2007). Notoriously, the CIE had concluded that “it is becoming difficult to find anyone [in the European Commission] who has even the slightest sense of responsibility” (CIE 1999: 144). In this context, the Kinnock reforms represented, quite naturally, an endeavour meant to restore the public’s trust in the Commission, and to mend its crumbling legitimacy.
Several less damaging scandals which occurred in later years have also triggered policy responses, thus solidifying the initial framing of ethics as a cure for corruption (and for the public image problems which came with it). For instance, the 2003 Eurostat affair, which revolved around the manipulation of tender procedures and the siphoning off of funds by high-ranking employees of EU’s statistical office, massively fed the ethics reform agenda. Among others, the *Code of Conduct for Commissioners* was amended to clarify communication between the political and administrative echelons, and a “Public service ethics” unit was created in the Secretariat General to serve as a liaison point between the Commission, OLAF and IDOC. Another important controversy pertained to questionable career moves by some members of the Barroso I Commission, who were hired by companies in the industry fields over which they had regulatory authority during their mandates. To cite just one prominent example, Gunther Verheugen, the former Commissioner for industry, went on to secure executive positions with a number of banks and consultancy firms, and also established his own lobbying consultancy shortly after leaving the Commission (*EUObserver*, 31.08.10). The debate over this so-called “revolving doors” phenomenon eventually lead to the revision of the *Code of Conduct for Commissioners*, which extended the “cool-off” period (from 12 to 18 month)\(^\text{12}\), and tightened the rules on gifts accepted by Commissioners in office.

The overview presented above (by no means exhaustive) shows that ever since the Santer resignation the Commission has been operating in conditions of increased public scrutiny. Much of this is explained by the development of investigative journalism, and the emergence of anticorruption watchdog groups in the Brussels sphere. Very importantly, as the Commission became monitored more and more for its standards of conduct, the European Parliament grew eager to pick up and capitalize on its (apparent) ethical shortcomings. The Santer resignation represented a resounding victory for the Parliament, which demonstrated it could hold the Commission accountable in ways which had not been possible before (Cini 2007), and put the latter on the defensive. This trend was reinforced by the Eurostat affair, which occasioned numerous hearings of the Commissioners involved, in the course of 2003 and 2004, and swirling rumours regarding their resignation (although eventually this did not happen). Later on, the Parliament did not hesitate to use its leverage on budgetary matters to push the Commission on ethics. For instance, in 2010, in the midst of the “revolving doors” controversy, it threatened to withhold the transitional allowances paid out to Commissioners after their mandate ended (*European Voice*, 30.09.2010), while the following year it voted to freeze part of the budget for the European Commission’s expert groups.

\(^{12}\) In which time ex-Commissioners must obtain the Commission’s approval before taking new jobs, and are forbidden to lobby on matters for which they had been responsible in their portfolios.
until new rules were introduced to enhance transparency and avoid capture by special interests. This pattern of growing assertiveness meant that ethics was becoming a liability for the Commission, in its political confrontation with the Parliament.

In conclusion, the external pressures faced by the Commission explain much of its internal communication on the subject of ethics. Facing an environment where it was watched and punished for its ethical failures, the Commission emphasized the reputational aspects, thus sending a clear message, internally, as to what was at stake, when it came to ethics. The focus on “knowing the rules” makes sense given this framing. Simply put, rule awareness serves to standardize staff’s reactions and behaviour, so that, although one cannot guarantee that nothing will ever go wrong, the risks (of damaging the Commission’s public image) are minimized.

*Interacting with lobbyists*

In the Commission’s internal ethics literature, the interaction with lobbyists is flagged as a particularly “tricky” issue. Officials are advised to manifest circumspection and not handle these contacts on their own, but rather inform the hierarchy about forthcoming meetings, ask for instructions, and debrief on the outcome. Two issues are particularly stressed – what officials can communicate to lobbyists, and what they can legitimately receive from them (i.e.: gifts, honours, and other forms of hospitality) – which is understandable given that both type of decisions are mostly done on a case-by-case basis, and thus involve the exercise of significant individual discretion.

The vignette used in interviews presents a fairly common occurrence: a Commission official meeting with a lobbyist over lunch, receiving a report, and keeping communication as the legislative proposal develops further. Thus, the scenario features the two thorny issues mentioned above.

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14 For instance, invitations to meals, or to events where travel and accommodation costs are covered by the organizer.
**Stage 1**

John works in DG ___. He is currently heading a team tasked with writing the Impact Assessment for a future important directive. He meets over lunch with a lobbyist who represents a large labour union association, and who offers him a report containing much needed information for the Impact Assessment, which is due soon. The lobbyist tells John that he hopes to be kept informed of the developments made with the new directive proposal. John takes the report, thanks him for the information, and says he’ll “see what he can do”. The lobbyist insists to pay for lunch, and John accepts.

**Stage 2**

A week before the proposal reaches the College of Commissioners, the lobbyist gives John a telephone call, asking for updates. John explains that, at this stage, the document is not public. In response, the lobbyist insists and reminds John of their excellent collaboration so far. Knowing that the labour union is indeed a key stakeholder for his DG, John gives the lobbyist a general description of what the text looks like over the phone, but says he cannot help him further.

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Figure 1. Vignette “The Lobbyist”

In their communication with interest representatives, officials are bound by a duty of confidentiality which forbids the disclosure of information received in the line of duty “unless that information has already been made public or is accessible to the public” (Commission 2004: 10). This sounds more restrictive than it actually is, because no Commission document is excluded *a priori* from the public’s right of access, including documents which are not finalized, or intended for publication. Nonetheless, these legal aspects rarely have a clear-cut interpretation, such that oftentimes the decision to release information is highly sensitive to the circumstances of a specific case. On this point, internal guidelines tend to stress confidentiality over transparency, as officials are advised to be on alert about confidential or otherwise sensitive data. For instance, the DG MARKT ethics guidelines state: “remember that information that may seem of little relevance to you may be of value to others. It is therefore sensible to be discreet about your work at all times” (Commission 2010a: 11).

Quite similarly, in what regards gifts, the general line is to advocate precaution and the avoidance of unnecessary risks. Gifts and other equivalent forms of social courtesy can easily become contentious points if their value is too high, or the context in which they are offered is somehow improper. Commission regulations deal with this by imposing financial thresholds – gifts under 50 EUR (in any one year, from a single source) can be accepted without having to declare them, while anything in excess of this value but below 250 EUR can be accepted only with permission from the hierarchy. The general line in internal ethics guidelines is somewhat stricter, however, as officials are advised to decline all gifts apart from those of a

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symbolic value (such as diaries, calendars, small desk items etc.). Consultation and reporting are also often recommended. The decision to accept something should always be taken with precaution, by considering “whether the gift could compromise your autonomy” (Commission 2010a: 5), or whether “your behaviour is risking the Commission’s position” (Commission 2006b: 10).

**INDIVIDUAL VIEWS REGARDING THE INTERACTION WITH LOBBYISTS**

Findings unsurprisingly show that meeting with stakeholders and receiving policy-relevant information is virtually not called into question. Respondents view such contacts as useful, even necessary, and entirely part of their job. As one official aptly put it:

“[…] as an EU representative, you must interact with lobbyists, and you must interact with companies. I feel very strongly that people who are afraid of that have not understood their job. We’re not here to be afraid of outsiders.” (Official #18)

This being said, there is clear divergence in appreciating the way in which the meeting with the lobbyist proceeds, with positions split into two roughly equal camps: a “strict” one (14 officials), and a “flexible” one (16 officials). The central dividing issue here is the lobbyist picking up the bill for lunch – on this everybody commented, and it was oftentimes the first subject to be approached.
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**Table 1. Positions on meeting a lobbyist**

**Strict** officials point out that it is never justified to allow a lobbyist to cover the bill, as it entails serious risks for one’s independence and reputation. Accepting lunch is seen as compromising an official, or at least
putting him/her in an awkward situation. Although it is allowed, it is preferable to play it safe and avoid these circumstances altogether. One official explains his stance in the following terms:

“Commission officials’ salaries are big enough to be able to pay for lunch, or dinner, and a good bottle of wine or champagne. It’s not worth it, this bloody 30 EUR are not worth to get in trouble later. I like to sleep well.” (Official #14)

Along similar lines, another interviewee describes a prudent attitude in his interaction with lobbyists:

“Unfortunately, I’m on the list for some of these lobby firms, and so they sometimes phone me up and ask me to go for lunch, or ask me to go for coffee. […] And I tend to go to just that coffee place around the corner from here – so I don’t want there to be any doubt, oh, someone sees me and says: ‘he was seen speaking to Jacques the other day in the coffee bar and there is a problem’. I’ll always make sure it’s covered here, I don’t want there to be any sort of perception that they’re paying for lunch, or even coffees and stuff – I don’t like it.” (Official #2)

Some officials taking a strict position also point to the fact that the payment could be interpreted as a transaction of sorts, by which John remains indebted to the lobbyist (Officials #20, #2, #14, #26, #7, #11, #23). Moreover, others question whether a lunch meeting is a proper format for interacting with stakeholders (Officials #12, #20, #24, #2, #6, #18, #26, #30, #7).

On the other hand, flexible respondents argue that, in itself, the lunch is not a problem. It is a form of professional interaction, which can be practiced so long as the official makes it clear that it does not imply any preferential treatment:

“It always depends on what message you send, whether the lobbyist can really have hopes that, if he paid for lunch, he’s going to get something or not. Otherwise it’s not a big deal […] You could consider it kind of a business [meeting], and it’s OK as long as you’re clear on where you stand.” (Official #10)

There are even some who find ludicrous the notion that the lunch could “buy” the lobbyist special attention:

“[H]ere it would be ridiculous to refuse, some of my colleagues do, but personally I would not do it […] I know that it will not influence afterwards in any way what I’m saying.” (Official #34)

Overall, the payment for lunch may be acceptable if it is done on the basis of reciprocity (Officials #1, #28, #27), if the partner is well-known and trusted (Officials #1, #28, #27), and if the lunch is not overly expensive (Officials #1, #38, #19). From a “flexible” perspective, the entire issue is considered as a form of courtesy, with a cultural undertone:

“This is really a cultural issue, and people would be shocked by an invitation to a pizzeria, whereas I find it of a symbolic nature. Of course, you do not accept invitations to a 3 star Michelin restaurant, to meet somebody you do not know. But it happens. What I always say is that if somebody wants to invite me, sometimes if I know the guy sufficiently, I pay, so he can invite me the next time, and there is no … nobody
The second stage of the story was specified in very general terms, and thus did not support respondents to directly judge the situation presented. In other words, the answer was often “it depends”, reflecting the point frequently made in the interviews that disclosing information to external parties is done on a case-by-case assessment. As one official explained:

“This is not something you can learn in a book, when to give and when not […] because it depends on the information, and it also depends on the person. It's certainly one of the most difficult things.” (Official #1)

The purpose, therefore, was not so much to capture how positively or negatively officials appreciate the disclosure of information to the outside world, but rather to spark a discussion on the conditions under which they would (not) do it, and the aspects considered when making this call. Table 4 below provides an overview of the issues mentioned in officials’ responses:
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Table 2. Positions on the disclosure of information
Overall, officials proved to be open for communication, unless the information in question is “confidential”, “sensitive”, “political”, or otherwise contentious. More often than not, what this meant was that giving a “general description of the text” is fine so long as it contains only information which is already public, or well-known from previous consultations. Of course, many realize that this would not carry too much value for the stakeholder:

“You don’t say what exactly was decided, but you say that a number of options were considered, and it’s OK. Usually, these things don’t come out of the blue – they have been discussed in various forums, so people really know. For me, it would be more of a window-dressing exercise, where you just take five minutes to speak to this stakeholder, to have a general talk with him, without revealing anything – that’s perfectly fine.” (Official #10)

While there were officials in all four DGs who were willing to go beyond this minimum threshold, overall they were a minority. Just to illustrate this other trend, this is how one interviewee justifies his choice for a more forthcoming approach:

“When you’re dealing with stakeholders, be they NGOs, or business groups, or whatever, if you want to have a functional relationship, you cannot act like it’s fixed when they turn up and say: ‘here, we give you all the information, Commission, what do you think?’ – ‘We think nothing’. Many of my colleagues would say: ‘no, no, don’t say anything!’... For me, that is dysfunctional. You can very often say something without violating any specific secrets, without giving anybody any tool to take you to court or anything else. That’s an ad-hoc judgement.” (Official #18)

If it could jeopardize the internal decision-making process of the Commission, officials are exceedingly cautious about transmitting (any) information to external actors. This was the argument most frequently mentioned in discussing the story, and it speaks of an overall preference for loyalty to the employer over transparency. Of course, the argument does take on different meanings in different parts of the Commission. In DG MARKT it shows an appreciation for the hard negotiation work behind legislative proposals, and for the fragility of the compromise reached – which officials feel obliged to shield from last-minute pressures. This is how an official in DG MARKT describes her own portfolio:

“In that particular field, I probably wouldn’t say anything, because it’s so sensitive and with everything you say you are likely to cause a last-minute thunderstorm, which risks messing up the decision taken in the College, because you have people running to the cabinets, so it’s in your own interest to shut up. But if you have things that are less sensitive, less contentious, then, yes, I say: ‘these are the subjects, and this is kind of the direction we are going in’.” (Official #7)

In DG COMP, on the other hand, the stress on prudence and confidentiality is directly related to the rigours of interacting within a litigation framework, with legal professionals:
“There’s a difference between a legislative proposal and a [case] decision. If you are in a competition framework, I don’t think I, or my colleagues, would have a one-to-one meeting with a party, be it a complainant, or a party investigated, because it’s far too tricky, in the sense that people can later on say: Mrs. X said so-and-so, or Mr. Y said so-and-so, and that can be very dangerous for the case, or even for the appeal against the case.” (Official #32)

By comparison, the number of officials who discussed the need to keep good working relations with stakeholders is rather low. This is interesting, because everybody agreed that receiving information from the outside is a legitimate and necessary process – but one which, apparently, does not entail any obligation to (try to) reciprocate, or at least not to the same extent. In fact, sometimes a lobbyist becomes someone to be “resisted”:

“Resisting to lobbyists is sometimes the best way to protect ourselves, and if they are too intrusive, I can be rude, and I’ve already been rude in some instances, because, as I said, there are files where you can say things, and others where you can’t.” (Official #1)

In DG COMP in particular, officials seem to be less concerned (compared to those in other DGs) about entraining a balanced two-way dialogue with outside actors. Much of this reservation is due to the specificity of the work environment, i.e.: the high volume of market-sensitive, confidential information which case handlers deal with on a daily basis, and the tighter regulatory framework that comes with it. It is illustrative how one official who had previously worked in DG MARKT described the enhanced rigours of her new position in DG COMP:

“[DG COMP] is very rules-based, very procedural, where for every single step you have a procedure, and if you don’t follow it, you are sure that the lawyers will be on your back – for sure. So, of course, you have to be more reserved, and somehow more cautious. Not that you don’t have to be cautious when you’re making policy, but there the framework within which you’re operating is much looser. You meet with people, and it’s not like they will come back and say: ‘my rights of defence were violated’. ” (Official #10)

DG COMP is also “the DG with the power” (Official #27), and officials are well aware that this puts the Commission in the driving seat:

“The truth is that a good working relationship is always there, because the lobbyist lives off what trickles down from the Commission. He will never walk away. And if he walks away because I’m very strict with the rules, then so be it. If it’s not this lobbyist providing me with the information, there would be another one, because there is always somebody having an interest that their info gets passed onto us.” (Official #8)

The situation is different in other parts of the Commission, where policy initiation and policy execution functions puts DGs much more in the broader EU institutional framework, in the web of interests around them, and therefore in a position where the need to exchange information, negotiate and compromise is more evident. From this perspective, it is interesting to note that DG MARKT appears almost as the
opposite of DG COMP, because here lobbyists and other interest representatives are natural partners (in a way they are not for the others), and the regular contact creates long-standing relationships, and possibly more space for trust:

“Our main stakeholders are industry associations. These are the people that are very often consulted, and very much listened to, we have numerous meetings, all the time, and if there is something new, with always consult with them, and we always see what their thinking is.” (Official #27)

This being said, DG MARKT officials also explained that they expect lobbyists not to “push it”. In fact, knowing when to stop is described as a valued quality, one which experienced Brussels lobbyists do have:

“[I]n my experience there are those who really understand how this works, and who never push it. They don’t take it as an exercise of forceful pushing, and trying to get something out of you, they just take it as an opportunity to explain their position, make sure you understand it, and that’s where they draw the line.” (Official #10)

OFFICIAL COMMUNICATION AND VIEWS FROM THE WORK-FLOOR

The previous section has shown that the Commission’s internal communication on ethics revolved around two messages: one of compliance (or, more specifically, rule awareness), and another of care towards the organization’s public image. This section explores how these messages are reflected in the way officials think about their interaction with interest representatives, and public ethics more generally.

To being with, it is significant that a little over half of the interviewees mentioned rules on accepting gifts and such from external parties – in most cases, this was the 50 EUR threshold. Furthermore, many have explicitly mentioned that they would consider whether the information they release to external actors is already in the public domain – which is exactly what Art. 17 SR stipulates. The important point here is not so much the demonstrated familiarity with rules, but the fact that these references were not prompted by the interviewer. In these conditions, their appearance means that rules genuinely enter the officials’ reasoning around an ethically ambiguous situation.

Furthermore, the analysis has demonstrated that officials share a pronounced sense of loyalty towards the Commission, mostly visible in their guarded approach towards communicating with stakeholders. The most important consideration in the decision to release information is the potential impact it can have on the decision-making process and on the Commission’s position more generally. This is in line with the emphasis, in internal ethics guidance, on protecting the institution’s public image and reputation. Being mindful about these aspects is fuelled by an understanding of the high level of public exposure and scrutiny
to which the Commission is subject:

“The Commission is watched from all sides in Europe, and [...] if anything comes out of the Commission, in a way it is carved in stone. That is why decision-making needs to be carefully prepared, and that is also why the people working at the Commission need to be extremely aware that what they say is not just taken for granted as their private opinion.” (Official #32)

Beyond this common line, the vignette has revealed significant divergence in what regards the formal aspects of interacting with interest representatives. Two types of discourses were identified: a strict and a flexible one. In the first one, ethics is portrayed in absolute, categorical terms, while with the second there is more emphasis on the value of finding the middle ground. Essentially, what drives the strict/flexible split is a difference in officials’ orientation towards compromise, when faced with conflicting public values, and, beyond that, different preferences for handling risk. The “strict” discourse can be interpreted as a risk-adverse one, because in this optic avoiding compromises is the way to be “ethical”. Thus, because allowing a lobbyist to cover the lunch bill carries the (perceived) risk of compromising the official’s position, it is best to avoid such circumstances altogether. The “flexible” discourse is not necessarily risk-loving – rather, here being “ethical” is not threatened by accommodating different values and imperatives. Consequently, officials taking this position dismiss the fact that in itself, the paid lunch is a risk – for them, it is not a problem as long as the right message is being sent.

The divergence explored above indicates that, within the Commission, there is a certain space of individual autonomy for officials, which allows them to appreciate differently details and nuances of an ethical quandary. The type of sample used here makes it difficult to determine in a systematic way which factors are behind these (second-order) differences. What is important, however, is not so much the existence of the divergence itself, but rather its subject – namely, that officials disagree about (certain aspects of) risk. This means that, overall, being ethical has a lot to do with saying safe – even though individual preferences vary on where and how to draw the line. The centrality of risk proves that, on the Commission work-floor, ethics is framed in line with a compliance-based logic, where ethical behaviour is largely equated with staying out of trouble. And this, in turn, is a reflection of organizational communication, which focused on avoiding mistakes (by paying attention to rules, and for the sake of the Commission’s institutional reputation).
CONCLUSION

This paper has sought to determine whether the Commission’s preoccupation with public ethics (manifest in a number of policy changes) has influenced its employees’ views towards the subject, and in particular regarding the relationship with private interests. This influence was conceptualized in terms of organizational socialization, i.e.: a process of social learning through which an individual comes to appreciate the knowledge, values and expected behaviours associated to an organizational role. In this perspective, ethics becomes something that – like other parts of the (public) role/job – can be learnt. An organization’s ethics policy is one of several sources which can be used in this endeavour. Framing policy as a “learning source” meant, for the purposes of this research, to examine the Commission’s ethics infrastructure so as to uncover the messages sent to organizational members. The inquiry revealed two central, inter-related messages – rule awareness and care for the Commission’s public image. Namely, ethics was justified to officials as a means of keeping a good institutional reputation – which meant that they, as representatives of the Commission, were expected to conduct themselves beyond reproach. The best way to do that was to exercise an attitude of prudence towards ethics questions and, importantly, to be aware of the Commission’s regulations in this area, and to stick to them.

Based on material drawn from 30 in-depth interviews (a maximum variation sample), the paper demonstrated that Commission officials share a consensus in their thinking about ethics, which is structured around a pronounced sense of loyalty to their “House”. Specifically in what regards the relationship with lobbyists, this is expressed as a guarded approach towards communicating information about decisions which are still in internal cooking. The convergence is significant given the heterogeneous nature of the sample (in terms of nationality, professional background, organizational position and tenure). To the extent that it has emerged within the organization, it is certainly the product of a more complex process of influence, but one in which the Commission’s ethics policy has had a role to play. The concerns and advice expressed by the “official” discourse were reflected in individuals’ comments around the vignette, most visibly by demonstrating knowledge of the relevant regulations. But perhaps more importantly, it seems the central element which structures their ethical reasoning is risk. Even though individual preferences may vary on where to draw the line, the fact that the terms of the discussion are set in this way is a reflection of the organizational communication, and of the way ethics policy has been initiated and evolved in the European Commission.

All this can affect the relationship with the lobby, a topic which is clearly flagged as ethically sensitive to employees. Access as such may not be an issue – as the interviews have shown, meeting with interest
representatives is seen not only as legitimate, but also as an obligation. However, officials prove exceedingly careful about what they communicate, and, to some extent, about how they meet with interest representatives. Ultimately, this enhanced sensitivity may mean, for lobbyists, that exercising influence on the European decision-making process could become more laborious, despite the Commission’s heavy reliance on their policy expertise.
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