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EVCA's Response to the European Commission's Green Paper on the European Transparency Initiative

The European Private Equity and Venture Capital Association (EVCA)¹ welcomes the overall, broad objectives and orientation of the Green Paper on the European Transparency Initiative (COM (2006) 194), specifically at reinforcing high standards of lobbying in Brussels, on the grounds that the Commission states it; "needs greater transparency and stronger accountability towards the public...to maintain the legitimacy of European decision-making".

Although this Paper aims to cover different topics, namely:

- "The need for a more structured framework for the activities of interest representatives (lobbyists²)";
- "Feedback on the Commission's minimum standards for consultation"; and
- "Mandatory disclosure of information about the beneficiaries of EU funds under shared management";

EVCA's focus, as an independent professional association³, is on the first two sections.

EVCA fully supports the commitment of the Commission to further develop existing standards which must apply when lobby groups seek to contribute to EU policy development: well-designed registration and the application of a code of conduct. These concepts are in line with EVCA's own internal policies and industry standards which it implements to ensure its members (industry practitioners) share best practices and spread understanding of the need for common ethics and transparency. The Commission's approach therefore seems to be appropriate for creating a level playing field for lobby activities across Europe, and in facilitating best practices.

Before answering to this consultation, EVCA would like to draw the attention of the Commission to two preliminary points: the scope of the consultation and the meaning of the term "transparency".

As framed within the Green Paper's "Definitions and Framework" (Chapter II.1), "lobbying" means; "all activities ["regardless of whether it is carried out by individual citizens or companies, civil society organisations and other interest groups or firms working on behalf of third parties (public affairs professionals, think-tanks and lawyers)" (Chapter II.1.1)]

¹ The European Private Equity and Venture Capital Association, established in 1983 and based in Brussels, promotes, facilitates and represents the needs and interests of the private equity and venture capital industry in Europe and promotes the asset class both within Europe and throughout the world. EVCA has over 925 members in 50 countries, including the leading fund managers in the European private equity and venture capital industry. EVCA's role includes representing the interests of the industry to regulators and standard setters; developing professional standards; providing industry research; professional development and forums, (www.evca.com)

² As defined within the Green Paper (see below).

³ EVCA Annual Report 2005: http://www.evca.com/images/attachments/tmpl_9_art_81_att_961.pdf

carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions”.

This definition could end up by encompassing every individual citizen or company defending or presenting a certain position, even outside the context of a specific Commission consultation. To that extent, it seems necessary to limit the real scope of the current Green Paper and thus of “lobbying” to activities carried out by organisations per se and specific individuals in the context of EU “policy” dialogue, and disregard “civil” dialogue (such as, for example, contacts with the media).

In terms of greater efforts to improve transparency, EVCA, as many organisations most likely will, supports the open nature of actions and relations towards policymakers which are aimed at improving the decision-making process. However, a clear distinction has to be made between the terms **transparency** – providing information about the lobbyists and the organisations they are representing – and **disclosure** of information regarding on-going discussions due to the inherent processes involved in lobbying and the nature of the topics involved:

- EVCA welcomes the Commission’s assessment that “Lobbying is a legitimate part of the democratic system” (Chapter II.1.1), and is supportive of the public disclosure of the opening and closing of consultation processes, clear representation of organisations or persons responding to or participating in those consultations and the publication of final responses, and related public hearings to facilitate wider debate and dialogue.
- However, it does not support any proposal, which may appear in relation to the future development of the Commission’s work in this area, that relates to intermediary processes involving the Commission such as the ongoing, or non-finalised discussions of a working group. Disclosing tools and processes, positions or arguments which do not go beyond the legitimate representation of interests when lobbying the European Commission, could end up distorting well-balanced, evidenced-based representation of interests.

In your view, has the Commission applied the general principles and minimum standards for consultation in a satisfactory manner? You may refer to the individual standards (provided, for ease of reference, in Annex 2).

Please give reasons for your reply and, where appropriate, provide examples.

EVCA's experience of EU Commission consultations is highly satisfactory. According to the "general principles and minimum standards" as presented in Annex 2 of this Green Paper, participation, effectiveness and coherence of the Commission's consultations' process are efficient and consistent.

As a corporate sector representative (private investments in non-listed companies), EVCA has always managed its relationship with EU Officials and all policymakers and regulators in such a way that trust and fairness on both sides have paved the way to large improvements for the industry itself and the sake of "Enterprise Europe" as a beneficiary of financing tools. Evolving in a democratic world, lobbyists from the corporate sector are respected partners in dialogue and should not be barred from having access to decision makers and promoting economic actions which, for the vast majority, benefit to all European citizens.

The recent example of the setting up and completion of the Commission-led Industry Expert Group on Alternative Investment Funds (subgroup on private equity funds) clearly demonstrates that, when correctly implemented and addressed, principles for consultation fill in their function.

The five standards, as explained in Annex 2, were precisely followed, from the composition of the group to the communication of the objectives. Time limitations were respected and the final outcome was made publicly available as a Report, officially commented and evaluated in an Open Hearing in Brussels after being published in due time on the internet.

However, there is room for improvement in terms of bringing impact assessment more to the fore and feedback to consultation respondents. The Commission should take the necessary time to produce high-quality impact assessments in consultation with the relevant stakeholders.

EVCA remains at the disposal of the Commission and other stakeholders for further discussion on the issues noted above, and can be contacted via the address below:

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