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Attn: Aman Johal (aman.johal@oecd.org)

Subject: Comments on the Draft Guidance on Responsible Corporate Lobbying and Political Engagement

Dear Ms Bertrand,

On behalf of Transparency International, we are pleased to submit our feedback to the draft Guidance on Responsible Corporate Lobbying and Political Engagement.

We organise our suggestions on five separate themes, namely: i) corporate political donations; ii) impact assessments; iii) undue influence risks arising from job transitions; iv) lobbying, and v) disclosure of misalignments of actions taken by trade associations.

1. Improved guidance against political donations resulting in undue influence

We welcome recommendations on board oversight for political donations and their disclosure. However, the draft lacks ambitious guidance to avoid donations being construed as illegal inducements or creating quid pro quo risks. The guidance should recommend refraining from making donations, or at least assessing their material impacts, when made contemporaneously with public procurement, permits and concessions bids, or to the same officials targeted by their lobbying.

Two thirds of OECD members already ban donations from government contractors, according to the International IDEA Political Finance Database. The Venice Commission's Guidelines on Political Party Regulation, and the Council of Europe's Recommendation Rec(2003) 4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns recommend restrictions to that end.

Moreover, the public can justifiably construe donations from companies to the public officials targeted by their lobbying as illegal inducements, and the overall engagement as influence peddling. The latter is often subject to criminal liability. The guidance should advise to at least assess the impact of these contributions or recommend refraining from making them altogether.

Lastly, we suggest removing the term “in-kind” from 4.2.3, so that all unaccounted contributions are covered by this recommendation.

2. Impact assessments of the implementation of political engagement policies

We reiterate the importance of impact assessments as the basis for the development and update of corporate policies. The guidance should require conducting *impact* assessments of the implementation of companies’ responsible political lobbying and political engagement policies, in addition to “reviews” (2.4) and “audits” **(**2.4.2) respectively. The public disclosure of “impact assessments” should be explicitly requested in 3.2.3.

Further, we welcome that guideline 3.1 now more explicitly asks for disclosures to be subject to a materiality assessment in line with internationally recognised frameworks. To emphasise that potential misalignment with environmental and social sustainability goals are inherently material considerations, the guidance could benefit from introducing a double materiality perspective. This would help companies to mitigate risks of misrepresentations, as well as fostering a more comprehensive understanding of the company's role within the broader sustainability landscape.

3. Addressing conflicts of interests arising from transitions to and from government roles

We welcome updates regarding conflicts of interests arising from movements between private and public sector (4.4), and participation in government delegations to intergovernmental fora (4.5). The latter particularly improves guidance for companies’ participation in the implementation of international conventions, particularly the United Nations Framework Convention on Climate Change.

Section 4.4 could be improved by:

- Explicitly acknowledging “undue influence” as the risk to be managed in these transitions;
- More explicitly including into guideline 4.4.3 that measures *should* include multi-year cooling-off periods or blanket prohibitions from working on any matters of material interest and substantially similar to those on which the individual worked in their government capacity; and
- Correcting the contradiction in 4.4.4 by extending the ban on the participation in boards to all public officials, as board membership would represent a permanent conflict of interest for non-elected officials that cannot be solved by an ad hoc recusal.

4. Room for improving provisions on companies' lobbying disclosure

We welcome that corporate political engagement disclosures are now set to the higher standard of the revised OECD Recommendation on Transparency and Integrity in Lobbying and Influence. Yet, we strongly suggest removing the exemption from disclosure in jurisdictions where the information "is already reported" (3.1.3) though. As years of experience with national regulations show, disclosure systems aren't always mandatory, properly implemented, or result in untimely data publication whose quality lacks high value. Our assessment is supported by the 2021 Global Data Barometer survey, which found that across 27 OECD members, just some lobbying data was available online in 15 countries. In most cases, that data lacked high-value information, such as lobbyists' goals, topics of their interactions, or money spent by lobbyists, and was not timely updated. Further, where available, lobbying data was hard to use.

Disclosures on companies' websites aid scrutiny and provide an incentive for governments to do better. As Lithuania introduced "cross-reporting" 2021, lobbyists declare 2.5 times more often than the officials targeted by their lobbying.

5. Disclosure of material misalignments with actions taken by trade associations

We welcome requirements for annual disclosure of memberships in business and trade associations with political engagement in areas material to the company (4.6.1) and to establish a "specific strategy when misalignments" are identified. (4.6.2). We recommend that there should also be a requirement to publicly disclose such misalignments as well as the actions planned or taken to address them, as previous draft versions included.

If left unaddressed, the omission would introduce a significant level of opacity regarding to companies' political engagement undertaken through trade associations.

We commend you on the progress made in developing the Guidance on Responsible Corporate Lobbying and Political Engagement, your consultative approach in doing so, and look forward to seeing these contributions integrated into its final version.

Yours sincerely,

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