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**Amendment proposed by the CCBE  
to the REPORT on the development of the framework for  
the activities of interest representatives (lobbyists) in  
the European institutions (2007/2115(INI))**

**Committee on Constitutional Affairs - Rapporteur: Alexander  
Stubb**

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**AMENDMENT PROPOSED BY THE CCBE**  
**TO THE REPORT ON THE DEVELOPMENT OF THE FRAMEWORK FOR THE ACTIVITIES OF**  
**INTEREST REPRESENTATIVES (LOBBYISTS) IN THE EUROPEAN INSTITUTIONS**  
**(2007/2115(INI))**

**COMMITTEE ON CONSTITUTIONAL AFFAIRS - RAPPORTEUR: ALEXANDER STUBB**

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European lawyers, represented by the Council of Bars and Law Societies of Europe (CCBE), regret that confidentiality, which is a fundamental part of the rule of law and supported by the European Convention on Human Rights, has been undermined as a result of an oral amendment to the draft report. This oral amendment has led to the inclusion of the giving of legal advice under the definition of lobbying.

Legal advice entails the giving of an analysis to a client on legal substance or procedure. It is wrong, therefore, to include the giving of legal advice within disclosure obligations regarding the influencing of future policy or legislation. In addition, it may discourage people or companies from seeking legal advice, and so weaken their right to defence. Undermining the administration of justice cannot be the aim of an otherwise positive move to increase transparency in lobbying.

Therefore, the CCBE urges the European Parliament to exclude legal advice from the definition of lobbying. Pursuant to the principles from the European Court of Justice ruling on 26 June 2007<sup>1</sup> and in reference to fundamental rights and general principles of Community law, the Belgian constitutional court, in its ruling of 23 January 2008 said: “the information known by the lawyer during the practice of essential activities of its profession, (...), i.e. the assistance and defence of a client before the courts, and legal advice cannot be brought to the attention of the authorities”. Therefore, the CCBE proposes the following wording:

*10. Emphasises that all actors, including both public and private interest representatives, outside the EU institutions falling within that definition and regularly influencing the institutions should be considered lobbyists and treated in the same way: professional lobbyists, companies' in-house lobbyists, NGOs, think-tanks, trade associations, trade unions and employers' organisations, profit-making and non-profit organisations and lawyers when their purpose is to influence policy rather than case-law; stresses also, however, that regions and municipalities of the Member States, as well as political parties at national and European level and those bodies which have legal status under the Treaties do not fall within the scope of these rules when they are acting in accordance with the role, and carrying out the tasks of such bodies, as provided for in the Treaties;*

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<sup>1</sup> Judgment of the Court (Grand Chamber) of 26 June 2007 reference for a preliminary ruling from the Cour constitutionnelle (formerly Cour d'arbitrage) (Belgium) — Ordre des barreaux francophones and germanophone, Ordre français des avocats du barreau de Bruxelles, Ordre des barreaux flamands, Ordre néerlandais des avocats du barreau de Bruxelles v Conseil des Ministres (Case C-305/05) (1) (*Directive 91/308/EEC — Prevention of the use of the financial system for the purpose of money laundering — Obligation on lawyers to inform the competent authorities of any fact which might be an indication of money laundering — Right to a fair trial — Professional secrecy and the independence of lawyers*), [OJ C 199 of 25.08.2007, p.6](#) (2007/C 199/08)