



Joint Transparency Register
Secretariat



Brussels,

Ms Myriam Douo

Friends of the Earth Europe (FOEE)

Sent only by email to:

myriam.douo@foeeurope.org

Ref.: TR-C-2019-86

Dear Ms Douo,

I refer to your complaint submitted on 3 April 2019 (TR-C-2019-86) on behalf of the organisation Friends of the Earth Europe to the Joint Transparency Register Secretariat (JTRS) regarding the organisation FTI Consulting (registered in the Transparency Register under ID number 29896393398-67), alleging that it has breached points b), f) and g) of the Transparency Register Code of Conduct.¹

We hereby wish to inform you of the conclusion reached by JTRS following an exchange of letters with FTI Consulting.

As regards the alleged breach of **points f) and g)**, the JTRS recalls that it did not consider the complaint admissible on these grounds. However, the JTRS recalls that it found the complaint admissible on the grounds of alleged violation of **point b)**² of the Transparency Register Code of Conduct.

¹http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=CODE_OF_CONDUCT

² *'In their relations with EU institutions and their Members, officials and other staff, interest representatives shall: [...]*

b) not obtain or try to obtain information or decisions dishonestly or by use of undue pressure or inappropriate behaviour;'

You were also informed by letter of 21 June 2019 that the JTRS saw enough reasons to examine the propriety of trying to influence a politician's decision whether or not to accept a meeting invitation by highlighting an intention to grant a monetary donation to a third party.

The JTRS has made the following points in reaction to statements made by FTI Consulting:

- i) Regarding a statement made by FTI Consulting that out of 201 potential respondents approached in respect of the perception audit, including MEPs and NGOs, only Xavier Benito Ziluaga MEP had concerns that the Code of Conduct may have been breached, the JTRS reacted, that it was not in a position to verify who the approached '201 potential respondents' in respect of the perception audit were as it has not seen this list. Furthermore, it pointed out that the fact that only one MEP respondent submitted a complaint to the JTRS does not necessarily mean that other individuals did not have any concerns that the Transparency Register Code of Conduct may have been breached, even if they did not submit formal complaints.
- ii) The JTRS made it clear to FTI Consulting that it did not in any way question the practice of perception audits or the practice of granting charitable donations. However, the JTRS did not see why an invitation sent to a given person, much less an MEP or an EU official, to contribute to a perception audit needs to be linked with making a charitable donation to a third party. Charitable actions to finance noble causes, in the opinion of the JTRS, should be stand-alone activities, completely independent from an organisation's Public Affairs agenda towards the EU institutions. The intention to make such a donation, in the view of the JTRS, does not need to be mentioned when approaching politicians about their opinions as the charitable act has nothing to do with the subject of the sought meeting.
- iii) Furthermore, in reply to FTI Consulting's claims, the JTRS noted that it was not in a position to verify whether 'offering a modest charitable donation in this way' is 'commonplace' among professional consultancies and even if such practices were widespread, it did not automatically follow that they were consistent with the principles enshrined in the Transparency Register Code of Conduct. The JTRS also noted that FTI did not provide any concrete names or evidence in relation to the mere statement that 'it was MEPs themselves who originally suggested the granting of charitable donations'.
- iv) The JTRS did not share FTI Consulting's view that this perception audit falls outside the scope of activities covered by the Transparency Register. In the understanding of the JTRS, such an audit conducted with a selected sample of stakeholders constitutes a well-conceived investment and is typically ordered by a client with the underlying objective to support its wider Public Affairs strategy. Therefore, for the purposes the Transparency Register, such an audit should be conceived as a 'capacity-building tool' and, at the very least, be considered an 'indirect' influencing activity which should be duly recognised and accounted for in an organisation's registration (under the Financial data heading).

- v) The JTRS made it clear to FTI Consulting that the very fact that an MEP felt compelled to file a complaint to the JTRS demonstrates that he clearly felt uncomfortable about the link between his acceptance of the meeting with FTI Consulting and the granting of the charitable donation by Eurogas that was being highlighted in the email sent to him. The JTRS also stressed that despite FTI's statements that it did not seek to exert any pressure and that it had not behaved inappropriately, the circumstances around this case were evidently perceived differently by the MEP.
- vi) As regards the most important the matter at hand, the JTRS in its letter to FTI Consulting stated that it had never been confronted with the practice of offering donations to third parties when contacting representatives of the EU institutions. Therefore, so far, it has not had the opportunity to provide relevant advice either directly to professional consultancies and their clients or via other means such as the Implementing Guidelines. In this respect, and taking into account the extensive explanations provided by FTI, the JTRS has reached the conclusion **that there has been no intentional non-compliance with point b) of the Code of Conduct** by FTI in the meaning of paragraph 33 of the Interinstitutional Agreement on the Transparency Register³.
- vii) The JTRS underlined its position that the gesture of offering a charitable contribution in recognition of the time granted by an interviewee – who is an MEP, a European Commissioner or an EU official – is problematic from an ethical and from a perception point of view. As such, it is the appreciation of the JTRS, that this practice is not in line with the spirit of the Transparency Register Code of Conduct and the norms of behaviour it seeks to establish regarding interactions with representatives of the EU institutions.

Taking into account these considerations, the JTRS issued a recommendation to FTI Consulting to cease partaking in such practices whether they are conducted by professional consultancies on behalf of their clients, or directly by their clients. The JTRS stressed that adopting such a prudent approach should avoid the risk of similar situations occurring in the future due to possible misinterpretations or differing perceptions on the part of various actors.

FTI Consulting has welcomed the JTRS' recommendations and confirmed in writing that it will cease with immediate effect the practice, which was the subject of the complaint.

³ Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation, OJ L 277, 19.9.2014, p. 11.

https://eur-lex.europa.eu/legal-content/en/TXT/?uri=uriserv:OJ.L_.2014.277.01.0011.01.ENG

In light of the above facts and conclusions, the JTRS has decided to close the investigation.

Finally, the JTRS would like to inform you that the related complaint (TR-C-2019-86) you have submitted against Eurogas is still under examination and that you will be informed by the JTRS of its outcome in a separate letter.

Yours sincerely,

María Oliván-Avilés
Coordinator of the Joint Transparency Register
Secretariat