



“THE DEVIL AND COMMISSIONER KALLAS”

Article for the “Public Affairs Magazine” of the Deutsches Institut für Public Affairs, 10th April 2006

Walter Hallstein was the first President of the Commission (1958-1967), in what was then the European Economic Community. He achieved a great deal as a passionate European. Sadly his contribution to the unity of Europe is now mainly remembered in the English speaking world for his assertion that, in matters European, “The devil lies in the detail”. Let us hope that this phrase is in Commissioner Siim Kallas’s mind as he polishes the final text of his much delayed European Transparency Initiative for publication in early May.

For nearly twenty years the European Centre for Public Affairs has adhered to its mission statement to “Record, analyse and improve the conduct of public affairs”. We are a neutral, not-for-profit organisation with strong academic links and a record of bringing together all the stakeholders in the public affairs process. The ECPA believes that public affairs practice must be both transparent and effective. Above all, it must be rooted in public understanding of how information is exchanged in democratic systems. Neither politics nor public affairs is practiced entirely by ‘angels’. There will always be ‘devils’ or at least ‘cowboys’. The system can cope with some errant behaviour, but it cannot function properly if the public has no faith in the political system. The reputation of politics is currently very low in most advanced democracies, despite the relative triumph of democratic ideas in recent years. Cynicism and ignorance feed on each other.

The current debate about ‘regulating lobbying’ in the European Union tends to ask the wrong questions, of the wrong people, for the wrong reasons. ‘Lobbying’, the actual act of passing information to a decision maker, is only part of a much more complex process. In our advanced societies all stakeholders, be they corporations, NGOs, trades unions or churches, are expected to make their case eloquently, truthfully and concisely. To do so they will need to understand the political system that they are seeking to influence. They will need to monitor and sort information. They will form a strategic view and look for coalitions and allies. Before they shake any hand, there will have been an extensive programme of internal discussion. The public affairs function will want to talk to the leaders of the organisation. They will bring to this discussion an informed judgment of the state of the debate in the external world. They will want to talk to their professional or trade association. They will need to see the issue in more than purely national terms and to co-ordinate a pan-European position. At this moment they will probably want to take professional advice from paid public affairs consultants, both in their home country and in Brussels. Such consultants are not normally ‘hired guns’, recruited in some one-off defensive spasm. Given the complexity of many current issues, stakeholders will ideally want to work consistently with sophisticated colleagues. In most European political cultures the word ‘lobbying’ is traditionally associated with a dark, political underworld of interlocking elites, concealment and corruption. It is far too late to attempt to rescue the word from such associations.

Whatever we may wish, we no longer live in a pure, Athenian world of direct democracy, where knowledgeable citizens can come together to form a collective judgment on policy. In the world of today decisions are taken by a complex chain of experts. Writing of the classical world, Simon Goldhill, Professor of Greek at Cambridge, reminds us that the ancient Greeks taught rhetoric as a key skill. *“Democracy depends on the presentation of competing arguments, competing versions of events. It is the job of every speaker in democracy to try to persuade an audience. Persuasion has strategies that can be taught and evaluated. Those who lose a political vote or a case in Court are likely to feel themselves the victim of another’s persuasive skills. Spin is endemic to democracy: democracy is inconceivable without the recognition of the potential of persuasion, where one man’s brilliant argument can always be another’s deceptive misrepresentation. Far from being a modern problem, spin is a founding concern of democracy from the beginning”*. Transparency can only be the starting point for guaranteeing the credibility of the system. Hopefully Commissioner Kallas has come to recognise that heavy-handed regulation is not the answer. The best way forward is for behaviour to be controlled by peer group pressure. The problem is how to define the peer group. This is where the detail gets devilish.

In the cause of “Better Regulation” the Commissioner might like to consider the following details. If professional consultants are only one point in a complex chain, is it wise to make them the only control point in the pipeline of public ideas? Effective European public affairs requires simultaneous pressure at both European and national level. Will the Commissioner’s registration of lobbyists extend to all twenty-five countries and to their regional and local manifestations as well as to the golden circle in Brussels? If the codes of conduct, albeit with certain minimum requirements dictated by the Commission, are to be drawn up and administered by the public affairs industry’s associations, will it be necessary for the Commission to encourage the creation of European-wide, recognised associations? What would be the sanctions and who would apply them in the event of failure to live up to the codes of conduct in Dublin or Bucharest? Given that there is a separate section of the European Transparency Initiative relating to NGOs, would they be expected to reach consensus on the codes with public affairs consultants and the corporate practitioners who employ such consultants? Will the Commissioner be prepared to extend his good offices to reaching such an agreement in the event that the Corporate Europe Observatory and, say, the German chemical industry do not immediately see eye-to-eye? What will be the status in the enforcement of such codes of organisations who do not employ professional public affairs consultants? Presumably the Commissioner will want to include public relations consultants and experts in corporate communications? Ephemeral one-off campaigns, consortia and idea platforms of all kinds will need to be considered. Then there is the question the recent full-page advertisement in the Financial Times on Iran, paid for by American Jewish organisations. If this had been launched in the name of an externally headquartered, post box organisation would it have been excluded from the scope of the ETI? Or do such campaigns not count as lobbying? How will trade associations, in their rich complexity, form part of the proposed system? Does the European Commission intend to co-ordinate its proposals with the other European Institutions, including its own devolved Agencies? Does the Commissioner intend to clear his proposals with the European Parliament and, perhaps more importantly, with national Parliaments?

The European Transparency Initiative should be an opportunity to provide guidelines for increased clarity in the operation of the internal market in ideas in the European Union. Does the Commission envisage extending its efforts to think tanks, both national and European, who operate in this political market place of ideas? Surely they should have to say with greater clarity who is funding their research and who pays for their seminars? Why stop at think tanks? This approach must logically be extended to journalists operating in their private freelance capacity?

To date the history of the European Transparency Initiative does not make a good case study for creative public affairs. The only organisation that has shown both flair and determination is the Corporate Europe Observatory in Amsterdam. They took a not very good case for regulation and gave it colour and style. There is no evidence that corporate public affairs in Brussels is out of control. There is no reason to believe that Europe could suffer the Abramoff disease of blatant corruption. The proponents of control on public affairs practice have however succeeded in tapping into public unease about the behaviour of the political classes in Europe. Their efforts should spur a greater realisation that politics and public affairs are sprung from the same roots in democracy. Above and beyond the detail there is a real contest under way. Does Europe want to honour its Athenian roots or to slide back towards a Spartan model? The ECPA wishes Commissioner Kallas well but warns against an outcome that is neither effective in detail nor persuasive in principle. Germany has contributed much to the debate about Transparency. It is Germany who can most convincingly warn the Commissioner of the dangers of a Faustian bargain that buys short-term peace at the price of the long-term health of the European body politic.

