- We welcome this opportunity to contribute. This must be framed by the understanding that the lack of definition and clarity limits our ability to comment fully. We simultaneously recognise that it is the Registrar and their office's responsibility to independently clarify these details, not the Cabinet Office.

- New procedures will have to be adopted due to the flaws in the primary legislation and the notable fact that our voluntary register will continue to operate alongside the statutory register. The administrative costs and familiarisation costs are exceptionally hard to accurately predict, due to the issues raised above. One important aspect of draft regulation 2 and 3 requires clarification.

- Limitations to supply information are reasonable, so long as they are not used to avoid registration. Lobbyists – as defined by the primary legislation – exist outside of the PR and Communications industry. Consideration should be given to Freedom of Information (FOI) requests and the legislation's original intent.

- We are deeply concerned about the charging structure and the fairness of flat fees. These concerns are raised at length in this response.

Content of the application to be entered in the Register; and Form of information return

1. *Do you expect the registration process to require you to adopt new procedures? If so, could you explain, briefly, what these will be?*

Any answer to this question must recognise that PRCA members – responding to the shifting demands and requirements placed on them – often operate different procedures, but a similar system across the board is used to collect information for the PRCA Public Affairs Register. One contact will be responsible for collecting the information when prompted by the PRCA's Public Affairs, Policy and Research Manager. They are prompted immediately after the quarter is past.

All PRCA members conducting public affairs and lobbying, as defined by our broad, working definition[1], must submit their evidence, quarterly and retrospectively, to the PRCA Public Affairs Register. This recording of information (offices conducting public affairs, best contact, employees conducting public affairs in that quarter and clients provided with public affairs services) will continue.

Notably, PRCA members will have to adopt new procedures to meet the Lobbying Act requirements.

Instead of collecting the information above based on a much wider definition, they will also have to collect information based on the legislation narrower definition, and this will potentially fall at a different time period to the industry's own voluntary registers. The will be running on two different timetables and requirements – one for the industry's voluntary disclosure and one to meet the legislation's requirements and this should be recognised. There are a number of difficulties we might predict, including but not limited to: lack of definition around multiple aspects of the Act and the infrequency that many consultancies might carry out these types of communication.

As the PRCA stated throughout the process, the legislation's definition means that new procedures are inevitable.

[1] This centres around "'Lobbying services' means activities which are carried out in the course of a business for the purpose of – (a) influencing government, or (b) advising others how to influence government". The entirely definition can be read here and offers clear explanation and exemptions to this laconic statement: http://prca.org.uk/assets/files/Definition%20of%20Lobbying.pdf

2. *What do you estimate to be the administrative costs of the requirement to register for your organisation?*

As raised in more detail later in this response, estimations around this legislation rest on (as yet) undefined or unclarified language, such as “direct communication”, “incidental” and “mainly”. This relates to the administrative costs of the requirement to register.

Once the above issues have been resolved, the PRCA predict it will be able to provide more accurate insight. Other responses to this consultation might well attempt to estimate the administrative costs despite the lack of clarity.

The PRCA is happy to share charge out rates – as gathered in our leading Consultancy Benchmarking 2014 – with the Cabinet Office for future use. It is completed by 124 MDs/CEOs, c100 FDs and c100 HRDs and provides accurate insight into the charge out rate (and therefore potential administrative costs of adopting new procedures) of third party lobbying industry as it exists in PR and Communications.

3. *What do you estimate to be the familiarisation costs of the requirement to register for your organisation?*

As raised in more detail later in this response, estimations around this legislation rest on (as yet) undefined or unclarified language, such as “direct communication”, “incidental” and “mainly”. This relates to the familiarisation costs of the requirement to register.

Once the above issues have been resolved, the PRCA predict it will be able to provide more accurate insight. Other responses to this consultation might well attempt to estimate the familiarisation costs despite the lack of clarity.

Information from the Consultancy Benchmarking 2014, as offered above, can be similarly applied to familiarisation costs once the Registrar and their office – independent and separate to this consultation – have released guidance.

The PRCA expects to offer guidance and training to its members in the first instance followed by ongoing support for members after this initial registration period. We also expect to update our members on any updates, changes or wider news surrounding this legislation as we do now. These costs will be borne by the PRCA, as they are now.

4. *Do you have any comments on draft regulations 2 and 3?*

The PRCA has campaigned – and continues to campaign – for a register that will properly contribute towards transparency and include all the information that currently exists on our PRCA Public Affairs Register. Crucially, this includes the names of those carrying out the act of lobbying.

Draft regulation 2d[2] implies that statutory register will now include the names of all those who are lobbying. We would suggest that this be clarified and anticipate that it does not indicate a revision of the legislation’s original intent.

[2] “Any name or names (not already included under any of the provisions above) which the person carries on the business of consultant lobbyist”

Limitation on the duty to supply information

5. *Do you agree with the limitation on lobbyists' duty to supply information in response to an information notice regarding legally professional privileged material?*

The PRCA supports the inclusion of all third party lobbyists, including practitioners providing lobbying services who work in law firms. The limitation *prima facie* is something we would support, so long as it does not have a negative effect on transparency by offering an exemption to these practitioners.

As the largest trade association for PR, Communications and Public Affairs in Europe, the PRCA Public Affairs Register might be a natural starting point but must not (along with the industry's other bodies) be the sole category of registrants. Given our purpose, the PRCA cannot provide an accurate estimate of the number of third party lobbyists working in law firms. We therefore welcome the Cabinet Office's ongoing work on the matter and follow it with interest.

As noted in a meeting between the PRCA and the Cabinet Office on Monday 13th October, these practitioners working in law firms do not *typically* class themselves as carrying out the act of lobbying (regardless of definition). Whilst the Cabinet Office has indicated a real understanding of this, we therefore seek reassurance on this.

6. *Do you believe the Regulations should provide for the limitation on the duty to supply information to exclude other forms of communication from being requested by the Registrar? If so, why*

The legislation's scope is narrow: it concerns direct communication between third party lobbyist and a Minister/Permanent Secretary. The limitation on the duty to supply information was foreseeable and, we believe, reasonable.

The Registrar and their office are subject to Freedom of Information (FOI). Given that information supplied through these requests might contain commercially sensitive information, care should be taken and a specific exemption considered. The legislation might subsequently, through FOI requests, reveal information about the 80% of the industry represented by in-house lobbyists than was the legislation's original intent.

7. *Do you have any other comments on draft regulation 4?*

The PRCA has no further comments.

Charges

8. *Do you have any comments on the proposed charging structure?*

The PRCA recognises that there is a divergence of views around the proposed charging structure and we predict that the consultation will accurately represent this.

A flat fee is referred to in this consultation as "the most practical approach". Those who support such a conclusion base their argument around the lack of information on the register as the legislation only requires organisations to disclose public affairs clients who trigger the narrow definition of lobbying. The names (and therefore number) of third-party lobbyist employees will also not appear on the register. Without this information – following the argument of those who support the opening

statement – the Registrar and their office will not be able to in any way estimate the size of an organisation and graduate fees accordingly.

As background, Consultancy Membership of the PRCA is proportionate and based on an organisation's UK PR fee income[3].

Reiterating our previous position, a proper definition of public affairs and lobbying would have included the 80% of our industry who work in-house whilst also including the large number of third party lobbyists who we predict will not be required to register as they will not trigger the requirement. This would have subsequently reduced any proposed fee that follows this consultation.

A flat fee will, unless appropriately low, be unfair in almost every instance of application as smaller organisations will face a disproportionate burden to large organisations, given that all the necessary budget (estimated in the impact assessment at £0.5 million in the first year) will be recovered from the industry itself rather than coming from the public purse. The PRCA remain deeply concerned about this and the matter is raised elsewhere in this response.

The PRCA recognises that the information processing charge is justifiable if there is information *to be* processed. If an organisation is submitting nil returns – as many will do in most quarters – it cannot be justified at the same level. We might suggest that this situation be properly addressed and considered in future discussions around fee levels.

As noted in a meeting between the PRCA and the Cabinet Office on Monday 13th October, the annual maintenance charge was not deemed appropriate, especially given the many third party lobbyists might submit nil returns in three quarters of the year as mentioned above. We were pleased that the Cabinet Office could clarify the matter immediately and seek reassurance that our understanding is correct and this charge will in fact be quarterly. If, ultimately, this is not the case then the Cabinet Office must recognise that such a fee is unfair in the aforementioned circumstance.

The charging structure raises a number of questions centring on stability:

- Will registrants be entitled to a partial refund if the first year fees are over-estimated or would such an issue result in effectively subsidised costs for future registrants?;
- Similarly, should the first year fees be over-estimated, how would this be addressed?
- If an annual maintenance cost exists to cover "compliance monitoring activities" and "enforcement action", is there any situation foreseeable by the Cabinet Office that would render the flat rate nature of this inappropriate?

9. *Do you have any additional comments on draft regulation 5?*

The PRCA has no further comments.

10. *Do you expect you will be required to register?*

Numerous PRCA members will most likely respond to this consultation individually. Without wishing to predict the content of other responses, we believe that many third-party lobbyists cannot viably predict whether they will be required to register or not until a number of significant clarifications are made.

[3] For clarification, in this instance PR is used to broadly refer to any and all communications work including Public Affairs.

Firstly, the actual trigger for registration remains undefined. In meetings with the Cabinet Office and in all our work around this issue, we have repeated raised concerns that “direct communication” is still without clear definition.

Secondly, whilst we initially welcomed the change in wording to “incidental” and “mainly”, we note that these are still without clear definitions. For many third-party lobbyists, the thresholds such definitions establish are the critical decider of whether or not registration is required.

We appreciate that this is the remit of the Registrar and their office – rightly independent of the Cabinet Office – but the timings of this consultation before such clarifications have been made mean that we will only be able to properly review the situation (and accurately answer the above question) at a later stage.

We recognise that this is an undesirable situation, especially given the Cabinet Office’s interrelated work towards estimating fee levels. We also recognise and rightly support the Registrar’s work, following their recent appointment, to clarify these in good time. We predict that the various industry bodies and third-party lobbying organisations will be able to provide the Cabinet Office with much more accurate figures than any which can be gathered at the time of this consultation.

Supply of information regarding VAT registration

11. *Do you have any comments on draft regulation 6?*

The PRCA has no further comments.