

23 November 2010

Consultation on Reforms Discussion Paper
Register of Lobbyists
C/- Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2601
Via email to lobbyistsregister@pmc.gov.au

Dear Sir/Madam

I am writing in response to the Discussion Paper on proposed changes to the Australian Government's Lobbying Code of Conduct. I apologise for the delay in providing comments.

We support the process of ongoing reform of the Code and the associated Register, so that the focus on transparent and accountable dealings by lobbyists keeps pace with the changes occurring in the lobbying sector and more broadly in the field of governance. We strongly support a number of the proposals, recognising that they will contribute to the government's commitment to transparency and accountability.

In particular, we support the establishment of a consultative group to meet with government on a quarterly basis to discuss issues relating to the Code. We would however, recommend that the group be expanded beyond the industry, to include government integrity agencies, such as this Office and the Australian National Audit Office. We would have concerns about membership of an industry association being a pre-requisite for inclusion on the Register, as without an objective set of standards, this would add cost and complexity without making the Register any more transparent and accountable. In our view, the establishment of a new industry association is an issue for the industry itself to consider, rather than for government.

We also support heightening the level of disclosure to include details of lobbyists who are former Ministers, Ministerial Staff, or senior members of the Australian Public Service or Australian Defence Force.

Given the nature of election timing over recent decades, we believe that it would be appropriate to extend the ban on former Ministers and Parliamentary Secretaries lobbying in areas for which they previously had responsibility, from the proposed two years to three years. This would enhance the likelihood of an election having occurred and give greater confidence to the community that there were no remaining undisclosed ties between the lobbyist and the agency for which they were previously responsible.

We also support further clarity in the sanctions which may apply under the Code.

We would also support work towards a higher degree of uniformity being developed in the registers, obligations and reporting at the Federal and State/Territory level. The move towards uniformity should be based on the highest levels of public accountability.

More broadly, we would strongly recommend that there be a transparent and clearly articulated complaints process included in the Code. In those cases where either lobbyists or users of the Code believe that there is a problem, or they have been unreasonable dealt with, they should have a clear and accountable mechanism to raise their concerns. A complaint to my Office could obviously be made in those circumstances where it was unable to be resolved by the Department. Information on complaints and any trends should be included in an annual report to be made public. In particular, the annual report should disclose the nature of complaint allegations and their level of seriousness, ranging from breach of the Code, to potential corruption and whistleblower issues. Obviously, in those cases where more serious issues arise, this Office would become further involved in the complaint or disclosure.

The obvious next step in the development of the Register is making more information publicly available on the nature and regularity of lobbying activities. We would strongly recommend that consideration be given to collecting information on the type, frequency and subject of lobbying activities and who has been lobbied, on a monthly return basis, to those who administer the Code. These details would then be consolidated and published on a quarterly basis, with an annual consolidation tabled in the Commonwealth Parliament.

In the context of recent political agreements, we would support the administration of the Code and the Register becoming the responsibility of the proposed Parliamentary Integrity Commissioner, and that the obligations which currently apply to government be extended to apply to all parliamentarians.

Allan Asher
Commonwealth Ombudsman