

**Submission on
THE OPERATION OF THE LOBBYING CODE OF CONDUCT
AND THE LOBBYIST REGISTER**

To:

Senate Standing Committee on Finance and Public Administration
References Committee
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From:

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ASH Australia

Action on Smoking and Health Australia is a national health organisation committed to reducing deaths, disease and disabilities caused by tobacco products and the misleading and deceptive conduct of the tobacco industry. Founded in 1994, ASH is funded by the Cancer Council Australia and the Heart Foundation.

The ASH Board is chaired by Associate Professor Matthew Peters, a Thoracic Physician at Concord Hospital, and includes experts from the Cancer Council Australia, Heart Foundation, Sydney University and the Royal Australasian College of Physicians. Anne Jones OAM, Chief Executive Officer since 1994, is a policy adviser on tobacco control in Australia, and in the Asia-Pacific region for the International Union on Tuberculosis and Lung Disease on behalf of the Bloomberg Initiative to reduce the tobacco epidemic worldwide.

ASH is a member of several national coalitions aiming to reduce tobacco diseases, including the Protecting Children from Tobacco coalition of 42 organisations and the SmokeFree Australia workplace coalition of 11 organisations.

Introduction

We appreciate an opportunity to make this submission on possible reforms to the operation of the Lobbying Code of Conduct and Register.

We have previously made a submission in 2010 to the Department of the Prime Minister and Cabinet on possible reforms to the Code and Register; as well as to the earlier Federal Green Paper process into electoral funding reform, and to state-based discussion papers on political donations, as these are related issues.

Lobbying and political advocacy are important and influential aspects of a healthy participatory democracy. However, lobbying on behalf of vested interests can have a corrupting influence and damage public trust in the Parliament and the Public Service. We and many other organisations and individuals are concerned about the exercising of undue influence by powerful interests that can serve to undermine our democratic process.

One example is the tobacco industry, which has a long history of political lobbying not only in its own name but using a range of associated entities.

Australia is a signatory to the WHO Framework Convention on Tobacco Control whose Article 5.3 Guidelines state at www.who.int/fctc/guidelines/article_5_3.pdf:

Parties should protect the formulation and implementation of public health policies for tobacco control from the tobacco industry to the greatest extent possible....

Parties should ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent....

Recommendation 5.3

Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists.

ASH Australia fully supports principles that underpin an effective framework for openness and access based on transparency and integrity. We make the following recommendations for your consideration:

Recommendations

1. We support measures to improve and promote professional standards for lobbying, which may include the establishment of an industry association. To maintain confidence in government decisions and to safeguard the public interest, public officials and lobbyists should be required to comply with principles of good governance, in particular transparency and integrity.

Consideration should be given to the establishment of a Parliamentary Standards Officer or Commissioner, or similar position, independent of government, to ensure high standards in all aspects of the working of Parliament. In Canada, an independent Commissioner of Lobbying was established in 2008 to administer new improvements to the Canadian Lobbying Act, including: robust definitions of lobbyists; monthly disclosure reports by lobbyists; internet access to Registry details and reports; a ban on contingency fees; tougher penalties; and five year post-employment bans for public office holders before they may lobby government.

See www.ocl-cal.gc.ca/eic/site/lobbyist-lobbyiste1.nsf/eng/h_nx00261.html

There have been many other developments internationally to improve governance, including a report by the OECD on “Principles for Transparency and Integrity in Lobbying” at www.oecd.org/document/48/0,3343,en_2649_34135_44644592_1_1_1_37447,00.html

2. We support improving transparency by requiring lobbyists to disclose previous roles in government and/or when working for politicians or political parties; extending the period of the ban on former Ministers and Parliamentary Secretaries to a minimum of two years; and extending the ban on former Cabinet Ministers to all matters. It concerns us that several officials and former members of parliament from both major parties have been recruited by the tobacco industry to lobby against public health policies. An appropriate “cooling off” period may inhibit the misuse of “confidential information” and counterbalance vocal vested interests.
3. We support extending the Code/Register to in-house lobbyists and to associations and unions representing business interests, and to people who pay member fees to have interests represented. As it is important to not put in place barriers to participatory democracy, we support the Lobbyist Register being extended to those who receive compensation for carrying out lobbying activities.
4. We support action to harmonise the differing requirements in State Codes/Registers based on best practice. There are widespread concerns expressed in the media and in public inquiries that trust in governments has been damaged by lack of transparency and integrity. Although States normally prefer to create their own regulations, there are some mechanisms for national coordination that could be used to encourage reform.
5. We support a coherent spectrum of practices to improve compliance, including properly resourced monitoring, enforcement and evaluation. Such evaluations should be tabled in Parliament at regular intervals. Visible and proportional sanctions should include public reporting of breaches with both financial and administrative sanctions.
6. Other related reforms that are urgently needed include the reform of political donations and party financing. These overdue reforms are a related issue, as many third parties represented by lobbyists are major political donors seeking to influence government policies. For example, some political parties have accepted millions of dollars in donations from the tobacco industry. This pernicious industry, whose products are the leading cause of chronic disease and early death in Australia, are currently represented by at least four third party lobby groups according to the Register. Several government discussion papers and roundtable forums on electoral funding have taken place in past few years to develop recommendations that are yet to be tabled in, or implemented by, Parliament.



Anne Jones OAM
Chief Executive Officer, ASH Australia