



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

Reference:EC11/1391

Ms Christine McDonald
Committee Secretary
Senate Standing Committees on Finance and Public Administration
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms McDonald

The Department of the Prime Minister and Cabinet (PM&C) welcomes the opportunity to make this submission to the Senate Finance and Public Administration Committee's inquiry into the operation of the Australian Government's Lobbying Code of Conduct (the Code) and Register of Lobbyists (the Register).

PM&C has administered the Code and Register since their establishment on 1 July 2008.

The rationale for the establishment of the Register was set out in a statement by the then Cabinet Secretary, Senator the Hon John Faulkner, in the Senate on 13 May 2008. Senator Faulkner stated:

The objective of the code is not to make every company whose staff or executives visit a Minister sign a register. Rather it is to ensure Ministers and other Government representatives know whose interests are being represented by lobbyists before them and to enshrine a code of principles and conduct for the professional lobbying industry.

A copy of Senator Faulkner's statement is at [Attachment A](#).

Accordingly, the Code focuses on transparency in the third-party lobbying sector, rather than in-house lobbyists working for companies, on the basis that it is clear whose interests they represent.

While Senator Faulkner's statement continues to reflect Government policy, the Code and Register have been kept under review since their establishment to ensure that they serve their intended purpose.

In March 2010, the then Cabinet Secretary, Senator the Hon Joe Ludwig, conducted a roundtable meeting with key lobbying industry stakeholders. The roundtable informed a

subsequent discussion paper that was publicly released, a copy of which is at Attachment B. Twenty two submissions were received in response to the discussion paper.

PM&C has asked each of the individuals and companies that made submissions in response to the discussion paper if they would object to their submissions being provided to the Committee. Some respondents have agreed to their submissions being provided to the Committee and they are attached (Attachment C). Others have indicated that they would agree to their submissions being provided if the Committee asks for them. Accordingly, you may wish to advise whether the Committee would wish to receive them.

On 1 August 2011, the Special Minister of State for the Public Service and Integrity, the Hon Gary Gray AO MP, announced that, while the Government was satisfied that the Code and Register were operating effectively and had appropriate coverage and reach, two enhancements to the Code would take immediate effect:

- Firstly, to enhance openness and transparency, the Government required lobbyists to disclose on the Register the details of any former government representative employed by their firm as a lobbyist; and
- Secondly, measures were introduced to streamline the regulatory and administrative arrangements for registration; including permitting the electronic submission of signed statutory declarations and reducing compliance reporting from four to two occasions per year.

In relation to the first point, the Code was amended at 5.1(a) to add the following requirement for information to be included in the Register:

(iii) whether a person referred to in clause 5.1(a)(ii) above is a former government representative (as defined in clause 3.4), and if so, the date the person became a former government representative;

In practice, this has seen the inclusion of additional fields in the on line Register to display information about any lobbyists who are former government representatives.

The streamlining of the administrative arrangements to require reporting twice yearly was intended to make the Commonwealth Register more user-friendly while retaining its ongoing integrity. Many State jurisdictions only seek updates annually. This change has not resulted in any diminution of the integrity of the Register because the requirement for lobbyists to update their entry on the Register within 10 business days of any change to their details remains in place.

A copy of Mr Gray's media release on the changes is at Attachment D.

Compliance with the Code

The Code imposes certain requirements on lobbyists seeking to be included on the Register (see section 10), including that they provide a statutory declaration to the effect that he or she:

- (a) has never been sentenced to a term of imprisonment of 30 months or more; and
- (b) has not been convicted, as an adult, in the last ten years, of an offence, one element of which involves dishonesty, such as theft or fraud.

The Department administers a registration process for applications to the Register in line with the requirements of the Code, such as confirmation of the receipt of properly made statutory declarations and checking registration details for accuracy, including confirming ABN details.

The Department considers that compliance with the registration process requirements has been high, with only a small percentage of applications requiring follow up.

The Code also provides that the Secretary of the Department of the Prime Minister and Cabinet may remove a lobbyist or a person who is an employee of a lobbyist, or a contractor or person engaged by a lobbyist from the Register of Lobbyists if, in the opinion of the Secretary:

- (a) the conduct of the lobbyist or of the employee, the contractor or person engaged by the lobbyist to provide lobbying services for the lobbyist has contravened any of the terms of this Code;
- (b) the registration details of the lobbyist are inaccurate;
- (c) the lobbyist fails to answer questions within a reasonable period of time relating to the lobbyist's details on the Register or the lobbyist's lobbying activities (in particular questions relating to allegations of breaches of the Code) or provides inaccurate information in response to those questions; or
- (d) the registration details have not been confirmed in accordance with the requirements of clauses 5.5 and 5.6 [of the Code].

To date, the Secretary has not exercised his power to remove a lobbyist from the Register.

The Department would be happy to provide further information about the administration of the Register should the Committee require.

Yours ~~sincerely~~

Renée Leon
Deputy Secretary
Governance Group

3 February 2012