

27 January 2012

Submission to the Standing Committee on Finance and Public Administration Inquiry into the operation of the Lobbying Code of Conduct and the Lobbyist Register

Introduction

Kreab Gavin Anderson (KGA) welcomes the opportunity to make this submission to the Standing Committee on Finance and Public Administration ('the Committee') Inquiry into the operation of the Lobbying Code of Conduct and the Lobbyist Register, as requested by the Committee Secretariat on 30 November 2011.

We support the Code of Conduct ("the Code") and the Register of Lobbyists ("the Register") and believe that they have contributed to good governance in the industry and provide greater transparency.

The establishment of the Code and Register by the current government has overcome previous concerns about whom a registered lobbyist is representing in interactions with government decision-makers.

We welcomed changes to the Lobbyists Register announced by Special Minister of State, the Hon. Gary Gray, on 1 August 2011.

The Federal Government's ongoing consultation with industry provides a model for the development of effective and transparent government relations regulation in all state jurisdictions.

However, as discussed later there is scope to bring under the code and register other professionals who conduct systematic lobbying activities on behalf of clients.

We will continue to take effective and appropriate action to ensure that the federal government relations industry maintains the highest standards of ethical and professional representation.

Our position

A summary of our specific responses to the Discussion Paper is included below. We:

1. Agree that regulation of the Lobbying industry should seek to promote transparent, accountable and fair interactions between government, companies, community groups and individuals.
2. Recommend that the Code and Register be extended to include all organisations engaged in systematic, third party lobbying.

3. Encourage the move towards uniformity or at least harmonisation between Federal and State regulations.
4. Do not advocate additional restrictions on employment in the government relations sector for former government representatives or employees as this is already adequately covered by the Ministerial Code of Conduct.
5. Do not support the introduction of sanctions that duplicate existing provisions in law. It is our understanding that there have been no serious breaches of the Code to date and most significantly, illegal interaction is already heavily regulated across Australia's Federal and State jurisdictions. Extra sanctions would not necessarily increase confidence in the operations of the Code and Register.

About KGA

KGA is a global public relations and communications partnership, advising clients on issues of strategic importance in business, finance and politics.

Internationally, KGA has offices in locations including London, New York, Brussels, Stockholm, Madrid, Frankfurt, Riyadh, Abu Dhabi, Dubai, Hong Kong, Beijing, Tokyo, Singapore, Lisbon, Sao Paulo and Jeddah.

KGA has been established in Australasia for more than 30 years. The company has 50 staff based in five offices (Sydney, Melbourne, Canberra, Perth, Brisbane and Auckland) and strong practice links in South Australia.

Our major offerings to clients are:

- Public affairs – including issues management, media relations, government relations and corporate communications.
- Financial communications – including mergers, acquisitions and capital market communications.
- Market research through our research business, GA Research.

Clients range across government agencies, listed and unlisted companies, industry associations and NGOs.

KGA consultants are drawn from diverse backgrounds across politics, media, the public service, policy development, industry and financial analyst roles.

Our approach to government relations is bipartisan, as reflected in our track record of working for governments of all persuasions and a wide range of agencies on projects that require skills in media communication, stakeholder relations, government relations and issues management.

Key Issues

The key issues for the operation of the Lobbyists Code of Conduct and the Lobbyists register are as follows:

1. Lobbying regulations should promote transparent, accountable and fair interactions between government and citizens.

In monitoring public policy discussions and providing strategic advice to a range of stakeholders, government relations practitioners such as KGA enhance the strength of our democracy by assisting individuals and organisations with advice on public policy processes and facilitating contact with relevant government representatives. This role is acknowledged in the Code and it is important that any future government relations regulatory regime should not undermine the free flow of communication between government and citizens. Rather it should focus on ensuring that ethical standards apply to this contact.

Given the current minority government, KGA believes that stakeholder engagement remains pivotal to government service delivery and the promotion of robust public policy debate on a range of issues. The current inquiry should ensure that any regulatory regime for lobbyists continues to encourage external stakeholders to engage with political leaders and the public service in a transparent, accountable and fair manner.

2. Extension of code to all third party/in-house lobbyists

KGA supports a one-in-all-in approach to inclusions on the Register.

The Code and Register ideally should be extended to include all organisations engaged in systematic third party lobbying. The current regime does not seek to regulate government relations activities undertaken by lobbyists who are full-time employees of a business or not-for-profit organisations, regardless of whether or not they spend the majority of their time engaged in lobbying activity.

The current regime also provides exemptions for representative organisations that provide systematic, third party representation. This category includes a wide array of professionals such as lawyers, town planners, accountants and business consultants. Other lobbyists represent professional organisations, trade unions and not-for-profit organisations. All are specifically exempt from the Act.

There has been a significant move to in-house government relations capability in the last decade. For in-house government relations professionals, it is clear who they represent and thus a level of transparency is evident in their dealings with government. There is a strong case for ensuring that these professionals understand and adhere to the same high ethical standards expected of registered lobbyists. It is difficult to sustain the argument that there is a distinction between lobbying undertaken by professional services consultancies and lobbying

undertaken by other groups such as lawyers, accountants and other in-house professionals. Where these professionals and firms engage in systematic lobbying activity, they should be registered and covered by the Code.

Community groups, associations and NGOs who also seek to lobby should be registered. The distinction would be illogical as for example when on one side of an issue (e.g. commercial interests) must register but the other side (e.g. the community group seeking the alternative decision from government) would not be required to do so. Registration would also avoid opening an obvious loop-hole for new entrants who might seek to avoid the same level of scrutiny and regulation as established lobbyists.

It should be noted that some community groups and NGOs exist only to lobby government, e.g. ACOSS, Save Our Suburb groups.

We believe that this shifts the balance of government relations activities by allowing industry bodies to lobby without transparency while professional consultants are subjected to increasing scrutiny. Such a burden imposed on only registered, third-party lobbyists and their clients will make it attractive and more convenient for a business to utilise the services of someone who is not a registered lobbyist, provides no transparency, nor has a code of conduct to guide their activities.

A system of industry regulation that levels the playing field would address these issues.

3. Harmonise Federal and state regulations for lobbyists

KGA supports a move towards uniformity or at least harmonisation between Federal and State regulations. For example, the provision of a single point of registration for Government relations professionals to work in all Federal and state jurisdictions would alleviate the administrative burden on government departments and GR companies, especially smaller ones. There are great similarities between the seven Australian registration schemes. Given the move towards promoting greater harmony in other policy areas, harmonising lobbyist registration should be viewed as desirable and achievable.

4. Increasing period and nature of lobbying bans

We do not support additional “cooling off” restrictions that place unnecessary obstacles to employment for past and present professionals in politics or the public service.

Increasing the length and coverage of the ban *would not* contribute to increased confidence in the lobbying industry by members of the public.

Overall, lobbyists covered under the Code are unlikely to be able to apply undue influence because of personal contacts alone. Government relations

professionals come from these roles because they have developed a specialisation in public policy and have an ongoing interest in applying those skills to the development of good public policy. They are often experts in their chosen policy field. It is typical for lobbyists to have come originally from policy and issues-focused professions such as political science, economics, journalism or the law, spending a period involved in government before moving into consulting or in-house advisory roles. Understanding the interplay between personalities and processes is crucial to providing sound strategic advice to our clients. These skills are common to a broad cross section of professionals currently working in government relations.

Given these established career paths and the legitimate reasons for it, substantial periods between government work and consulting would represent a significant barrier to employment, without contributing to increased confidence in the government relations profession.

5. *Sanctions for breaches of the code of conduct*

We do not believe that more sanctions would increase confidence in the operations of the Code and Register.

The register and code have been effective in increasing transparency and promoting ethical practices, with to our understanding, no significant or deliberate breaches. The illegal activity that new legislation would cover in this instance is already dealt with in existing legislative instruments. The creation of extra layers to the administrative and legislative regime would add unnecessary complexity without adding value to the outcomes that government and the government relations sector support: that is, ethical and transparent representation of client views in the interests of good public policy.