



## **Submission to the Finance and Public Administration References Committee**

### **Access to Australian Parliament House by Lobbyists**

---

**Response by The Australian Council on Smoking and Health (ACOSH)  
February 2024**





## Background

The **Australian Council on Smoking and Health (ACOSH)** is an independent, non-government, not for profit coalition of thirty-one prominent health, education, community, social service, and research bodies. All ACOSH members are united by their shared concern about smoking, vaping, and health.

ACOSH works through advocacy and collaboration on comprehensive strategies to achieve a tobacco and vape-free Australia by 2030. As part of this, ACOSH endeavours to expose tobacco industry tactics including interference in government processes.

We have never provided or received services, assistance, or support to or from the tobacco or e-cigarette industry. We are funded by Healthway, a West Australian government agency.

### Submission contact:

Geraldine Mellet  
Co-CEO ACOSH

ACOSH acknowledges the traditional owners of the land on which we are based, Whadjuk Noongar Country. We acknowledge Noongar Elders and families and pay our respects to Elders past, present and emerging including those in the Tackling Indigenous Smoking (TIS) teams.

## Introduction

The Australian Council on Smoking and Health (ACOSH) appreciates the invitation to submit to this important inquiry into access to Australian Parliament House by lobbyists and the adequacy of current transparency arrangements relating to the lobbyist register; sponsored pass system and related publicly accessible information.

In 2012 our predecessors made a submission to the same committee and an almost identical inquiry, entitled the *Operation of the Lobbying Code of Conduct and the Lobbyist Register*. Reviewing the document reveals that many of the issues and recommendations mirror those in our current paper, and in others already live on the inquiry website. It seems that in those intervening twelve years the problem has only grown more entrenched, including the numbers of lobbyists, both registered and anonymous, which have increased exponentially and as investigative journalists tell us, currently outnumber our Members of Parliament by more than three to one (Begley, 2023).

In spite of this, we come to this inquiry in good faith, noting that a new generation of politicians is keen to tackle transparency and integrity in government as evidenced by the introduction of the *Lobbying (Improving Government Honesty and Trust) Bill 2023* introduced by Dr Monique Ryan, the Member for Kooyong, in November last year.

ACOSH sincerely hopes that this inquiry will keep the spotlight firmly focussed on the level of risk associated with keeping the status quo while highlighting the best practice to which we can aspire, and paving the way for the Bill to make these changes in law.

## Tobacco Industry and the WHO FCTC

In this submission we will highlight vulnerabilities in the current system which are being exploited by particular lobbyists with vested interests relating solely to profit margins and not the public good, particularly from harmful industries such as the tobacco sector which is linked to a vast burden of addiction, death, disease and impoverishment.

As the World Health Organisation (WHO) states in the Guiding Principles for Article 5.3 its Framework Convention on Tobacco Control:

*“There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests” (World Health Organization, 2013).*

Because of our past and current experience in this area, our comments will refer often to this industry which is heavily engaged in lobbying, even more so at present as the Albanese government attempts to introduce tough new reforms to limit access to vaping products to a prescription only model, something the industry and their front groups have been lobbying to change as they develop more novel products in this area (Davey, 2023b; Jongenelis et al., 2023; Watts et al., 2023). We do believe however that many of our observations and recommendations can equally be extrapolated to other lobbyists, particularly in harmful industries.

At the outset we confirm our commitment to having access to politicians by a diverse range of voices, enshrined as a vital part of our democracy. We note however, that this representation of voices is



uneven. For example, public health organisations, however skilled and dedicated, cannot match the resourcing of the multi-billion-dollar tobacco industry which can and does pay for dedicated lobbyists who are not in the main publicly identified. The simple matter that these lobbyists can afford to have offices in Canberra or make frequent visits, means that they can spend considerable time both building relationships and being on the spot to take advantage of current events, unlike most public health or other community organisations. Their constant presence and access is only one of a myriad of other mechanisms of influence aimed at politicians.

But the real issue is that we do not know who they are. In a recent article, Lacy-Nichols, Christie & Cullerton (2023) explore the risks associated with the current Australian regulations around lobbying, arguing that what is unknown about commercial lobbying is far greater than what is known, and that lack of transparency lobbying protocols distorts our understanding of the extent and nature of business influence on politics, particularly when businesses engage in practices that harm health.

While ACOSH wholeheartedly encourages access it must be accompanied by safeguards that rely on complete transparency, allowing this information to be publicly available so that it can be monitored and triangulated with other data to present a complete picture of who is attempting to influence whom, about what and when.

## Trust in Government

In the even bigger picture of our nation as a whole, this transparency is crucial to maintaining trust in government, which in turn is critical to a healthy democracy, something that can never be taken for granted. The Scanlon Foundation Research Institute's Mapping Social Cohesion National Surveys provide a yearly snapshot of the wellbeing of Australian society and include "Trust" as one of their four cross cutting themes (O'Donnell, 2023). Apart from a period during COVID, trust in the Australian government has been declining steadily since 2007, with their findings showing 79% of Australians believe government leaders abuse their power at least some of the time, with 24% thinking it happens most or all of the time (O'Donnell, 2023). They also reported the proportion of people who believe the government is run for a few big interests, rather than all people, increased from 38 per cent in 2007 to 54 per cent in 2022 (O'Donnell, 2023).

## Lobbying Code of Conduct

The Australian Government's Lobbying Code of Conduct, overseen by the Attorney General's Department, acknowledges the importance of trust in its Preamble where it states:

*"Respect for the institutions of Government depends to a large extent on public confidence in the integrity of Ministers, their staff and senior Government officials" (Attorney-General's Department, 2022).*

*"This Code is intended to promote trust in the integrity of government processes and ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty" (Attorney-General's Department, 2022).*

ACOSH believes that the intentions of the code, while laudable, are out of step with the practice and that the largely unseen influence brought to bear by lobbyists with deep pockets, who do not appear

on the radar, completely contradicts the stated aims. Without an overhaul there is a palpable risk to the integrity of public policy and the confidence of Australians in their elected leaders.

## ACOSH recommendations

### Definition of Lobbyists

The current definition of lobbyists does not adequately capture the number or nature of who is lobbying our MPs, with whom they are affiliated, how often they are in contact, and about what subject. At present the Lobbyist Register only contains consultant lobbyists who are professional lobbyists hired by a third party. It is argued that they are only a fraction of those engaging in lobbying. Lacy-Nichols et al. (2023) quantify the many categories of lobbyists who fall outside the narrow existing definition: *“lobbyists directly employed by companies, company executives and board members, non-governmental organizations, civil society organizations, not-for-profit organizations or associations, charities and foundations, think tanks, research centres, religious organizations and trade associations”*. The result of this is that public health and other members of the community are kept in the dark and have to spend precious time and resources to try and piece together the connections and potential or resulting influence. We concur with the authors when they emphasize that *“to counter corporate profits being prioritized over public health, public health advocates require a greater understanding of who is trying to influence governments, how and why...making sure that public health voices are not drowned out by industry”*.

**Recommendation: That the lobbyist register be expanded to include the categories above.**

**Recommendation: That the register distinguishes between not-for-profit advocates with and without affiliations to harmful industries.**

**Recommendation: That the register be overseen by an independent body with appropriate monitoring procedures and meaningful consequences for noncompliance.**

**Recommendation: That this information is publicly available, continually updated and searchable.**

### Affiliation with Harmful Industries

The information listed on the current register does not require lobbyists to declare their affiliation with harmful industries, defined by VicHealth as “commercial organisations who profit from products and engage in practices that are harmful to health and wellbeing”(VicHealth, 2016). And yet the impact of one in particular - the tobacco industry - and its relentless attempts to impact government policy was the major reason behind the formation of the World Health Organisation’s Framework Convention on Tobacco Control (FCTC) which explicitly sets out how to protect public health policy from their attempted influence. In the guidelines for the implementation of article 5.3 of the Convention, which has 180 countries as signatories including Australia, their advice to government and its officials is unequivocal “There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests... Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists” (World Health Organization, 2013).

**Recommendation: In keeping with Australia’s status as a signatory to the FCTC, we propose that lobbyists affiliations to the tobacco industry, as well as other industries which are designated as harmful, should be recorded and made publicly available, including details as to the nature of the relationship with the government official and any funding provided.**

## Revolving Door

The practice known as the ‘revolving door’ is used by a number of industries worldwide, including tobacco, to gain a huge advantage in gaining access to build relationships and prosecute their case with MPs. In the first instance, they may employ lobbyists who are political insiders, as in former MPs, chiefs of staff or senior advisors with a deep knowledge of the parliamentary process and extensive political networks. In the second scenario, ex tobacco company employees find their way into political positions as advisors, Chiefs of Staff or media officers and government officials.

In the first study to systemically investigate how the tobacco industry uses the revolving door tactic in Australia, Watts et al. (2023) found significant evidence: *“Of the 73 individuals who were identified as being former or current Australian employees of tobacco companies working in government relations or affairs or corporate relations roles, 35 (48%) had held positions in Australian governments (state, territory and/or federal) before or after working in the tobacco industry. Sixty percent of these tobacco employees disclosed being an Advisor or Senior Advisor in a ministerial office or to a Member of Parliament (MP) or Senator (n = 21), and 14% worked as a chief or deputy chief of staff (COS or DCOS) to an MP or Senator (n = 5) (Table 1). Other roles included media or communications advisors, government officials, and electoral officers”.*

Because of the federal government’s relatively short ‘cooling off’ period, it could be argued that these former political insiders, still fresh from their previous roles with their network of influence intact, have an unfair and mostly undeclared advantage. For example, when they call into an MP’s office they are often amongst friends or former colleagues, and that level of familiarity is likely to gain them more time, attention and potential traction.

The researchers also identified a lack of monitoring of the required waiting periods when people are emerging from either side of the revolving door. In Australia the regulations state that this amounts to 18 months for Ministers or a Parliamentary Secretary. For advisors and senior public servants it is 12 months only. In actuality the study found that *“about half of all tobacco lobbyists had moved into or out of roles in public office within one year. Cooling-off periods also do not apply to private-sector roles, and there are no restrictions on movement from a tobacco company into a government position” (Watts et al., 2023).*

Other jurisdictions such as Canada have a much more substantial prohibition requirement of up to five years in some instances.

**Recommendation: That the cooling off period be increased after a review of world’s best practice and incorporate the expanded definition of lobbyist**

## Sponsored Pass System

In the tiered hierarchy of the sponsored pass system, it is the orange-coloured passes which are most relevant to this discussion, given that this bracket includes those who are engaged in lobbying whether they come from a commercial or other background. The fact that pass holders affiliated with



harmful industries are free to roam the halls of parliament lobbying with or without appointments, for a period of three years, gives them privileged access that is completely without scrutiny, and puts other organisations or individuals trying to get reasonable access, at a significant disadvantage.

MPs have discussed with us the constant 'surprise' visits from pass holders who appear at all times of the day and make numerous calls prosecuting their arguments. Given there is no public record of who they are, or who has sponsored the pass, their credentials can only be taken at face value, as there is nothing on record, which reveals the facts about who they are paid by or with whom they are affiliated.

We support the comments made in the submission by our colleagues in the Public Health Association of Australia (PHAA) noting that the current pass system has some worrying aspects, including unwittingly making these passes of great commercial value and therefore creating an incentive for such commercial lobbyists to make 'gifts of value' which poses the risk of corruption (Public Health Association of Australia, 2024). In addition, they point to the current secrecy around who has sponsored the pass which could potentially have a compromising effect.

They also referred to the recent Senate Committee hearings in November 2023 related to the The Public Health (Tobacco and Other Products) (Consequential Amendments & Transitional Provisions) Bill where two witnesses whose organisations are affiliated with the tobacco industry objected to revealing how much funding they were receiving from industry. At least one of them also objected to stating which MP sponsored their pass, citing commercial in confidence. With no public record of their pass sponsor, or ability to refer to a register that required them to detail the extent of their funding arrangements, the Senators did not have all the information they sought, as they should have when upholding the mandate of the FCTC article 5.3 to protect public health policy from the tobacco industry. We reaffirm our comments in the Guardian article on this subject, believing that this kind of commercial in confidence does not have a place in public health (Davey, 2023a).

**Recommendation: That given Australia's commitment to uphold the FCTC and protect public health policy from the tobacco industry, its lobbyists and affiliates, these same organisations and individuals should be prohibited from obtaining a sponsored pass, so they are unable to engage in unscrutinized lobbying and otherwise be given any kind of privilege.**

**Recommendation: The pass system must be on the public record, be continually updated and searchable and must state who the holder works for, whether they have ever held an official role within parliament or government, whether they are affiliated with any designated harmful industries and which MP is their sponsor.**

**Recommendation: The pass system could include a category, perhaps a colour, that identifies the holder as from a health or community organisation.**

## Contact Logs & Meeting Information

While all the above recommendations will go some way to track a range of lobbyists and who they are meeting, there is a sizeable gap in the information about what is being discussed and the outcomes.

We note a number of suggestions related to this in the current submissions, including Ministers' diaries being made public. We would suggest that whether or not diaries are kept by Ministers and MPs and their staff, this information should be part of a contact log, either on the sponsored pass



system or lobbyist register or both. It should not be a tick a box exercise but a description that properly incorporates the issues discussed and all personnel present.

**Recommendation: That there be a public record of the issues discussed between the lobbyist and MP/staffer and how that might be related to current or future legislation. That this is updated with any actions and or related legislation, taken as a result of these discussion.**

## Conclusion

The need to overhaul the current Lobbyist Registrar and pass system cannot be overstated and goes to the heart of community confidence in our elected leaders and the independence and quality of their decision making.

The lobbyists registrar needs to be significantly expanded to create a true and comprehensive picture of the range of people and organisations lobbying our MPs, not just third-party lobbyists, so there is transparency in who these people represent or with whom they are affiliated. This is especially important in the case of lobbyists with links to harmful industries like tobacco, so that public health policy can be protected. These industries should not receive privileges such as sponsored passes.

The information that is required should also include the content of their interactions with Minister, MPs and their staff, and any relationship to ensuing actions and legislation. In the case of the pass system, the identity of the sponsoring MP should be on the record. All of this material should be publicly available, updated regularly and searchable.

The lobbyists register and pass system should be overseen by an independent body that does rigorous checks and imposes meaningful consequences for breaches.

It has been twelve years since the previous inquiry into this matter, with many of the same issues up for discussion but considerably less public trust in our government. We urge the parliament to expedite these changes.

Thank you for the opportunity to contribute to this discussion.



## References

- Attorney-General's Department. (2022). *Lobbying Code of Conduct*. Australian Government. Retrieved from <https://www.ag.gov.au/system/files/2022-02/lobbying-code-of-conduct.PDF>
- Begley, P. (2023, 3 November). In Canberra, lobbyists outnumber politicians three to one. Now there are growing calls for stronger regulation. *ABC News*. <https://www.abc.net.au/news/2023-11-13/lobbyists-outnumber-politicians-code-of-conduct-regulation/103090798>
- Davey, M. (2023a). Australian retail lobby groups refuse to disclose amount of funding from tobacco and vaping industries. <https://www.theguardian.com/australia-news/2023/nov/21/australian-retail-lobby-groups-tobacco-vaping-industries-funding>
- Davey, M. (2023b). Pro-tobacco lobbyists circle Australian government's proposed vaping reforms. <https://www.theguardian.com/australia-news/2023/mar/20/pro-tobacco-lobbyists-circle-australian-governments-proposed-vaping-reforms>
- Jongenelis, M. I., Robinson, A., Hughes, A., & Pettigrew, S. (2023). Perceptions of a prescription model for accessing nicotine vaping products: an examination of submissions made by self-reported e-cigarette users to an Australian consultation. *Health Promotion International*, 38(4). <https://doi.org/10.1093/heapro/daad080>
- Lacy-Nichols, J., Christie, S., & Cullerton, K. (2023). Lobbying by omission: what is known and unknown about harmful industry lobbyists in Australia. *Health Promotion International*, 38(5). <https://doi.org/10.1093/heapro/daad134>
- Lobbying (Improving Government Honesty and Trust) Bill 2023, (2023). <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2F7100%22>
- O'Donnell, J. (2023). *Mapping Social Cohesion 2023*. <https://scanloninstitute.org.au/sites/default/files/2023-11/2023%20Mapping%20Social%20Cohesion%20Report.pdf>
- Public Health Association of Australia. (2024). Lobbyists and their access to Parliament House. In (pp. 7).
- VicHealth. (2016). VicHealth harmful industry relationship funding and procurement policy. In.
- Watts, C., Jones, M., Lindorff, K., & Freeman, B. (2023). How tobacco companies use the revolving door between government and industry to influence policymaking: an Australian case study. *Public Health Res Pract*, 33(4). <https://doi.org/10.17061/phrp33122305>
- World Health Organization. (2013). *WHO Framework Convention on Tobacco Control: guidelines for implementation Article 5.3*. <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>