

White, Alex

From: Ian Hanke
Sent: Wednesday, 16 April 2008 3:01 PM
To: Lobbyists Register
Subject: Lobbying Code of Conduct - Exposure Draft
Follow Up Flag: Follow up
Flag Status: Completed
Attachments: image001.gif; Code of Conduct - final.doc

The Secretary,

Dear Sir, please find attached a response from Media & Political Counsel P/L to the Lobbying Code of Conduct – Exposure Draft.

These comments can be made public and if you have any wish to seek further detail please do not hesitate to contact us on

03 9648 5480

Our company website is www.medpolco.com.au

Best Regards,
Ian Hanke



Media & Political Counsel Pty Ltd
Analysis Advice Action

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18/06/2008



Media & Political Counsel Pty Ltd
Analysis Advice Action

TO: THE SECRETARY, PM&C.
FROM: IAN HANKE, CEO, MEDIA & POLITICAL COUNSEL P/L.
RE: LOBBYING CODE OF CONDUCT – EXPOSURE DRAFT.
DATE: 16 APRIL, 2008.

INTRODUCTION.

The Exposure Draft of the Lobbying Code of Conduct is a flawed and contradictory document.

While attempting to create some form of transparency it in effect shields some businesses, organisations, industries or services etc from public scrutiny while forcing others to expose themselves and their operations to the full glare of exposure.

Further, whilst this second group, which could be represented by what is deemed to be a “lobbyist”, has to be transparent, there is no reciprocal transparency if their lobbyist is struck from the proposed register at the whim of the Cabinet Secretary.

This is arbitrary and undemocratic.

By its nature the Exposure Draft has the potential to exclude groups who are represented by what is deemed to be a “lobbyist” from the processes of government while allowing unrestrained access to other, larger and well funded organisations that have the protection of anonymity and privacy.

This could have the effect of creating a “creeping corporatism” that encourages government only to deal with peak groups or larger corporations.

DETAIL.

1. A TWO TIERED APPROACH.

The Exposure Draft establishes a two tiered approach to dealing with government. Large organisations and businesses etc with a phalanx of government and public affairs advisers and policy analysts in-house are not forced to expose what they are doing or who they are talking to.

Meanwhile smaller organisations and businesses etc that lack these in-house skills and hire a third party to assist them with their efforts in communicating with government and the public service have to expose their operations and communications publicly.

One party is accorded privacy while another is not.

Groups that hire third parties to assist them have the right to have their case heard with the same degree of privacy.

These groups also should not have to have their commercial or other interests exposed.

2. REGISTER OF LOBBYISTS

As pointed out above one the Exposure Code creates effectively two classes of lobbyist.

Not only does it do this, but it also creates an unnecessary bureaucratic burden on what is deemed by the Code to be a lobbyist.

The Code says that lobbying can include the simple issue of making a telephone call to solicit information on behalf of a client.

At times a company such as mine has need from time to time to seek information to assist a company with its deliberations in determining whether or not to even proceed with a course of action.

For the sake of a five minute call companies have to be registered or they would be deemed to be in breach of the Code.

When “communication with a Government representative” includes “oral, written and electronic communications” the Code could be breeched in myriad ways by a “lobbyist” but not by a corporate representative who may simply have a conversation in a corridor or at the football or who can freely communicate in any manner.

One person may have a conversation and the other not without significant breeches of privacy.

3. PRINCIPLES OF ENGAGEMENT WITH GOVERNMENT REPRESENTATIVES.

This section creates enormous problems for third party lobbyist, particularly section:

(D) “lobbyists shall keep strictly separate from their duties and activities as lobbyists any personal activity or involvement on behalf of a political party.”

The difficulty is created by what construes political activity?

Often an organisation may have views that coincide with one political parties or another and may wish to pursue those views yet in doing so authorities could say a “lobbyist” is engaging in political activity on behalf of a political party.

Also this section would appear to be extremely coercive. If a person or company wishes to actively lobby on behalf of a political party they should be able to be freely able to do so without persecution.

Again this section discriminatory. Larger organisations, for example unions, the BCA and so on are free to pursue a so-called political agenda if they wish without penalty as they cannot be struck from a register.

Another double standard that encourages a “corporatist” approach by government.

4. REGISTRATION

As pointed out in the introduction the ability of the Cabinet Secretary to arbitrarily remove someone from the Register is an attack on democratic principles.

Even more disturbing is that the Cabinet Secretary can “in his or her absolute discretion, direct the Secretary not to register the lobbyists or the individual.”

Without any reason the Cabinet Secretary can cut off a lobbying companies income stream, or even worse, deny it in the first place.

This section when read in conjunction with section 8.1 (D) is open to massive manipulation and abuse to suborn the democratic process at a political whim.

CONCLUSION.

This Lobbying Code of Conduct is entirely unnecessary.

It creates two classes of operative and is open to political manipulation to suppress debate.

It allows one group or organisation privacy and denies it to another.

It, at its extreme, could mean a simple conversation in the street, restaurant or bar during a casual encounter could see a firm being struck from the register.

It encourages corporatism by favouring large, well cashed up and resourced companies while denying the privilege of privacy to smaller companies.

A closer perusal of this Draft Exposure would reveal further flaws, but these are the key ones that media & Political Counsel believe should be drawn to your attention.

White, Alex

From: Ian Hanke [hanke@medpolco.com.au]
Sent: Wednesday, 16 April 2008 4:48 PM
To: Lobbyists Register
Subject: addendum to previous submission
Follow Up Flag: Follow up
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Dear Sir, please find attached an addendum to the submission made by P&MC P/L.

Best Regards,
Ian Hanke



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ADDENDUM

Perhaps a better way of achieving the apparent goals of the Code would be in greater transparency by Ministers.

Instead of the Lobbying Code of Conduct Ministers – from the Prime Minister downward – should have a Register of Meetings which is published monthly.

The Register would include who the Minister met with on any given day.

Detail of the meetings would not have to be given, simply the names of the participants at the meeting.

This would give greater transparency to the machinations of Government and ensure an equal footing for all lobbyists whether they be third party lobbyists or not and constituents.

ENDS.