

White, Alex

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Sent: Wednesday, 16 April 2008 9:02 AM
To: Lobbyists Register
Subject: Register of Lobbyists - Comment on Exposure Draft
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The Secretary

Department of the Prime Minister and Cabinet

Dear Sir

I hope the following comments on some only elements of the proposed Lobbying Code of Conduct. may be useful at this stage of consideration.

History/Precedence

There was an earlier Register of Lobbyists under the Hawke Government and in the wake of what was known as the Combe-Ivanov Affair.

There were two registers – one for lobbyists engaged by foreign governments or agencies thereof; and a register for other clients. The register was established on information provided by lobbyists to, and maintained by, an officer in a department (SMOS or Administrative Services) who in turn provided yes/no responses to entitled inquirers as to whether Lobbyist A was registered as representing Company/Organisation B. It is my recall that there was no right of access to the register to the public or the media – nor were entitled members of government or advisers/officials able to obtain a full listing of clients of Lobbyist A etc. (See comment below under Access)

I cannot recall there ever being an issue of breach or non-observance by any lobbyist under that regime and the Register was abolished I believe in the early years of the 1st Howard government.

Definitions -

Our comments here will relate the alpha-numeric coding used in the Exposure Draft.

- ★ 3 Client (a)..... presumably this also includes engagement on hourly, daily, project or success basis
- ★ 3 Lobbyist (b),(f) These clauses would seem to allow for persons and organisations to engage in overt or covert lobbying activity without being required to register.
- ★ The paragraph following 3 (f) and beginning: "For the avoidance of doubt," would seem to exclude persons, companies or organisations not already covered by 3 (e) and (f) above from the need to register as lobbyists, notwithstanding that their activities may clearly be of a lobbying nature.

I submit it is the behaviour or the activity which should be registered and transparent, rather than the practitioner.

18/06/2008

Access to the Register of Lobbyists

There are two issues here:

- ★ Assuming that we shall be responsible for creating our own entries for listing on the register, I would expect that our entries would be entitled to a pin/password security system which would restrict access and ability-to-edit to ourselves, and prevent mischievous or vexatious hackers and cyber vandals.
- ★ Given that both the covering Ministerial statement and the Exposure Draft state that the proposed Register will be for the information of 'government representatives', would it not be possible to have the Register on the restricted sections of the PM & C and Parliamentary websites, thus avoiding the vulnerability of legitimate commercial relationships to the sort of cyber mischief or self-interested editing which now exists e.g. with Wikipedia.

Registration - The Secretary

In addition to the stated and discretionary powers regarding Registration held by the Secretary under 10.1 and 10.2, the following Section 10.3 (a) and (b) requires the Secretary, at the direction of the Cabinet Secretary, to effectively declare an offence which need not be defined and impose a penalty against which there is no apparent appeal. I doubt that this situation could exist under common or criminal law in Australia but If these clauses carry some relevance to national security issues, then that should be stated.

I commend these comments to the Secretary and to the Cabinet Secretary for their sympathetic consideration. I would be happy to amplify these comments should this be useful.

Relevant details re Carney Associates below and attached.

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