

# Chapter 1

## Introduction

### Terms of reference

1.1 On 24 November 2011, the Senate referred the following inquiry to the Finance and Public Administration References Committee for report by 1 March 2012:

The operation of the Lobbying Code of Conduct and the Lobbyist Register.

### Conduct of the inquiry

1.2 The inquiry was advertised in *The Australian* and through the internet. The committee invited submissions from interested organisations and individuals and the Department of the Prime Minister and Cabinet (the department). At the request of the committee, the department also provided an invitation to make a submission to all entities listed on the Register of Lobbyist.

1.3 The committee received 17 public submissions. A list of individuals and organisations which made public submissions to the inquiry, together with other information authorised for publication by the committee, is at appendix 1. The committee held one public hearing in Canberra on 21 February 2012. A list of the witnesses who gave evidence at the public hearing is available at appendix 2.

1.3 Submissions, additional information and the Hansard transcript of evidence may be accessed through the committee's website at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=fapa\\_ctte/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=fapa_ctte/index.htm)

1.4 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

### Note on references

1.5 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard; page numbers may vary between the proof and the official Hansard transcript.

### Background to the inquiry

1.6 The Lobbying Code of Conduct (the Code) was tabled in the Senate on 13 May 2008 by the then Special Minister of State and Cabinet Secretary, Senator the Hon John Faulkner. In addition, the Minister announced the establishment of the

Register of Lobbyists (the Register). The Code is provided in appendix 3 of this report.

1.7 The 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. Lobbyists and Government representatives are expected to comply with the requirements of the Lobbying Code of Conduct in accordance with their spirit, intention and purpose.<sup>1</sup>

1.8 Provisions of the Code include:

- prohibition of contact between government representatives and unregistered lobbyists;
- prohibition on those who retire from office as a minister or parliamentary secretary, for an 18 month period after they cease to hold office, to engage in lobbying activities relating to any matter that they had official dealings with in their last 18 months in office;
- a 12-month cooling off period for ministerial staff, senior public servants or defence personnel who have resigned or retired, who may want to work as lobbyists;
- principles of engagement with government representatives;
- definitions of 'lobbyist' and 'lobbying activities'; and
- sanctions for certain actions.

1.9 A significant feature of the Code is that it applies only to 'third party lobbyists'. That is, it applies to lobbyists who lobby one party on behalf of another person or organisation. It does not apply to those employed to undertake lobbying activities on behalf of their employer. The application of the Code is limited to members of the executive and their staff.

1.10 The Code established a publicly available Register of Lobbyists. Information provided on the Register includes:

- business registration details, including trading names, of the lobbyist;
- the names and positions of persons employed, contracted or otherwise engaged by the lobbyist to carry out the lobbying activities; and
- the names of clients on whose behalf the lobbyist conducts lobbying activities, subject to not disclosing certain information under Chapter 6CA of the *Corporations Act 2001*.

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1 Australian Government, *Lobbying Code of Conduct*, June 2011, section 1.4.

1.11 The Minister, in tabling the Code, commented:

The revised Code represents an appropriate balance, I believe, between the right of ministers, officials and the public to know who stands to benefit from the efforts of lobbyists, and the ability of business to be able to make views known to government. It will not impose unreasonable demands on the lobbying industry, business or ministers and officials.<sup>2</sup>

### **Inquiry by the Senate Standing Committee on Finance and Public Administration**

1.12 Following its tabling, the Senate referred the Code to the Standing Committee on Finance and Public Administration so that it could inquire and report on the Code's adequacy in achieving its aims. The committee reported in September 2008 and noted that there was widespread support for the Code which was viewed as a 'significant step towards increasing the level of transparency surrounding lobbying activities'.<sup>3</sup> However, the committee noted that it received evidence on a range of issues including:

- whether the coverage of lobbyists is adequate;
- procedural fairness;
- regulatory burdens;
- whether the coverage of parliamentarians is adequate; and
- post-employment prohibitions.

1.13 While acknowledging that some aspects of the Code were not wholly supported by stakeholders, the committee noted that implementation of the Code was in a relatively early stage and that it may be some time before it became clear if its objectives were realised. The committee recommended that the committee conduct a further inquiry into the operation of the Code in the second half of 2009.<sup>4</sup>

### **Changes to the Register of Lobbyists**

1.14 In March 2010, the then Special Minister of State, Senator the Hon Joe Ludwig, conducted a roundtable meeting with key lobbying industry stakeholders after which a discussion paper on possible reforms of the Code was released.<sup>5</sup>

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2 Senator the Hon John Faulkner, Special Minister of State and Cabinet Secretary, *Senate Hansard*, 13 May 2008, p. 1510.

3 Senate Standing Committee on Finance and Public Administration, *Knock, knock...who's there? The Lobbying Code of Conduct*, p. 5.

4 Senate Standing Committee on Finance and Public Administration, *Knock, knock...who's there? The Lobbying Code of Conduct*, p. 17.

5 Department of the Prime Minister and Cabinet, *Submission 16*, pp 1–2, Attachment B.

Following consideration of submissions from interested parties, two changes to the Register of Lobbyists were announced:

- to enhance openness and transparency, lobbyists will be required to disclose on the Register the details of any former government representatives employed by their firm as lobbyists; and
- the introduction of measures to streamline the regulatory and administrative arrangements for registration:
  - signed statutory declarations submitted for registration purposes will be accepted electronically or by fax, without the need to also provide the original document; and
  - regular updates will only be required twice yearly instead of quarterly, with the continuing requirement for any change to the lobbyist's details to be made as soon as practicable and within 10 business days after the change occurs.<sup>6</sup>

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6 Special Minister of State for the Public Service and Integrity, the Hon Gary Gray AO MP, 'Changes to the Lobbyists Register', *Media Release*, 1 August 2011.