

11 March 2011

Dr David Solomon
Integrity Commissioner
PO Box 15290
CITY EAST QLD 4002

Dear Dr Solomon

Thank you for your email of 1 February 2011 inviting submissions on the lobbying provisions of the Integrity Act 2009 (chapter 4 of the Act) and the Lobbyists Code of Conduct (the Code).

We thank you for providing us with the opportunity to contribute to your review which also seeks opinion on the Report recommendations from the NSW Independent Commissioner against Corruption review on lobbying in that State.

Since the release of the Queensland Government's *Integrity and Accountability in Queensland Green Paper*, Enhance Corporate has provided a number of submissions (September 2009, February 2010, and July 2010) and we provided these again for your information. We continue to support the positions outlined in these previous papers and for the purposes of the review, seek to reiterate some of the key points whilst also making comment on the NSW ICAC recommendations.

Integrity Act 2009 – Transparency, Accountability and a level playing field

The current legislation continues to exclude a number of professions that without a doubt conduct “lobbying” activities on behalf of third parties. A scan of publicly available websites shows a number of legal, accountancy and town planning firms that offer this service.

It is clear that the business conducted is in part exactly the same business as that of specialised lobbying firms. Whilst lobbying firms, and their employees, are listed on the Lobbyist Register this is not the case for the other professions' firms engaged in “lobbying” activities.

It has come to our attention that a couple of professional firms have acknowledged they are in fact engaging in “lobbying” activities and have ‘self-registered’ themselves onto the Lobbyist Register.

At the same time, Government Relations staff directly employed by many business and community organisations and who clearly undertake “lobbying” activities are also not regulated by the legislation or the Code.

Whilst we understand that organisations such as the Queensland Law Society are adamantly against the inclusion of their members onto the Lobbyist Register, we suggest that a good framework should provide certainty to all who seek to engage with government at all levels.

At this time, the rules and obligations expected to be met by registered Lobbying firms and their employees under the Code can be and are expressly ignored by those firms who are not required to register. This creates serious discrimination between the work of consultant lobbyists – those on the register and appropriately regulated – in favour of those – unregulated and uncontrolled lobbyists.

This situation seriously fails the intent of the Code in Queensland in providing transparency and accountability in third party dealings with Government. If the Code is to be used as intended, then it must be expanded to include professional services such as lawyers, accountants and town planners as well as "in-house" Government Relations staff.

Practical operation of the Lobbyists Code of Conduct

As previously advised, our business has experienced problems with the operation of the Code in several Queensland Government Departments. Some of the processes employed by these Departments have sought to thwart access by registered lobbyists to public servants and erected substantial barriers to the willingness and capacity of public servants to engage with registered lobbyists.

There have been processes employed which seek to undermine the protections expressly provided for under the Code to businesses need to make commercially sensitive representations to Government.

As a result, the practical operation of the Code in some instances seems to be inconsistent with the sentiment expressed in the Code's preamble which says:

"Professional lobbyists are a legitimate part of, and make a legitimate contribution to the democratic process by assisting individuals, and organisations to communicate their views on matters of public interest to the government, and so improve outcomes for the individual and the community as a whole"

It also effectively discriminates against those businesses that choose to outsource their Government Relations/Lobbying, which in many cases is small to medium sized companies who do not have in-house expertise.

We would again recommend a consistent and better set of engagement protocols for all agencies be established. We would also recommend a training program be launched specifically looking at the practical operation of the Code and believe it would be useful to engage with Lobbying firms on what this training should include.

Practical operation of the Register of Lobbyists

In general, we believe the Register of Lobbyists (the Register) is working well and updates to the listing are handled well. The recent change to process which allows registering changes online but then requiring follow up with a signed facsimile is perhaps less efficient.

We have queried this with the Office of the Integrity Commissioner and were advised that it provides an additional security measure. The issuing of a password to access the online system (*as is required on both the Federal and Victorian Lobbyists Registers*) may be a way of dealing with security in a more efficient and effective manner.

We are concerned that the recent decision to highlight (by placing an asterix) those Lobbyists who are members of the Government Relations Professionals Association (GRPA) is something not found in the Code and we are puzzled as to why a decision has been taken to do this. Whilst we do not have any issues with the GRPA, there are many lobbyists operating in Queensland who have chosen

not to participate in this Association by may be members of other professional groups such as the Public Relations Institute of Australia (PRIA).

We do not see it as appropriate to highlight one Association over another on the Register.

NSW ICAC Recommendations

The NSW ICAC Report – Investigation into corruption risks involved in lobbying considered the specific issues of corruption risks involved in the lobbying of public authorities and officials and in particular the lack of transparency in the current lobbying regulatory system in NSW.

Whilst we are supportive of many of the recommendations emanating from the ICAC Report, there are some recommendations where we would have significant concerns if they were to be considered for implementation in Queensland.

Recommendation 2

The development of a model policy and procedure concerning the conduct of meetings with lobbyists, the making of records of these meetings and the making of records of telephone conversations is an issue for the following reasons:

The report admits that *“those who lobby may be entitled to private communications with the people they lobby, by they are not entitled to secret communications.”*

We support meetings and conversations between registered lobbyists and government representatives not being kept “secret”, however we believe that the commercial-in-confidence nature of some clients’ business should allow meetings and conversations to remain “confidential”.

From a practical perspective, the recording of such information has the potential to be quite subjective – one person’s perspective of what occurred in a meeting or during a telephone conversation could be very different to what actually took place. There would seem to be no safeguards to correct misleading information or to allow the opportunity to respond once information becomes public.

Recommendation 8

We are concerned about the practical nature of this recommendation and provide the following example as evidence:

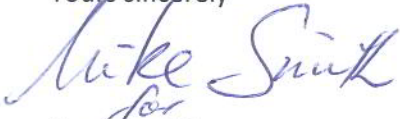
A lobbyist’s client invites a Minister to attend a boardroom luncheon with their senior executive to discuss the Government’s agenda on a particular issue which the client may wish to “lobby” the Minister on. Is the boardroom luncheon considered the ‘giving of a gift’ and would the Minister be required to pay for his/her own meal as a result?

It would seem that the definition of “giving a gift” or “other benefit” would need to be well defined but has the potential to preclude Government representatives from attending any events of functions outside their office for fear of being “lobbied” by their guests.

Enhance Corporate has always accepted and supported the need for public confidence in the processes of Government and the need for lobbying regulations which ensures transparency and accountability in the system.

This can only be achieved by ensuring that any current and proposed requirements are extended to the entire "lobbying" industry. We also believe it is imperative that the processes which govern these requirements are sound, practical and will not result in any industry disadvantage.

Yours sincerely

A handwritten signature in blue ink that reads "Mike Smith". The signature is written in a cursive style with a large "M" and "S".

Hon Jim Elder
Executive Chairman