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CC: irtaskforce@premiers.qld.gov.au

Dear David and Jenny,

Proposed lobbying reforms

Thank you for the opportunity to meet with the Integrity Reform Taskforce recently to discuss the implementation of the Coaldrake Review recommendations and other lobbying reforms announced in Queensland.

On behalf of its members, the Australian Professional Government Relations Association (APGRA) wishes to offer its perspective on key recommendations and reforms put forward by both Professor Coaldrake and the Queensland Government. As mentioned in our discussion, we hope to continue to assist your team in the practical implementation of these proposed changes.

By way of background, APGRA was established in 2014 to promote high standards of government relations practice, underpinned by a binding Code of Conduct applicable to all members; to provide a basis for regular dialogue between government and the profession; and to contribute to a greater understanding of professional government relations in Australia.

The centrepiece of APGRA is a Code of Conduct **(Appendix A)** that regulates the conduct of members and promotes high ethical standards within the government relations profession. It operates alongside Queensland's lobbying regulatory framework and similar legislation and codes in place at a federal level and in other states and territories.

APGRA's initial thoughts and concerns about key recommendations of the Coaldrake Review are outlined below, along with some areas where we would welcome further clarity on how the changes to lobbying rules will be implemented and their practical implications for APGRA members.

Thank you once again for your commitment to ongoing consultation with APGRA. We look forward to working constructively with the Integrity Reform Taskforce to further understand the changes to lobbying rules and help ensure our members continue to meet their compliance and disclosure obligations.

Should you have any questions please do not hesitate to contact me on the details below.

Yours sincerely

Feyi Akindoyeni
President – APGRA

APGRA's response to proposed lobbying reforms

1. Requirement for all professionals offering paid lobbying services to third parties to register as lobbyists

APGRA continues to support the lobbying regulatory framework in place in Queensland, which is known to be among the most stringent and transparent in the country. APGRA also notes the concerns raised by the Coaldrake Review regarding the work of 'unregistered or incidental lobbyists', for example by those who are employed within an accounting or consulting firm.

As it stands, Part 1 Section 41 (1) of the *Integrity Act 2009* (QLD) ('Integrity Act') defines a lobbyist as 'an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity for a third party client'. APGRA is of the view that this definition is fit for purpose and therefore should already capture all lobbying activity, regardless of whether it is conducted by a person employed by a third-party lobbying firm or another type of professional firm.

APGRA is broadly supportive of further measures that would ensure those in professional firms who conduct lobbying activity for a third-party client comply with the obligation to register as a lobbyist. However, APGRA seeks to understand how the Government intends to amend the definition of 'lobbyist' or otherwise enforce a requirement for registration that appears to already be set out in legislation.

APGRA also notes the definition of 'incidental lobbying activities' in the Integrity Act and the related discussion of this definition in the Coaldrake Review report. We recognise that refining this definition may be one way for the Government to narrow the types of activities that are considered 'incidental lobbying'.

APGRA believes the focus of this definition should be on the *type of activity* that is being undertaken, rather than the *type of entity* that is undertaking the activity, as is presently the case. For example, it is well-known that some law firms provide lobbying services to third-party clients as part of their service offering yet may rely on the exclusion for legal practitioners and law practices in the definition of 'incidental lobbying activities' in the Integrity Act to justify a decision not to register as a lobbying firm.

2. Extension of registration requirements

APGRA notes Premier Palaszczuk's statement on 27 June that *"Anyone working for a lobbying firm will need to be registered as a lobbyist. It covers lobbyists, consultants, advisers, strategic communications and marketing advisers but excludes administrative staff."* [1]

If the Government is seeking to pursue this position, we have concerns that this change will place a significant administrative burden on Government and on registered firms but is unlikely to have any material benefit in terms of addressing unregistered or incidental lobbying.

APGRA believes it is not reasonable or relevant to be required to register staff members who are not engaging with government representatives in any way. This is particularly the case for registered firms that work across multiple jurisdictions and disciplines. For example, we do not believe it is necessary for an Investor Relations or Communications advisor who works for a registered firm – and is potentially based in another state – to be registered.

Expanding the registration requirements to apply to all members of a registered firm would place an unreasonable administrative burden on the Integrity Commission officials who are responsible for reviewing applications for registration. At present, the process of registering a new lobbyist can

[1] https://statements.qld.gov.au/statements/95503

take up to two weeks and we expect that the wait time would increase exponentially if the registration requirement was expanded to cover all people employed in a registered firm. This is a significant concern for our members who rely on the efficient processing of applications to do business effectively while also meeting their compliance obligations.

APGRA believes the definition of 'lobbying activity' provided in the Integrity Act is clear and fit for purpose. We are of the view that this definition should continue to be used as the primary way to determine whether a person is conducting lobbying activity and is therefore required to register as a lobbyist.

3. Abandoning the 'drop down' menu on the lobbying contact log in favour of a requirement that lobbyists provide a short description of the purpose and intended outcome of contact with government.

APGRA supports this recommendation in principle, however we ask that commercial in confidence provisions, and the constraints of additional administrative burdens, are considered. We are concerned that inadequate provisions for the protection of clients' confidentiality may have the unintended consequence of driving lobbying activity 'underground'.

APGRA also notes that government relations practitioners and their clients are not always seeking a specific outcome or decision when engaging with government representatives. The purpose of the engagement may be to understand how a government policy or regulation applies to a particular company, or to share information about an organisation's contribution to the State in terms of employment or investment in infrastructure. We believe this is an important consideration in the design of the new contact log.

APGRA is also of the view that removing the drop-down menu on the contact log may actually result in the disclosure of less information about a particular contact with government or opposition representatives. This is because registered firms will have the ability to input their own description, presumably into a free-text field. This approach would require a considerable level of oversight by Integrity Commission officials to review the description for each entry and contact the registered firm for further information where required. A possible solution may involve the Integrity Commission providing example descriptions which can be used as models for registered firms.

APGRA also recommends the appointment of a dedicated contact person within the Integrity Commission to address concerns or clarify questions regarding the input of information by registered lobbyists. This point of contact would also help to ensure there is a consistent understanding and application of the contact log requirements among registered firms.

4. Requiring the publication of diaries of ministers and their staff. Diaries should record all external contacts designed to influence government decisions, should readily link to the lobbying register and should be easily accessible and searchable.

APGRA is concerned that the additional administrative burden associated with this recommendation will discourage ministers and their staff from engaging with registered lobbyists. We would like to further understand the scope of this recommendation and whether it also applies to general engagement with an office after the initial contact and meeting has occurred. For example, in relation to administrative matters, clarification of factual information (e.g. COVID rules) or continuation of a previously established discussion on a policy matter.

Overall, APGRA is concerned that this is an unreasonable additional workload to impose on ministerial offices and will have the unintended consequence of curtailing contact between registered lobbyists and government representatives. It risks having the perverse effect of making government engagement less transparent as people seek to communicate through unofficial channels instead.

Similarly, the proposed contact restrictions also risk entrenching informal relationships via political parties and related activity, as opposed to professional contact (for example via a formal meeting request).

5. Meeting request process and portal

APGRA has similar concerns to those outlined above regarding the Government's recent decision to specify that all contact by registered lobbyists must be made through the chief of staff of a particular office in the first instance and submitted via the online lobbyist meeting request form.

We respectfully suggest that the Government considers reviewing the workability of this arrangement after a six-month period to ensure that requests from registered lobbyists are considered equitably.

In the experience of APGRA members, there have been several instances where government representatives have been reluctant to engage with a registered lobbyist. In those instances, the perverse situation arises where a registered practitioner is disadvantaged by the fact of being registered and compliant under the Lobbyists Code of Conduct. This raises concerns about fairness and equity in access to decision-makers.

6. An explicit prohibition on the "dual hatting" of professional lobbyists during election campaigns. They can either lobby or provide professional political advice but cannot do both.

This recommendation is consistent with APGRA's Code of Conduct, which explicitly restricts members from serving in an executive role in a political party or a senior management role in the conduct of an election campaign.

In defining what it means to hold a 'substantive role' in the election campaign of a prospective government, we would recommend the Government adopts the definition of 'executive role' outlined in APGRA's Code of Conduct. An 'executive role' is defined as any leadership, office-bearer, fundraising or decision-making role in a registered political party or associated entity but does not include ordinary membership of a political party.

APGRA's view is that an appropriate definition of the term 'substantive role' would help avoid adversely impacting future employment prospects for government and parliamentary staff who do not play a substantive role in election campaigns.

Appendix A: APGRA Code of Conduct

Introduction

The individual and firm members of the Association believe that government relations practitioners must be honest, open and transparent at all times in their dealings with government and clients, and are committed to high standards of integrity in the conduct of their businesses and activities.

This Code of Conduct has been developed by the Association to clearly articulate the professional and ethical framework for the way in which members relate to government in Australia. Members' primary obligations are to abide by the relevant legislation and government codes in place around Australia. It is intended that this Code will operate alongside those schemes, but in any and all cases of inconsistency, relevant legislation and government codes will prevail to the extent of that inconsistency.

Membership of the Association is open to any firm or person for whom the making of representations to government in Australia constitutes part of their professional activities, and who is prepared to abide by and implement this Code of Conduct and Membership Rules, and continues to comply with them on an ongoing basis.

This Code of Conduct covers the activities of members in their interaction with Australian governments at all levels. Members can include specialist government relations firms and their staff, professional communications firms that also offer government relations support as part of their services, 'in-house' and individual government relations practitioners as well as any other professionals who make representations to government.

It is a pre-requisite and condition of membership of the Association that members adopt and abide by this Code of Conduct, and that all practitioners involved in providing government relations services and making representations to government observe the duties and principles set out in the Code. Members will be required to renew their commitment to the Code each year as a condition of membership.

Failure to adopt and abide by this Code of Conduct and Membership Rules will be grounds for declining or cancelling membership of the Association, or other sanctions deemed appropriate and proportionate.

Definitions

"***Consulting Practitioner***" means a Government Relations Practitioner who is engaged as a third party to Make Representations on behalf of an individual, a company or an organisation.

"***Client***" means an individual, association, organisation or business who:

a) has engaged the Practitioner, or the organisation for whom the Practitioner works, on a professional basis to Make Representations to an Government Representative; or

b) in relation to an 'in-house' Practitioner, means the Practitioner's employer.

"***Executive Role***" is any leadership, office-bearer, fundraising or decision making role in a registered political party or associated entity but does not include ordinary membership of a political party.

"***Government Institutions***" includes Parliament, local government, the ministry, the bureaucracy, and government owned trading organisations.

"***Government Relations Practitioner***" or "***Practitioner***" is an individual who may be a person, body corporate, unincorporated association, or partnership who Makes Representations.

"***Government Representative***" means a Government Institution or a person elected to be a member of a Government Institution such as a Member of Parliament or local councillor as well as

their staff, such as Ministerial staff, staff employed by a Member of Parliament, staff employed by a local or shire council, or staff employed in the public sector.

"***Lobbying Rules***" means rules established by legislation or a Government Institution to regulate lobbying or government relations practitioners or their activities. For an up to date list, see the Association's website.

"***Making Representations***" includes substantive contact with a Government Representative for the purpose of influencing government decision-making including making or changing legislation, developing or amending policy or programs, the awarding of a tender, a grant or allocation of funding, and meeting or other requests, but does not include non-substantive matters such as requests for publicly available information or modifying logistical arrangements for a meeting.

"***Management Committee***" means the Management Committee of the Association or their designate.

Operation of this Code

1. This Code applies in respect of all circumstances in which a Government Relations Practitioner is Making Representations on behalf of a Client.

2. Any breach of this Code of Conduct will be dealt with in accordance with the Membership Rules and it is an obligation of membership that each member (and their relevant staff) is bound by those Rules.

3. This Code commences on 1 July 2014.

Professionalism

4. Practitioners will act with honesty and decency at all times towards Government Representatives.

5. Practitioners will not act in a manner detrimental to the reputation of the Association or the professional practice of government relations in general.

6. Practitioners will not engage in any conduct that is corrupt, dishonest or illegal.

7. Practitioners will use reasonable endeavours to satisfy themselves of the truth or accuracy of all statements made or information provided to Government Representatives and will exercise proper care to avoid giving false or misleading information.

8. Practitioners will diligently advance and advocate their Client's interest.

9. Practitioners will devote time, attention, and resources to the Client's interests that are commensurate with Client expectations, agreements, and compensation.

Interactions with Government

10. When interacting with Government Representatives, Practitioners will disclose on whose behalf they are acting, and will not misrepresent their interests.

11. Where the proposed or actual activities of a Client may be illegal, unethical or otherwise contrary to a Lobbying Rule or this Code, Practitioners will advise the Client accordingly and refuse to act in relation to the relevant activity.

12. Practitioners will not make misleading, exaggerated or extravagant claims regarding, or misrepresent, the nature or extent of their access to, or relationship with, Government Representatives, political parties, or members of political parties. This clause extends to claims of 'guaranteed' access to, or outcomes from, particular Government Representatives.

13. Practitioners will not offer or give, or cause a Client to offer or give, any financial or other incentive to any Government Representative that could be construed as a bribe or inducement.

Personal Political Activity

14. Practitioners will keep strictly separate their professional activities and any personal activity or involvement on behalf, or as a member, of a political party.

15. Practitioners will not serve in an Executive Role with a political party.

16. Practitioners will not play a senior management role in the conduct of an election campaign.

Employment of Government Representatives

17. Practitioners will not employ, or otherwise commercially engage, any current Government Representative.

18. Practitioners who were formerly elected Government Representatives will not, for a period of 18 months after they ceased to hold office, Make Representations on behalf of a client, with respect to any matter on which they had official dealings in the 18 months prior to leaving that role.

19. Practitioners, who were formerly non-elected Government Representatives will not, for a period of 12 months after they ceased their former role, Make Representations on behalf of a Client, with respect to any matter on which they had official dealings in the 12 months prior to leaving that role.

Compliance with Laws, Regulations and Rules

20. Practitioners will comply with any relevant Lobbying Rules and with this Code. Where any conflict exists between this Code and a Lobbying Rule, Practitioners must abide by the Lobbying Rule.

21. Practitioners will comply with any legislation, government resolution or rule relating to donations to political parties and any other matter.

22. Practitioners will conduct themselves in accordance with the rules of parliament or any other Institution of Government while within their precincts (including rules relating to any access pass that might have been issued to them).

23. Practitioners will abide by the rules for obtaining, distribution and release of parliamentary and governmental documents.

24. Practitioners will not obtain information from Government Representatives by improper or unlawful means.

25. Practitioners will not cause a Government Representative to breach any law, regulation or rule applicable to them.

Obligations Only Applying to Consulting Practitioners

26. Consulting Practitioners will have a written agreement with their Client regarding the terms and conditions for their services, including the amount of and basis for compensation.

27. The fees charged by a Consulting Practitioner will be reasonable, taking into account the facts and circumstances of the engagement.

28. Upon termination of their relationship, Consulting Practitioners will take steps to the extent reasonably practicable to protect a Client's interests, such as giving reasonable notice to the Client, allowing time for employment of another Practitioner, and surrendering papers and property to which the Client is entitled.

29. Consulting Practitioners will indicate to their Clients their membership of the Association, and the existence of obligations under this Code and the Lobbying Rules.

30. Consulting Practitioners will avoid conflicts of interest in Making Representations on behalf of a Client to a Government Representative.

31. Consulting Practitioners will disclose any known conflict of interest to their relevant Clients and resolve the conflict issue promptly.