Imagine Tony Abbott resigned to become a lobbyist tomorrow.

In this new job, Mr Abbott would be lobbying his own former colleagues, bringing with him into every meeting the weight of the status and respect he developed as Prime Minister.

He would be seeking to influence the political position of his party for his commercial benefit and the commercial advantage of his clients over their competitors.

And if he did, he would be completely within the rules.

Under the Statement of Ministerial Standards, a Minister cannot lobby their colleagues within 18 months of leaving the Ministry.

As Tony Abbott would remind you, that leaves him a free man.

Plenty of people would have a problem with that. Public expectations are not in line with the law.

There is no legislative restriction on the revolving door between Government Ministers and corporate lobbyists.

All that exists is a code of conduct that defines lobbying so narrowly that it doesn't even cover industry bodies or interest groups: groups that are established for the sole purpose of lobbying for special treatment.

It's not doing what we need it to do. And we're hurting because of it.

The ANU's 2016 election study found public trust in politicians is at its lowest level in half a century.

Australians aged between 18 and 29 are the least likely to agree that "democracy is the preferable form of Government."

Half of young Australians would prefer something other than democracy.

We are experiencing a crisis of faith.

We all have a job to do in restoring it.

Lobbying reform is one part of that picture. It is not all that is needed.

It took a lot of cuts to lose this much blood.

But if you care about democracy or if you care about restoring the faith in the ability of Parliament to fix problems, we need your help.

If you think politics can be a force for good in the world, then you need to use your voice and your vote to call for it.

Standing back is not an option. Standing aside is not an option. Nobody can fix this but you.

Senator Jacqui Lambie

October 2017

CLEANING UP CANBERRA

EXECUTIVE SUMMARY

- The Lobbying Code of Conduct, introduced in 2008, requires all lobbyists to register their names and the names of their clients on the Lobbyist Register, as well as commit to abide by the Code of Conduct's standards.
- But the Code of Conduct has issues. It defines lobbyist narrowly. It has no legal enforcement mechanism. Its interpretation is subject to partisan and partial review.
- As a result, one-third of the lobbying industry are nominally bound by rules that two-thirds of the industry aren't required to follow; this is anticompetitive. We have restrictions on post-ministerial employment that aren't being policed and can't be policed.
- But to reform lobbying, we don't need to throw the baby out with the bathwater. The Lobbying Code of Conduct can be improved.
- **Expand it.** The number of lobbyists on the Lobbyist Register outnumber the number of people who have signed a piece of paper saying they need an unrestricted security pass to Parliament for "significant and regular business access' as part of their job, three to one.
- Expand the definition of a lobbyist so that everyone with a pass is considered a lobbyist – and so is required to commit to the Code of Conduct. This would expand the definition to include in-house lobbyists for businesses, unions, employer groups, industry groups, NGOs and peak bodies.
- Expand the cooling-off period for former ministers becoming lobbyists from 18-months to five years, to bring Australia into line with Canada, France, the European Union and the United States. Grant former ministers the right to register for a waiver or exemption on application, should they wish to work as a lobbyist within their cooling-off period.
- **Legislate it.** The Code of Conduct is an unenforceable Executive order. It means nobody can appeal a decision, and it's left to the Government to decide what is and isn't within the rules. The result is a partisan and partial interpretation of the standards, which doesn't give lobbyists a fair go under law, and gives the Government too much power. It means the people who are engaged in the lobbying process are also responsible for policing it.
- Instead, we can make it an enforceable, mandatory industry Code of Conduct, policed by the Australian Competition and Consumer Commission and subject to appeal to the Administrative Appeals Tribunal. Doing so would allow breaches to be independently considered and penalties independently applied.
- **Enforce it.** Take the Lobbying Register out of the hands of Prime Minister and Cabinet, and hand over responsibility to the newly-established Parliamentary Integrity Commissioner. Give the Commissioner the power to enforce the cooling-off period of five years, by receiving applications from former ministers and reviewing their application against an independent, standard criteria.
- Give lobbyists who fall afoul of the newly-enforced standards another opportunity to meet with government representatives with additional transparency by expanding the Parliament House Visitor Pass Register to include a field for whom the visitor is representing. Send an electronic copy of the Visitor Pass Register to each relevant Minister's office on a regular basis, bringing the Register into the scope of our Freedom of Information scheme.

HOW TO FIX LOBBYING

Ten years ago, the Rudd Government introduced the Lobbying Code of Conduct. It was an attempt to regulate the way lobbyists work in Canberra.

It didn't work – for a lot of reasons. It wasn't independent, it was full of loopholes, and it couldn't be legally enforced.

Now's the time to take another look at the Lobbying Code of Conduct, and fix it.

Here's how.

EXPAND IT

- Harmonise the sponsored pass definition of a lobbyist with the Code's definition of lobbyist
- Strengthen the Code of Conduct's post-separation employment restrictions for former Ministers
- Extend the post-separation employment restriction for former ministers from eighteen months to five years, to line up with Canada and the United States

LEGISLATE IT

- Turn the Lobbying Code of Conduct into a mandatory industry code, governing everybody who lobbies federal government representatives: businesses, unions, NGOs and industry groups
- Give the ACCC the power to police the mandatory industry code
- Make decisions reviewable by the Administrative Appeals Tribunal

ENFORCE IT

- Establish a Parliamentary Integrity Commissioner, an independent statutory body that administers the Register and reports to the Parliament.
- Give the Commissioner the power to enforce the Statement of Ministerial Standards
- Expand the Parliament House Visitor Pass Register and allow access under Freedom of Information law

CLEANING UP CANBERRA

We don't trust politicians to set their own pay. Why do we trust them to set their own rules?

As the regulatory and fiscal impact of the Government grows as a share of the overall economy, lobbying has become a multi-billion dollar industry.

Lobbying is a legitimate and, indeed, invaluable part of the democratic process. It is a tool to support the decision-making process, by allowing interested parties to use rhetoric and reason to persuade decision-makers that their interests and the public interest are aligned.

But government decisions can also be hugely influential on the profitability of a firm or an industry, and this capacity to influence grows as the power of the government grows. Everybody should have the right to petition their elected representatives. But this right to petition is not absolute. It is not democratic for an individual to petition their elected representative with enticements or inducements. As the power of lobbying grows, so too must the regulatory framework that governs it. We cannot close down advocacy; nor should we. But in recognition that there is much at stake when decisions are made, lobbying should be done in as much sunlight as possible.

Lobbying is governed by a patchwork of laws. At the federal level, Australia has two primary instruments: the Lobbying Code of Conduct, and the Statement of Ministerial Standards.

THE LOBBYING CODE OF CONDUCT

The Federal Lobbying Code of Conduct was introduced in May 2008. There was no Code of Conduct in place throughout the Hawke, Keating or Howard Governments.

The Code defines a lobbyist as:

> *... any person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client.*

The Code does not apply to:

> *... any person, company or organisation, or the employees of such company or organisation, engaging in lobbying activities on their own behalf rather than for a client, and does not require any such person, company or organisation to be recorded in the Register of Lobbyists unless that person, company or organisation or its employees also engage in lobbying activities on behalf of a client or clients.*

The Code excludes:

- charitable, religious and other organisations or funds that are endorsed as deductible gift recipients
- non-profit associations or organisations constituted to represent the interests of their members that are not endorsed as deductible gift recipients and
- members of professions, such as doctors, lawyers or accountants, and other service providers, who make occasional representations to Government on behalf of others in a way that is incidental to the provision to them of their professional or other services.

The Code defines 'government representative' as including ministers, parliamentary secretaries, ministerial staff, agency heads, public servants and members of the Australian Defence Force.

The Code of Conduct also creates a Lobbying Register.

REGISTER OF LOBBYISTS

Australia's first federal iteration of a lobbyist registration scheme was introduced by the Hawke Government in 1983. Two registers were maintained: one for domestic lobbyists, and one for lobbyists representing foreign governments or their agencies. Although the registration scheme was voluntary, registration was considered a necessary precondition to making representations to ministers and government officials.

The Howard Government abolished the register in 1996, arguing it had fallen into disuse.

The Lobbying Code of Conduct, introduced by the Rudd Government in 2008, also established a Register of Lobbyists. The Register, which has been in operation since 1 July 2008, is a public document administered by the Department of Prime Minister and Cabinet. The Secretary of the Department has the power to add or remove lobbyists from the Register, as well as investigate and respond to its breach.

*"There should be a basic set of ethical standards that **all non-government people** who seek to engage with government are expected to comply with."*

LES TIMAR
Managing Director, Government Relations Australia | 2012

In August 2011 the Special Minister of State announced two changes to the Register of Lobbyists: the requirement that lobbyists disclose details of any former government representatives employed by their firm as lobbyists and measures to streamline the regulatory and administrative arrangements for registration.

Because the Code of Conduct was established by Executive decision, its interpretation is partisan and haphazard. Decisions made with reference to the Code of Conduct are not subject to appeal to the Administrative Appeals Tribunal. This means that decisions to deregister lobbyists for breaches of the Code cannot be guaranteed to be independently and impartially appealed. It is a poor standard of governance and one that can be improved.

The AAT does not have any power to review decisions of Ministers or officials unless they are made under an Act, Regulation or other legislative instrument that provides specifically that the decision is subject to review by the AAT. This leaves the decisions of the Prime Minister and the Department of Prime Minister and Cabinet with little oversight or accountability. It does not guarantee lobbyists a right of reply and an opportunity to respond to decisions affecting their reputation and professional livelihood.

Because deregistering a lobbyist from the Lobbying Register is a blunt instrument, which can be made by a Minister, without the affected lobbyist being afforded the right to appeal, it is perhaps understandable that this power has so rarely been utilized. But a power that exists only on paper is a power that does little to discourage violation of the Code of Conduct, and if the threat of deregistration no longer discourages behaviour then the Code of Conduct is not promoting any of the standards it seeks to promote.

Neither instrument is sufficiently strong. The governing of lobbying has been challenged as weak since the Hawke Government; little has improved.

Lobbying is not the only form of behaviour that is corrupting public confidence in the Parliament. But it is one crucial part of the larger issue, and confidence cannot be restored without addressing the regulation of interactions between ministers and lobbyists.

The Jacqui Lambie Network seeks to address this element of the problem.

1. HARMONISE THE SPONSORED PASS REGISTER WITH THE DEFINITION OF LOBBYIST

The current Lobbying Code of Conduct defines a lobbyist as:

> *... any person, company or organisation who conducts lobbying activities on behalf of a third party client or whose employees conduct lobbying activities on behalf of a third party client*[1]

This definition restricts who is considered a lobbyist only to those who do so on behalf of a third party client. As such, it exempts in-house lobbyists, representatives of industry and member organisations, unions and professional bodies. By some estimates, it applies to roughly one third of lobbyists in Canberra.[2]

The determination of who is and is not considered a lobbyist has been fraught since the Code was introduced. There are issues in defining who is and is not a lobbyist when those who are deemed 'lobbyists' are required to adhere to a series of restrictions that do not apply to the uncategorised. Individuals will protest being categorised as a lobbyist because of the additional burdens placed on them as a result of the categorisation.

1 Department Of The Prime Minister And Cabinet. "Australian Government Lobbyists Register." Lobbyists.pmc.gov.au. c=AU; o=Commonwealth of Australia; ou=Department of the Prime Minister and Cabinet, 19 Mar. 2010. Web. 16 Oct. 2017. <http://lobbyists.pmc.gov.au/conduct_code.cfm>

2 Daniel Burdon. "Canberra's unregistered lobbyists outnumber those on federal lobbying register two-to-one." Canberra Times. 2 Sept. 2016. Web. 16 Oct. 2017. <http://www.canberratimes.com.au/act-news/canberras-unregistered-lobbyists-outnumber-those-on-federal-lobbying-register-twotoone-20160830-gr4nkm.html>

*"**A burden imposed on only registered, third-party lobbyists and their clients will make it attractive and more convenient for a business to utilise the services of someone who is not a registered lobbyist**, provides no transparency, nor has a code of conduct to guide their activities."*

KREAB GAVIN ANDERSON
Government Relations Consultancy | 2012

So when being defined as a lobbyist brings with it only restrictions and not benefits, organisations and individuals will seek to avoid being labelled as such unless it is absolutely necessary to do so.

We propose to provide a benefit to being declared a lobbyist by granting privileges to those considered a lobbyist, above and beyond those who are not declared to be. In this way we realign the incentives in a more sensible way: practitioners will seek to declare themselves lobbyists to take advantage of the benefits this label provides. In order to be considered a lobbyist, and access those benefits, practitioners will be required to commit to abide by an Industry Code of Conduct, and accept that failing to do so will see them suspended or barred from the privileges of the label.

As such, the Jacqui Lambie Network seeks to harmonise the definition of a lobbyist, as contained within the Lobbying Code of Conduct, with the definition used to receive a sponsored pass for Parliament House.

Parliament House issues sponsored security passes to people we would colloquially refer to as lobbyists. These 'orange' passes entitle the holder to full, unescorted access to the secure part of the Parliament House building, allowing the pass holder full, unfettered and unregulated access to any Minister, Opposition MP or minor party parliamentarian who grants them an audience. They can escort visitors just like a parliamentarian or a staff member could.

The passes are called 'Sponsored' because, in addition to completing a form and providing a police check, applicants are required to nominate a Senator or Member who has known them for 12 months or longer, or provide a letter from their organisation attesting to their character and the need for 'significant and regular business access'.

For professional lobbyists in Canberra, orange passes are valuable because they allow the holder an opportunity to meet anybody at any time. They're the backstage pass for the lobbying class.

It is our belief that, if your job requires you maintain 'significant and regular business access' to politicians, what you are doing should be considered lobbying. And that should be reflected in the law.

By harmonising the definition of a lobbyist between the sponsored pass application process and the Code of Conduct, we can grant lobbyists a privilege of value, and bind them to a Code of professional conduct.

Extending the Lobbying Code of Conduct to all lobbyists was a recommendation made by government relations firm Hawker Britton.

As noted in the firm's submission to the inquiry into the operation of the Lobbying Code of Conduct and the Register in 2011:

> *Many of Australia's largest corporations, community organisations, churches, unions, and industry associations employ in-house government relations and regulatory affairs lobbyists.*
>
> *Many of these lobbyists would perform essentially the same roles and functions as third party lobbyists; however they do so for a single or related group of entities and are in an employment relationship rather than acting as an agent.*
>
> *Some of these organisations in turn engage third party-lobbyists both on an ongoing or project basis because of their specialised skills and knowledge.*[3]

As a result it is not uncommon for two lobbyists to be in the same meeting, representing the same client, making the same arguments, but only one is considered a lobbyist under the current, narrow definition. Only one is nominally bound by the Lobbying Code of Conduct and nominally bound to the ethical standards enshrined within it.

By extending the definition of lobbying to what is currently in use with relation to sponsored passes, we can end the farce of having half a meeting bound by a set of obligations and another half bound by nothing.

3 Hawker Britton. Submission. "The operation of the Lobbying Code of Conduct and the Lobbyist Register – Parliament of Australia." Aph.gov.au. 24 Apr. 2015. Web. 16 Oct. 2017. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2010-13/lobbyingcode2011/report/index>

*"The combination of these Standards and the Lobbying Code means the public can be confident that **Ministers will not be able to use the experience and contacts they have gained in office to enhance their value to the private sector**, either as lobbyists or as senior executives in business with the Government".*

THE HON. JOHN FAULKNER
Labor Special Minister of State (2007-09) | 2008

2. STRENGTHEN THE CODE OF CONDUCT'S POST-SEPARATION EMPLOYMENT RESTRICTIONS FOR FORMER MINISTERS

Currently, the Lobbying Code of Conduct contains the following provision:

Prohibition on lobbying activities

1. *Persons who, after 6 December 2007, retire from office as a Minister or a Parliamentary Secretary, shall not, for a period of 18 months after they cease to hold office, engage in lobbying activities relating to any matter that they had official dealings with in their last 18 months in office.*

2. *Persons who were, after 1 July 2008, employed in the Offices of Ministers or Parliamentary Secretaries under the Members of Parliament (Staff) Act 1984 at Adviser level and above, members of the Australian Defence Force at Colonel level or above (or equivalent), and Agency Heads or persons employed under the Public Service Act 1999 in the Senior Executive Service (or equivalent), shall not, for a period of 12 months after they cease their employment, engage in lobbying activities relating to any matter that they had official dealings with in their last 12 months of employment.*[4]

The prohibition on lobbying activities, mentioned above, refers to:

... communications with a Government representative in an effort to influence Government decision-making, including the making or amendment of legislation, the development or amendment of a Government policy or program, the awarding of a Government contract or grant or the allocation of funding, but does not include:

a. *communications with a committee of the Parliament;*

b. *communications with a Minister or Parliamentary Secretary in his or her capacity as a local Member or Senator in relation to non-ministerial responsibilities;*

c. *communications in response to a call for submissions;*

d. *petitions or communications of a grassroots campaign nature in an attempt to influence a Government policy or decision;*

e. *communications in response to a request for tender;*

f. *statements made in a public forum; or*

g. *responses to requests by Government representatives for information.*

The spirit of this restriction is also contained within the Turnbull Government's Statement of Ministerial Standards:

Ministers are ... required to undertake that on leaving office they will not take personal advantage of information to which they have had access as minister, where that information is not generally available to the public.

... Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office.[5]

4 Department Of The Prime Minister And Cabinet. "Australian Government Lobbyists Register." Lobbyists.pmc.gov.au. c=AU; o=Commonwealth of Australia; ou=Department of the Prime Minister and Cabinet, 19 Mar. 2010. Web. 16 Oct. 2017. <http://lobbyists.pmc.gov.au/conduct_code.cfm>

5 Department of the Prime Minister and Cabinet. "Statement of Ministerial Standards | Department of the Prime Minister and Cabinet." Pmc.gov.au. 22 Dec. 2014. Web. 16 Oct. 2017. <https://www.pmc.gov.au/resource-centre/government/statement-ministerial-standards>

There is a great deal of overlap, and much of the Ministerial Statement of Standards is redundant on this issue.

Furthermore, the Statement of Ministerial Standards does not have any means of enforcement for those who cease to hold office. Those who take up roles as lobbyists upon leaving a Ministerial position may or may not be found to be in breach of the Statement of Ministerial Standards, but the ruling is without consequence, as no penalty can be applied to a former Minister.

Indeed, the attitude of Government is now to effectively abdicate responsibility and let former Ministers police themselves. According to the Special Minister of State:

> *It is the responsibility of all former Ministers to adhere to the Statement of Ministerial Standards and not take personal advantage of information to which they have had access as a Minister where that information is not generally available to the public.*[6]

The prohibition on taking personal advantage of privileged information made available to a former Minister as a part of their office duties should be incorporated into the Lobbying Code of Conduct, strengthening the two documents and no longer requiring the Statement of Ministerial Standards to ask Ministers to "undertake" to not abuse their position into the future.

6 Andrew Greene. "Andrew Robb joins Chinese company that controls Darwin Port." The New Daily. 31 Oct. 2016. Web. 16 Oct. 2017. <http://thenewdaily.com.au/news/state/nt/2016/10/31/andrew-robb-darwin-port/>

3. EXTEND THE POST-SEPARATION EMPLOYMENT RESTRICTION FROM EIGHTEEN MONTHS TO FIVE YEARS

The current Lobbying Code of Conduct contains two post-separation restrictions on employment: eighteen months for Ministers and Assistant Ministers/Parliamentary Secretaries, and 12 months for senior ministerial staff, defence officials, and civil servants.

The 12 to 18-month ban on post-separation employment as a lobbyist, as it applies to ministers and senior civil servants, including senior defence force officials, has three bases:

1. It helps preserve public faith in Australia's democracy.

The public perception of former ministers and senior civil servants leaving their position to immediately work as lobbyists, or in positions formerly within, or partially subordinate to their portfolios or responsibilities, is overwhelmingly condemned in public commentary.

2. It reduces the likelihood that a former minister or senior public servant can leverage extant relationships in their previous government position for "relationship advantages".

The relationships with other ministers, MPs, and members of the civil service are created over the course of a minister or senior civil servant's career, and can create undue or unreasonable conflicts of interest.

These can manifest when current ministers or civil servants were previously in subordinate positions (often having a subconscious, irrational psychological effect), or from friendships or other positions (which instill a sense of loyalty between former and currently serving members of political and civil service).

This creates an imbalance in the ideal of the 'marketplace of ideas', wherein a lobbyist or interest group should ideally be received and considered on the basis of merit rather than more nepotistic or otherwise biased considerations.

3. It reduces the likelihood that a post-separation employment contract may act as a proxy for a bribe.

Under Australia's Criminal Code, any quid pro quo arrangement, in which a decision-maker takes payment of any kind for a favourable decision (generally to the benefit of that decision's beneficiary) is illegal. However, this has historically been very difficult to prove and enforce.

That burden of proof, however, is made considerably more difficult when the decision-maker is able to delay payment for the quid pro quo arrangement by accepting employment, by the beneficiary, months or years after the act. Extending the post-separation employment period would reduce the likelihood of this significant (and illegal) conflict of interest from occurring.

The extension of the restriction from eighteen months to five years brings Australia's restriction in post-separation employment into alignment with that in place in Canada.[7] In seeking to align this restriction, it is important to also align the exemptions in place. As such, we propose that former Ministers may seek exemption from the restriction by application to the Parliamentary Integrity Commissioner.

In considering the exemption, the Commissioner may consider the nature of the potential employment, the length of separation to date, the nature of the Ministry and the client for whom the former Minister would be employed.

This restriction was recommended in 2011 by the Accountability Round Table.[8]

7 Dierdre McKeown. "Who pays the piper? Rules for lobbying governments in Australia, Canada, UK and USA – Parliament of Australia." Aph.gov.au. 10 Jun. 2015. Web. 16 Oct. 2017. <https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/LobbyingRules>

8 Accountability Round Table. Submission. "The operation of the Lobbying Code of Conduct and the Lobbyist Register – Parliament of Australia." Aph.gov.au. 24 Apr. 2015. Web. 16 Oct. 2017. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2010-13/lobbyingcode2011/report/index>

4. MAKE IT A MANDATORY INDUSTRY CODE, GOVERNING ALL PEOPLE WHO LOBBY FEDERAL GOVERNMENT REPRESENTATIVES

The Lobbying Code of Conduct, in its current form, is not legislated. It serves essentially as guidelines and has no substantive means of enforcement. The Secretary of the Department of Prime Minister and Cabinet may, at his or her discretion, deregister or deny registration to a lobbyist, or a Special Minister of State may, at his or her discretion, direct the Department Secretary to deregister or deny registration.

This lack of legislative authority undermines the effectiveness of the regulation. It weakens its authority over registered firms and individuals and does not satisfactorily promote transparency and accountability in a way that is intended.

The failure to meet its intended need has created what amounts to a market failure. The lobbying industry plays an important role in the democratic decision-making process but it is operating with diminishing public trust and to the extent that lobbyists are viewed as enablers of corporate influence on government, public confidence in the ability of government to make decisions in the public interest, as opposed to servicing a special interest, is eroded. The decay in public trust in government has profound and serious effects on the ability for politics to solve complex problems.

Addressing the under-regulation of the lobbying industry can address this negative externality. It thus meets Treasury's guidelines on determining the instances where an industry code of conduct may be appropriate.[9]

Section 51AE of the *Competition and Consumer Act 2010* gives the Commonwealth the authority to prescribe an industry code, and to declare the industry code to be mandatory. Industry codes outline what is considered acceptable and unacceptable behaviour from participants in an industry towards other participants or towards consumers.

As lobbying facilitates the interaction between two parties, the ethical obligations of a lobbyist arise not merely in their conduct with government, but also in how they advise their clients to behave. For example, it should not be appropriate for a lobbyist to advise a client to directly engage in conduct which the lobbyist should not engage in themselves under the Code of Conduct.

Prescribed industry codes are enforceable by the Australian Competition and Consumer Commission or by private action under the CCA, with a wide range of remedies available, including injunctions and damages.

In the instance that the Parliamentary Integrity Commissioner receives an allegation of a breach of the industry code, it may refer the allegation to the Australian Competition and Consumer Commission for investigation. The Parliamentary Integrity Commissioner's role is to conduct an initial investigation to satisfy itself of the substance of an allegation, before cooperating with the ACCC to demonstrate that the allegation is substantive and progress the investigation to an ACCC enforcement officer.

This model provides distance so that the roles of the Parliamentary Integrity Commissioner, as a 'detective' and as a 'judge', are not compromised. It is not optimal to centralise the duty to investigate, to recommend penalty, and to mete out said penalty, in a single body. Otherwise there is a risk that investigations do not occur because of what penalty may be applied, or investigations occur only to pursue some sort of penalty.

It is preferable then to have these responsibilities handled by different organisations so that no single body has the power to corrupt the process.

Under the Competition and Consumer Act, the ACCC investigates conduct it assesses as being likely to constitute a breach of the Act. Breaches of the Code may attract pecuniary penalties not exceeding 300 penalty units (currently valued at $63,000, or 300 penalty units worth $210). In addition, if the ACCC finds that a breach of the Code has occurred, the Parliamentary Integrity Commissioner may penalise the infringing party through its administration of the Lobbying Register.

9 Treasury. "What are industry codes of conduct?." Treasury.gov.au. n.d. Web. 16 Oct. 2017. <treasury.gov.au/publication/policy-guidelines-on-prescribing-industry-codes/what-are-industry-codes-of-conduct/>

***"Coverage of the code [should] be expanded** to embrace unions, industry associations and other businesses which conduct their own lobbying activities."*

THE HON. MITCH FIFIELD

Liberal Minister for Communications (2015-) | 2008

*"**Responsibility for the Register should be removed from the Department Secretary** and transferred to an independent entity, preferably reporting to the Parliament."*

GUY BARNETT
Liberal Senator for Tasmania (2002-10) | 2012

5. ESTABLISH A PARLIAMENTARY INTEGRITY COMMISSIONER

The Jacqui Lambie Network proposes the establishment of an independent Parliamentary Integrity Commissioner.

The Parliamentary Integrity Commissioner will:

- administer the Lobbying Register
- administer the Statement of Ministerial Standards, and
- give advice on and investigate breaches of a legislated industry code, the Lobbying Code of Conduct, and when necessary refer allegations to the Australian Competition and Consumer Commission for further investigation and enforcement.

The proposed Parliamentary Integrity Commissioner would be tasked with administration of the Statement of Ministerial Standards, and the Lobbying Code of Conduct (and associated Lobbying Register). In addition, the Commissioner would offer confidential advice on whether a proposed action would fall afoul of either Code, to avoid breaches of the Code and to promote public confidence in the appropriate functioning of the Parliament.

Presently, it is up to those who are lobbied to police and enforce the regulation surrounding this interaction. This unusual investment of power undermines the accountability of the process of lobbying. It becomes difficult to remain impartial when one is concerned over the chilling effect that deregistering a lobbyist may have on future instances when the valid advice of a lobbyist may be invaluable.

The Integrity Commissioner's role is a powerful one, and as such it is appropriate that there be parliamentary oversight into its operation. Historically, it has been proposed that its operation be supervised by the Privileges Committees of both houses of Parliament.[10]

The proposal to establish a Parliamentary Integrity Commissioner has historically been supported by the Australian Labor Party and the Australian Greens.[11] A bill to establish an independent statutory National Integrity Commission was introduced into the Senate in June 2010 by Senator Bob Brown. The Commission was to consist of a National Integrity Commissioner, a Law Enforcement Integrity Commissioner, and an Independent Parliamentary Advisor. In addition, the bill provided for the establishment of a Parliamentary Joint Committee on the National Integrity Commission.

Progress on the proposal has nonetheless stalled. In 2012, the House of Representatives Standing Committee on Social Policy and Legal Affairs tabled an advisory report raising concerns about the proposal over "feasibility and cost".[12]

But Ethics Commissioners are in place, fulfilling similar roles, in many Australian states and international jurisdictions, including NSW, Tasmania and the ACT.

We've seen the role introduced successfully in other jurisdictions. The value of this precedent is powerful and instructive. The status quo is toothless and partial; the potential for conflicts of interest is rife. The Jacqui Lambie Network supports resolving it.

10 Milanda Rout. "Long wait for integrity watchdog." Theaustralian.com.au. 29 Dec. 2011. Web. 16 Oct. 2017. <http://www.theaustralian.com.au/national-affairs/long-wait-for-integrity-watchdog-for-politicians/news-story/0088fcac22e29f71b4cfc8927e8d0ae7>

11 Bob Bottom. "Lack of integrity commission a scandal." Theaustralian.com.au. 28 Dec. 2012. Web. 16 Oct. 2017. <http://www.theaustralian.com.au/news/inquirer/lack-of-federal-integrity-commission-a-national-scandal/news-story/c8539aa957ffc202925674554f9b72af>

12 Dierdre McKeown. "Who pays the piper? Rules for lobbying governments in Australia, Canada, UK and USA – Parliament of Australia." Aph.gov.au. 10 Jun. 2015. Web. 16 Oct. 2017. <https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/LobbyingRules>

6. ENFORCING THE STATEMENT OF MINISTERIAL STANDARDS

Ministerial standards outline the quality of conduct expected of ministers. They are an attempt to enshrine what is and is not considered acceptable use of the office. To a considerable extent, their value is as a signal to the public of what a Government and its Prime Minister will and will not tolerate.

The need for such standards becomes increasingly clear with every perceived breach. Ministers in a Government enjoy tremendous power deriving from their public office. This power can be positive, when it is employed in pursuit of the public good. It can also be negative, when it is employed inappropriately, for private benefit.

Because the Statement has no legal underpinning, its enforcement relies on the interpretation of the Prime Minister and the Department of Prime Minister and Cabinet. The Statement has no legal effect and cannot be referred to or enforced in court. Breaches of the Ministerial Statement of Standards carry no penalty beyond public admonition and potential harm to one's career, by being removed from a Ministerial position.

There are plain concerns with a Government investing itself with the power to determine what is and what is not an abuse of the privileges of office.

Leaving the application of a Ministerial Statement of Standards exclusively to the Prime Minister risks an inconsistent application of the rules, which does little to bolster public confidence in the performance and interests of their elected representatives.

It is appropriate that Governments maintain their own standards of what is and is not acceptable behaviour from a Minister. Governments can, from time to time, shift Ministerial expectations to better reflect public expectations.

But the deficiencies of the current system become clear when the Statement extends to those who are no longer Ministers, or to those who are no longer especially motivated to retain their position.

The issue with this system becomes particularly apparent when considering the extent to which the Statement can inform the actions of a Minister who is not seeking re-election. Because the penalty for breach is mostly to halt or reverse one's advancement within the party room, those Ministers who do not seek any further advancement or do not intend to maintain their position face no effective punishment for violating the Statement while a Minister.

The Statement becomes farcical when relating to restrictions on post-separation employment.

The Statement of Ministerial Standards states:

> *Ministers are ... required to undertake that on leaving office they will not take personal advantage of information to which they have had access as minister, where that information is not generally available to the public.*[13]

It states further:

> *Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office.*

In essence the Statement creates a 'cooling-off' expectation, where a former Minister is expected not to use the knowledge or information they gathered in pursuit of private or personal interest. Former Ministers are similarly expected not to lobby, advocate or 'have business meetings' relating to their former ministerial responsibilities (though this cooling-off period only applies for eighteen months, after which no restriction exists).

Because the Statement has no legal bearing, this requirement simply relies on the good honour of those to whom it applies.

Besides, while a serving Minister can be dismissed from their position for a breach of the Statement of Ministerial Standards, no such penalty can be applied to a former Minister, or indeed a former parliamentarian.

As such, this provision is frequently ignored. It is clear that to the extent that such a Statement is valuable and necessary; its operation is being undermined by the limits on what it can enforce as penalty.

The Jacqui Lambie Network believes the effectiveness of the Statement of Ministerial Standards is being undermined by its lack of legal authority.

13 Department of the Prime Minister and Cabinet. "Statement of Ministerial Standards | Department of the Prime Minister and Cabinet." Pmc.gov.au. 22 Dec. 2014. Web. 16 Oct. 2017. <https://www.pmc.gov.au/resource-centre/government/statement-ministerial-standards>

"I have a concern that ***the main players who do lobbying have been excluded."***

THE HON. CONCETTA FIERRAVANTI-WELLS
Liberal Senator for New South Wales (2005-) | 2008

This can be overcome – and the intention of the Standards can be better reflected in outcomes – by legislating the ambitions of the Statement of Ministerial Standards in a way that binds Ministers in office and post-separation of employment.

Doing so does not prevent a Government for establishing its own, supra-legislative code of standards.

The Parliamentary Integrity Commissioner will be tasked with investigating referrals of alleged breaches of the legislation. Referrals should be able to be received by parliamentarians, lobbyists and members of the public.

This power of the Parliamentary Integrity Commissioner is substantial. It is therefore critical that the Commissioner remains independent of Government, but is not without oversight of the Parliament.

The Parliamentary Integrity Commissioner should therefore be established to report to Senate Standing Committee on Finance and Public Administration.

The Prime Minister may determine what is considered appropriate behaviour by a Minister, offer this standard to the Parliamentary Integrity Commissioner, then receive advice from the Parliamentary Integrity Commissioner on whether the actions of a Minister may have fallen afoul of those standards.

While the penalty for infringement remains at the discretion of the Prime Minister, the application of the standards can in this way be more fully independent and transparent than if it remains left to the Prime Minister and their department.

7. EXPAND THE PARLIAMENT HOUSE VISITOR PASS REGISTER TO INCLUDE A FIELD FOR WHOM A VISITOR IS REPRESENTING

There may be instances where a registered lobbyist has their sponsored pass privileges suspended due to a breach of the Lobbying Code of Conduct. Suspending a person's sponsored pass, whether it be temporarily or permanently, does not affect the person's ability to access Members of Parliament. Instead, that person is simply required to be signed in to the visitor's book at any of the Parliament House security desks on arrival. The condition is no more onerous than that which applies to a visitor today, to any parliamentarian.

Lobbyists with suspended sponsored passes can still meet with the same people, at the same times. Access is not restricted. However, unlike those who carry valid sponsored passes, the Jacqui Lambie Network's proposal would see every official meeting between a lobbyist without a valid sponsored pass and a Government representative recorded in the Parliament House Visitor Pass Register.

To ensure this change Visitor Pass Register improves the transparency and operation of the Lobbying Register, a further reform is proposed. Presently, the only information required from a visitor is their name – this is a fixed parameter of the Visitor Pass Register. This can be changed at the direction of the Presiding Officers.

The Jacqui Lambie Network proposes that the relevant Minister requests the Presiding Officers to approve a new field to the Visitors Pass Register, requiring visitors to indicate, where applicable, the organisation they represent.

This new field would not, in and of itself, introduce a substantial burden to visitors. Lobbyists who represent third parties are required to document this interaction under current regulation. There has been no evidence produced to date to suggest this has had any chilling or disincentivising effect on interactions between citizens and their elected representatives.

*"I call on the government to **legislate this code and this register;** otherwise you leave it to the good people to do the right thing and to the crooks, the villains and those who want to get an advantage in the night to slide around the side."*

DR. BOB BROWN
Australian Greens Leader (2005-12) | 2008

However, this new field would not, in and of itself, introduce a substantially higher degree of transparency and accountability to the present system. The Visitor Pass Register is not a public document, so people who are recording their visits do so outside the view of the public.

There are sensible public policy reasons for shielding some interactions from public scrutiny. Citizens who are concerned about a sensitive issue may wish to appeal to their local Member or Senator without having that appeal recorded and made publicly available. Their right to privacy should be respected.

Similarly, whistle-blowers who wish to reveal instances of abuse of power and authority in the public or private sector may face personal or professional ramifications if their actions are disclosed. This need to balance disclosure against privacy is well-addressed in existing legislation, and the Jacqui Lambie Network proposes a solution to this dilemma that recognises and interacts with the important work already done in this field.

We propose that those visitors who are issued escorted passes through the Visitors Pass Register, who are signed in by a parliamentarian or their staff, have that sign-in recorded and sent via email to the office of the parliamentarian by whom the visitor is signed in.

This information is already required to be collected to enforce the rules around Sponsored passes and does not inflict a substantial additional cost on the Commonwealth.

Doing so would allow for interested members of the public to seek access to the visitor records of a Minister of the Government under Freedom of Information law.

Freedom of Information laws provide the necessary access to information to allow a balance between public disclosure and personal privacy, and access to information under Freedom of Information law is already well-regulated.

However, Freedom of Information laws cannot apply if no record is created. This is why the Register must be amended, and why a copy of a Minister's visitors should be emailed to the Minister's office. This correspondence creates a document can be requested under existing Freedom of Information laws.

*"I believe that **it should be both legislated and mandatory for lobbyists to register."***

GUY BARNETT
Liberal Senator for Tasmania (2002-10) | 2012

"Whether the aim of the exercise is a more ethical industry, or transparency in government, or an even playing field in policy-making and politics, ***a limited scheme runs the risk of being set up to fail."***

PROFESSOR JOHN WARHURST
Emeritus Professor, ANU | 2008

FREQUENTLY ASKED QUESTIONS

"Regulation should not restrict a person's right to trade"

It's true that politicians develop a very peculiar range of skills across a political career, and these skills are not always easily directly transferable to the private sector. Those skills are valuable to people who wish to influence political outcomes, because politicians are well-trained in this capacity.

Further, there is nothing illegal about using one's network of associates and colleagues in pursuit of a goal. There is nothing wrong with using one's public profile to promote a brand or a product, and this reform package does not seek to treat such promotion as undesirable. There is a reason that more than a third of the lobbyists who are represented on the Lobbying Register list themselves as ex-government representatives.

But we recognise the value of Ministerial decision-making, and the capacity of a Minister, like any person, to be swayed by incentives, when the Statement of Ministerial Standards instructs Ministers to avoid conflicts of interest arising from shareholdings. This instruction is either a recognition that they may be tempted to misuse public office, that the public may view any decision as a misuse of public office, or both. This standard acknowledges, then, that the perception of the public matters because trust in elected officials to do the right thing matters.

This is an important point to make because it means that if we recognise already that there is merit in acting to avoid action that appears improper, whether or not it is ultimately found to be, then we recognise that it matters what the public thinks is and is not appropriate, and that public goodwill and trust is a resource that can be won or lost.

The latest iteration of the Statement of Ministerial Standards, which was formalised by Prime Minister Turnbull in September 2015, recognises that "public office is a public trust".[14]

It suggests that "it is critical that Ministers do not use public office for private purposes. In particular, Ministers must not use any information that they gain in the course of their official duties, including in the course of Cabinet discussions, for personal gain or the benefit of any other person."

If a former Minister relies on information gained during their official duties for personal gain, or for the benefit of any other person, they face no penalty.

The Statement recognises that Ministers' right to trade does not extend to trading on the information they gather in the course of their official duties, including for the benefit of a third party, such as a client, but it has a limited capacity to act on that recognition.

What we propose does not introduce a higher burden on the right of a former Minister to trade. It supports the intention of the Statement of Ministerial Standards and strengthens its capacity to pursue and enforce that intent.

"Why should a Code of Conduct cover in-house lobbyists, when we already know whose interests they represent?"

Australian government codes define a lobbyist as a 'third party' lobbyist, that is, a person or organisation who represents the interests of a third party to government. This definition excludes 'in house' lobbyists such as peak industry and professional bodies, trade unions, and charitable and religious organisations. Third-party lobbyists represent a small share of the overall industry. They account for, at most, a third of the industry,

This has historically been argued as sufficient because politicians may not be aware of who a lobbying firm is representing in a particular meeting if they are representing multiple third parties, and so those corporate relationships should be disclosed. This disclosure, it is argued, is not necessary for in-house lobbyists because it is clear whose interests they are representing.

14 Department of the Prime Minister and Cabinet. "Statement of Ministerial Standards | Department of the Prime Minister and Cabinet." Pmc.gov.au. 22 Dec. 2014. Web. 16 Oct. 2017. <https://www.pmc.gov.au/resource-centre/government/statement-ministerial-standards>

This argument has been unpersuasive in other jurisdictions, such as the United States and Canada, where a legal lobbying regime is in place that covers both in-house and third-party lobbyists.[15]

Similarly, restrictions and cooling-off periods for in-house lobbyists are in place in law in France and throughout the European Union.[16]

There is no reason why only those who are third-party lobbyists should be bound by the substance of the Lobbying Code of Conduct. We must require lobbyists to maintain the utmost ethical standard regardless of who they represent, or how their business is structured.

This is the view of the Jacqui Lambie Network, as well as those expressed in 2009 by Liberal senators Concetta Fierravanti-Wells and Mitch Fifield, who argued the then-Rudd Government should extend the coverage of the Register to include "unions, industry associations and other businesses conducting their own lobbying activities."[17]

The Government argued then that "it is clear whose interests they represent".

This is a view shared by the Australian Chamber of Commerce and Industry, which argued in 2016:

> *..."They know we are speaking on behalf of our members... [the Chamber] sees no need to alter the arrangements."*[18]

And while it is true that the Rudd Government's objective for the Code was to "ensure ministers and other government representatives know whose interests are being represented by lobbyists before them", it is also true that the Rudd Government further detailed the objective to be "to enshrine a code of principles and conduct for the professional lobbying industry." It is questionable whether the Code, in its present form, is achieving this purpose.

The Code exists only in part to identify the interests being represented by a lobbyist in a particular interaction. The remainder of the Code of Conduct governs the interaction beyond that initial identification. Only a minor part of the Code of Conduct refers to clearly identifying whose interests are being represented. It is strange to exempt certain individuals from the entirety of the Code because of the redundancy of a minor element of it.

In exempting industry groups, corporations and unions from the requirement to declare their interest, the Rudd Government also exempted these players from being required to abide by the ethical standards included in the Code.

Australia's narrow definition of lobbying conflicts with international definitions. Canada's Lobbying Act broadly lobbying as any communication (written or oral) by an individual who is paid to communicate with the federal government about federal laws, policies, programs and possibly obtaining government contracts.

In May 2008, upon tabling the Lobbying Code of Conduct and announcing the establishment of the Register of Lobbyists, Senator John Faulkner definitively stated that, indeed:

> *"... there is a legitimate concern that ministers, their staff and officials who are the target of lobbying activities are not always fully informed as to the identity of the people who have engaged a lobbyist to speak on their behalf. The government believes that this information can be fundamental to the integrity of its decisions and should be freely available to those who are lobbied and to the wider public."*

> *"The public is also right to be concerned about politicians and others who leave office and immediately begin a career lobbying their former colleagues using contacts they developed and information they obtained while in office."*[19]

The specific intent of the Standards of Ministerial Ethics was to create the conditions so that "the public can be confident that ministers will not be able to use the experience and contacts they have gained in office to enhance their value to the private sector, either as lobbyists or a senior executives in business with the government." Senator Faulkner and the Rudd Government explicitly stated that the cooling-off period was introduced to promote public confidence, and to prevent the use of public office to boost the private sector value of a public official.

"Increasing regulation will hurt small lobbying firm, and, by extension, make it harder for their clients to be represented."

The reality is that, in fact, the current system is advantaging big players over small ones.

Lobbying can be an expensive process. Retaining a team of lobbyists for weeks or months is an expensive proposition for a small business to absorb. More commonly, lobbyists represent major players, for whom an individual decision by Government may have an effect on operation that dwarfs the cost of the lobbying effort, or industry groups, where decisions on the laws governing an industry may have a sizeable effect on all players, none of whom can individually bankroll a lobbying effort, but pool their resources in mutual self-interest.

15 Dierdre McKeown. "Who pays the piper? Rules for lobbying governments in Australia, Canada, UK and USA – Parliament of Australia." Aph.gov.au. 10 Jun. 2015. Web. 16 Oct. 2017. <https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/LobbyingRules>

16 Parliamentary Library of New Zealand. "Research papers." Parliament.nz. 30 Apr. 2012. Web. 16 Oct. 2017. <https://www.parliament.nz/en/pb/research-papers/document/00PLLawRP12041/lobbying-regimes-an-outline>

17 Daniel Burdon. "Canberra's unregistered lobbyists outnumber those on federal lobbying register two-to-one." Canberra Times. 2 Sept. 2016. Web. 16 Oct. 2017. <http://www.canberratimes.com.au/act-news/canberras-unregistered-lobbyists-outnumber-those-on-federal-lobbying-register-twotoone-20160830-gr4nkm.html>

18 Daniel Burdon. "Canberra's unregistered lobbyists outnumber those on federal lobbying register two-to-one." Canberra Times. 2 Sept. 2016. Web. 16 Oct. 2017. <http://www.canberratimes.com.au/act-news/canberras-unregistered-lobbyists-outnumber-those-on-federal-lobbying-register-twotoone-20160830-gr4nkm.html>

19 John Faulkner. "ParlInfo - MINISTERIAL STATEMENTS : Lobbying Code of Conduct and Register of Lobbyists." Parlinfo.aph.gov.au. 13 May 2008. Web. 16 Oct. 2017. <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansards%2F2008-05-13%2F0056%22>

Most companies in Australia cannot afford to hire in-house lobbyists, who remain on staff to work across campaigns. Indeed, most companies who require lobbying services do not require them permanently; most often they are retained to advocate or oppose a piece of current or future legislation.

In a recent interview with Fairfax Media, Professor Belinda Edwards from the University of New South Wales gave an example of how the structural advantage of retaining in-house lobbying makes it harder for small players to compete:

> *"All these industry groups put in four or five page submissions, then the big associations put in 20-page submissions, but then Coles and Woolworths each put in a 400-page submission and that's it," she says.*

> *"And that's often where the data comes from that is then later used to frame the political debate – from companies that don't have lobbyists on the register, who have the resources to employ their own in-house staff to do the lobbying."*

The changes proposed by the Jacqui Lambie Network will not totally level the playing field between large and small firms.

But because there is currently a series of rules governing the lobbying efforts of small players that does not apply to the lobbying efforts of large players, the regulation of lobbying is hobbling competition and not allowing a 'fair fight'.

The rules should be applied uniformly. The decision is whether the rules governing the lobbying from large corporations, currently occurring outside the Lobbying Code of Conduct, should be strengthened, or the laws governing the lobbying from small firms should be watered down. On this question, the Jacqui Lambie Network supports the former.

The Lobbying Code of Conduct was introduced to, in the words of Senator Faulkner, establish:

> *"... the principles of engagement with government representatives... these principles describe a standard of conduct for lobbyists that will encourage a culture of ethical behaviour and integrity in their activities. Lobbyists who do not comply with the principles will be removed from the register."*

Being removed from the Register should, in practice, remove a lobbyist from having access to ministers, parliamentary secretaries, ministerial staff and other government representatives.

The Code was intended to use access as reward and withdraw access as punishment, for those lobbyists who are registered. But because so few lobbyists are registered, those who are must abide by rules to which the majority of the industry are not bound. This creates an uneven playing field and is anticompetitive.

The principles of engagement that bind third-party lobbyists exclusively include:

- Registered lobbyists must disclose all clients
- Registered lobbyists are required to regularly update their client list and maintain a list of those who are employed as lobbyists
- Registered lobbyists must advise the minister of their client in advance of any lobbying activity

It is anticompetitive to bind a sliver of an industry to one set of regulations while leaving their competitors without the same obligations.

As a result, the Code is not competitively neutral. Lobbyists and firms who are subject to the Code face regulations that their competitors do not. The design of the Code creates an incentive for lobbyists to improve their competitiveness by structuring their operations in such a way so as to avoid regulation, such as by:

- Working as an in-house lobbyist, part-time, for multiple clients
- Working for an organisation that provides professional or technical services, such as a law firm or an accountancy practice
- Working for an industry group on behalf of industry participants

The Lobbying Code of Conduct should apply to all industry participants so as to eliminate the incentive to avoid regulation. Regulation cannot be applied uniformly and consistently if it covers only a small share of the industry activity it seeks to regulate.

On 18 February 2010, the OECD Council (of which Australia is a member) approved the OECD Recommendation on Principles for Transparency and Integrity in Lobbying. The principles are designed to provide decision makers with the means to "meet public expectations for transparency and integrity."

The OECD recommended countries build an effective framework for access to representatives by promoting, in part:

> *1: "A level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies"*

"Well funded lobbying and campaign donations ***strip average voters of equality at the ballot box."***

PROFESSOR CARMEN LAWRENCE
Western Australia Premier (1990-93) | 2004

"The community will quite rightly ask the rhetorical question: 'Why are unions being given special privileges in this matter?' ***If this code is to have any credibility it simply must deal with the issue of lobbying by union officials."***

THE HON. MICHAEL RONALDSON
Liberal Special Minister of State 2013-15 | 2008

4: "Countries should clearly define the terms 'lobbying' and 'lobbyist' when they consider or develop rules and guidelines on lobbying", to "avoid misinterpretation and to prevent loopholes." Further, "rules and guidelines should primarily target those who receive compensation for carrying out lobbying activities, such as consultant lobbyists and in-house lobbyists." "Definition of lobbying activities should also be considered more broadly and inclusively to provide a level playing field for interest groups, whether business or not-for-profit entities, which aim to influence public decisions."

The Jacqui Lambie Network argues that current federal regulation around lobbying fails to provide a level playing field for lobbyists, as only a small share of the industry is covered by existing regulation. No level playing field exists between the interests represented by third-party lobbyists and the interests represented by in-house lobbyists.

The Jacqui Lambie Network argues that Australia's definition of 'lobbyist' does not "primarily target those who receive compensation for carrying out lobbying activities", and does not prevent loopholes from developing in interpretation of the definition.

The Lobbying Code of Conduct exists to "ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty." This purpose cannot be realised so long as only a narrow sliver of the industry falls under its regulatory jurisdiction.

The deficiencies in the current narrow definition of lobbyist are well-recognised within the industry. Government Relations Professionals Australia argues that the current definition undermines transparency and integrity:

The GRPA contends that both the employment status of an individual and their employer's industry sector are irrelevant to determining whether or not lobbying, as defined, has occurred. Similarly, whether the 'effort to influence' is for a profit-making or not-for-profit entity is irrelevant. It is the act of lobbying that is relevant.[20]

The code, in its current form, only applies to a specific business model, rather than the activity of lobbying itself.

This is what we seek to change.

20 Government Relations Professionals Australia. Submission. "The operation of the Lobbying Code of Conduct and the Lobbyist Register – Parliament of Australia." Aph.gov.au. 24 Apr. 2015. Web. 16 Oct. 2017. <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Completed_inquiries/2010-13/lobbyingcode2011/report/index>


JACQUI
LAMBIE
NETWORK