



**CHARTERED SECRETARIES  
AUSTRALIA**

*Leaders in governance*

29 September 2010

The Special Minister of State for the Public  
Service and Integrity  
The Hon Gary Gray AO MP  
Parliament House  
CANBERRA ACT 2600

By email: [lobbyistsregister@pmc.gov.au](mailto:lobbyistsregister@pmc.gov.au)

Dear Minister Gray

***Possible Reforms to the Lobbying Code of Conduct  
and Register of Lobbyists***

Chartered Secretaries Australia (CSA) is the independent leader in governance and risk management. As the peak professional body delivering accredited education and the most practical and authoritative training and information in the field, we are focused on improving organisational performance, transparency and accountability. Our Members are all involved in governance, corporate administration and compliance with legislative and regulatory obligations. They work in listed, unlisted, private and government-owned corporations, as well as in government agencies and departments.

CSA provides governance education for the public sector through our Graduate Diploma of Applied Corporate Governance. It is a postgraduate program, fully accredited by all relevant higher education authorities, providing comprehensive knowledge and skills in the essential elements of good governance principles. It is the industry standard qualification that provides a platform for a senior career in governance and it contains specialist public sector modules.

CSA views the issue of reform to the lobbying Code of Conduct as being one primarily relating to the core principles of good governance. Such a Code improves the overall governance and transparency of decision making in government and we welcome the opportunity to comment on the issues raised in the discussion paper. Due to our leadership role in governance education for the public sector, and our ongoing mission of promoting and advancing the effective governance and administration of organisations in the private and public sectors through the continued development and application of governance and administrative best practice, we are writing to offer some comments on the specific matters raised in the discussion paper, *Possible Reforms to the Lobbying Code of Conduct and Register of Lobbyists* (the Discussion Paper).

Our detailed comments follow.

***The creation of an industry association with:***

***(a) membership of the association contingent on ongoing professional education***

***(b) membership of the association being a pre-requisite to registration, or indicated on the Register of Lobbyists.***

CSA Members are of the view that the establishment of an industry association, similar to that formed in Queensland, would be beneficial in improving the professional standards of the industry. However, the creation of an industry organisation would have cost implications and existing industry organisations, which have an acceptable code of conduct covering lobbying activities, should be recognised as an adjunct to membership of any new association. Making it compulsory to join a new body should not be necessary if the existing organisation's code of conduct meets the objectives of the Lobbying Code of Conduct and the organisation ensures that its members adhere to its code.

For example, CSA points to the existing clause in the Lobbying code of Conduct that states:

‘Lobbyist means 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, but does not include ... (b) non-profit associations or organisations constituted to represent the interests of their members that are not endorsed as deductible gift recipients

CSA Members note that this clause refers to professional associations such as CSA, which are not-for-profit, membership bodies constituted to represent the interests of their members. Such professional associations generally already have a well-established Code of Conduct applicable to all members. Sanctions apply to breaches of this code. The CSA Members' Code of Conduct is appended to this submission.

CSA Members also do not support the compulsory membership of one body. For example, CSA Members have in the past recommended that the Corporations Act should provide that a company be required to have a company secretary to ensure that a proper governance framework is in place, but at no point has CSA suggested that company secretaries should have to be members of CSA. We are of the view that company secretaries and all professionals could and should be able to choose to be members of a number of professional associations.

CSA Members suggest that the establishment of an 'industry consultative group may be a feasible first step in the development of any new association, but do not recommend this as a long-term solution.

***A requirement that lobbyists disclose on the Register of Lobbyists the details of any lobbyists who were Ministers, former ministerial staff or senior APS and ADF personnel.***

CSA Members are of the view that it should be mandatory for all lobbying firms to provide details of lobbyists who were former Ministers, ministerial staff or senior APS and ADF personnel, along with the date that they left office.

CSA also recommends that the Register be extended to include all former members of parliament, as they would be aware of a range of issues through their respective parliamentary party meetings. Governance is enhanced if there is transparency concerning the lobbying of all those in a position of authority. It may be implicit, but CSA Members are also of the view that the

Register of Lobbyists should also include details of lobbyist who may have held similar positions in State or Territory jurisdictions, as they may also have similar knowledge or contacts within the federal sphere.

***Increasing the period of the ban on former Ministers and Parliamentary Secretaries undertaking lobbying activities from eighteen months to two years, and on matters that they had official dealings in their last two years in office. Extending the ban on former Cabinet Ministers to all matters, not just those matters where they had official dealings.***

CSA Members are of the view that increasing the length and coverage of the ban to 24 months would increase public confidence in the decision-making process of government, as it addresses the perception of conflicts of interest. Whether or not this would increase the public confidence in the lobbying industry is problematic, but it may be seen as a positive action to overcome the perception of undue influence on the decision-making processes of government.

***Extension of Code/Register to all third-party lobbyists/in-house lobbyists.***

This matter would appear to be relevant to the issues raised in section 1 of the Discussion Paper. However, CSA Members consider that, if a third party or in-house lobbyist is covered by an existing code of conduct that provides for sanctions for breaches of the code and it is clear whose interests they are representing, then making such lobbyist subject to another Code of Conduct is unnecessary. If a lobbyist is not covered by an existing code of conduct, CSA Members recommend that they should not be allowed to undertake lobbying activities.

***Differing requirements in the state Codes/Registers***

In the interests of good governance, CSA Members agree that the introduction of a uniform code of conduct across Commonwealth and state jurisdictions is the ideal means by which to enhance public confidence in government. It would also provide for consistency for the lobbying industry, thus enhancing compliance outcomes. However, it is recognised that this may be difficult to achieve unless there is agreement through the Council of Australian Governments (COAG).

***Sanctions for breaches of the Code***

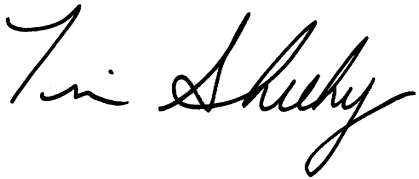
CSA Members agree that for a code to be meaningful it must stipulate a process for investigation and also state the range of sanctions available. CSA Members support the concept of a range of sanctions being applicable, subject to the nature of the breach. CSA Members also recommend that the normal right of appeal provisions must also be provided to support the process.

**Conclusion**

CSA supports any initiative that will not only improve good governance but also improve the decision-making processes of government and enhance public confidence in those processes. CSA supports the proposed reforms to the Lobbying Code of Conduct, subject to recognition of existing associations and codes of conduct which would therefore not oblige membership of a new industry association.

In preparing this submission, CSA has drawn on the expertise of the members of our Public Sector Governance Committee.

Yours sincerely

A handwritten signature in black ink, reading "Tim Sheehy". The signature is written in a cursive, flowing style with a large initial 'T'.

Tim Sheehy  
CHIEF EXECUTIVE

### ***Appendix: CSA Members' Code of Conduct***

- CSA requires its Members to observe the highest standards of professional conduct and ethical behaviour in all of their activities. By maintaining such standards, Members enhance their own standing as corporate managers and increase public confidence in the management and administration of corporations.
- Members shall uphold the objectives of CSA and abide by the regulations.
- As the conduct of an individual Member can reflect upon the wider profession of corporate management and upon CSA's membership as a whole, the Code sets out what are deemed to be appropriate standards of professional conduct.
- Members shall refrain from conduct or action which detracts from the reputation of CSA.
- Members are required to exercise complete probity, honesty and diligence in carrying out their duties and responsibilities.
- Members shall at all times safeguard the interests of their employers or clients provided that members shall not knowingly be party to any illegal or unethical activity.
- Members shall not enter into any agreement or undertake any activity which may be in conflict with the interests of their employers or clients or which would prejudice the performance of their professional duties.
- Members shall not use confidential information gained in the performance of their duties for any personal gain nor in a manner which would be detrimental to their employer or client.
- Members shall exercise due care and diligence in performing their duties and ensure the currency of their knowledge, skills and technical competencies.
- Members acknowledge that this Code is to be adhered to both in spirit and to the letter, so that Members' conduct is governed by the highest standards of professionalism and ethical behaviour.