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Dear Sir/Madam,

I find the basis from which you aim to introduce this code of conduct to be very positive. There is a clear recognition of the role lobbying plays in promoting effective public decision making in a democracy. There is also a recognition that lobbying should be carried out in an ethical manner. The Standards Commission have also looked at number of different codes from Ireland, North America and Australia that I would have recommended. In my own studies, and those with my colleagues, on lobbying regulation, a willingness to learn from the experiences of other jurisdictions, as opposed to trying to reinvent the wheel, is crucially important for a state introducing lobbying laws and accompanying codes of conduct. As the Regulation of Lobbying Act 2015 draws heavily from Canadian legislation and legislative experience in regulating lobbying, I am encouraged that the Commission has examined a number of Canadian codes of conduct found at both the federal and provincial levels.

As in many jurisdictions, the initial code of conduct will need to be regarded as a first step. It will probably have to go through revisions over the coming years as different issues arise during its operation and the operation of the legislation it is tied to. Although “the code will aim to provide a template for carrying on lobbying activities according to generally accepted standards”. I think it should be recognised that the code will really seek to *encourage*

people to carry on lobbying activities according to generally accepted standards. The code, being a code, will not be able to compel. And being a code designed to apply to all who engage in lobbying activity will contain generalisations as opposed to specifics. Later iterations of the code of conduct may address this issue.

In addition to addressing the public's concern that lobbying is carried out ethically, and helping public officials to identify whose interests a lobbyist represents, the code, in combination with the 2015 lobbying legislations, should also benefit all who lobby in ensuring that their activities are not regarded as nefarious. This should be of particular benefit to professional lobbyists, be they in-house or third-party lobbyists, as it will help to legitimizing their profession in the eyes of the public. My previous research has found that such legitimization come with lobbying legislation and codes of conduct, and that the lobbyists themselves generally welcome it.

The areas that the code of conduct might include are all very interesting and it can be seen that they draw significantly from the Canadian experience. However, I think that each of the areas needs to be as clear as possible – as clear rules are crucial. The danger with the code of conduct is that it gets bogged down in generalizations and vagueness. This is a problem I have seen in other codes of conduct, but in a way, given the nature of a code of conduct, it can be very hard to avoid. For instance, “Demonstrating Respect for Public Bodies” or “Acting with Honesty and Integrity” encompass fairly broad definitions that are open to wide interpretation by those who engage in lobbying. The issue of “Avoiding Improper Influence” is complicated, in that there is legislation and other codes governing the behaviour of elected officials, but not so in the case of those engaging in lobbying. The question is how to measure improper influence; and at what point does lobbying slip from being proper to become improper? This is a highly subjective issue. In terms of ensuring accuracy of information, the problem here is also that this is open to interpretation by those engaging in lobbying.

Another issue that I see here, and that is to be found in most codes of conduct, is the absence of penalties. While the legislation itself has penalties, the code of conduct does not. Penalties for misbehaviour by those who lobby, of course such misbehaviour would have to be clearly defined, can be of value - *pour encourager les autres*. The absence of penalties means that if the code of conduct is breached by someone who is lobbying what is the worst that will happen to them? Clearly, they will not be fined, or put on a list of misbehaving lobbyists, or have penalty points added to their lobbying licence. There will need to be some imaginative thinking on this front, but not of the kind found in Australia. In Australia, if the code of conduct is breached, as lobbyist can be removed from the Register of Lobbyists. But, this does not seem that satisfactory a solution, as it means that the struck off lobbyist may continue to engage in lobbyist activity – but completely under the radar now.

These are a few of my thoughts of the draft code of conduct. I hope that they provide some help as you work towards a final draft. I would be happy to come in and chat with you about this if that would help.

Kind regards,

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