Public Relations Consultants Association (PRCA) submission to the Committee on Standards in Public Life on Lobbying

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Introduction

The PRCA welcomes the Committee’s examination of the issue of transparency and lobbying. The PRCA is the professional body that represents over 500 corporate members from the UK public relations and public affairs industry, in the public, private and charitable sectors.

We welcome such studies as a means to increasing awareness of the importance of public affairs and lobbying as a vital, legitimate part of the democratic process. This is crucial because recent parliamentary scandals and subsequent media coverage show that there is a widespread lack of understanding of lobbying, and - perhaps more importantly - who is a lobbyist.

The PRCA would also like to reiterate its disappointment at the recent Bill brought forward by the Government. The PRCA is still in the process of consulting its membership on its response at the time of writing this submission, but its position that the Bill is unfair and unfit for purpose remains unchanged.

PRCA Code of Conduct and Voluntary Register

Members of the PRCA that conduct public affairs or lobbying services are bound by a Public Affairs Code of Conduct, and must submit their details to a Public Affairs Register that is updated quarterly and posted to the PRCA website.

The Register is retrospective, covering those who have conducted lobbying activity in the three months prior to publishing, and includes the following details: an office address and contact information, a list of all staff that conduct lobbying services, and a list of clients who benefit from these services.

The latest copy of the Register can be found at www.prca.org.uk/paregister. At the time of writing there are a total of 83 organisations represented on the PRCA Public Affairs Register, with 1,093 individuals and 1,330 clients. This includes 55 public affairs consultancies and 28 in-house lobbying departments.
Questions

1. Is there any reason to think that lobbying per se is a problem; and is there any evidence that abuse of lobbying is widespread or systemic, as opposed to exceptional behaviour by a few?

The PRCA strongly disagrees with the perception that lobbying in the UK is a problem. Rather, lobbying is a vital part of the democratic process. Countries that have a large concentration of lobbying organisations also tend to be healthy, flourishing democracies. This is not a coincidence. Everyone has a right to influence the policymaking process, be they an individual or an organisation, and in a voluntary, personal or professional capacity. This enables policymakers to make legislative decisions based on as much information as possible.

The PRCA is not aware of any evidence that suggests that abuse of lobbying is widespread or systemic. This is because professional lobbyists understand the ethical procedures of Parliament better than most. In fact, when there does appear to be “lobbying scandals” in the news they usually do not involve professional lobbyists, but journalists posing as lobbyists and deceiving politicians into behaving in an unethical matter. It should be pointed out that even in these scenarios the responsibility for the unethical conduct ultimately rests with the politician. However, such media coverage gives the false impression that such scandals are potentially pervasive, and the halo effect of misbehaving politicians is that lobbying is tarred with the same brush.

This is further exacerbated by other self-described “lobbying scandals” that do not involve professional lobbyists. Two recent examples include Adam Werrity, who was not a lobbyist but a friend and adviser of a politician, and former military officials alleged to have offered access to the Ministry of Defence. Again, the halo effect is that lobbying and lobbyists are seen as the problem, when the focus should be on the conduct of others.

At the same time the PRCA recognises that transparency and accountability are crucial, which is why we operate our own voluntary Register of lobbyists and have called for a universal Statutory Register.

2. How wide should the definition of lobbying be? What activities should be excluded from the definition?

The definition of lobbying should be broad, simple and without exemptions such as indeterminate thresholds. Unfortunately, the Government’s definition is unfit for purpose as it does not understand how the UK lobbying industry operates. Its definition is incredibly narrow as it only covers “consultant lobbyists” who spend a “substantial” course of their business lobbying. Further, it refers only to lobbying Ministers or Permanent Secretaries. This interpretation is so specific that we expect it to cover a tiny proportion of the current 83 organisations on our voluntary Register, if any.

Our consultancy members primarily advise clients on matters of lobbying and public affairs. Directly communicating with Ministers or Permanent Secretaries on behalf of a client does not constitute a substantial part of any of our members’ work.

Further, our in-house members have been completely omitted by this definition, yet anecdotal evidence suggests they are more likely to contact ministers directly than their consultancy counterparts.

The three trade bodies that represent the lobbying industry - PRCA, APPC and CIPR – worked collaboratively on a definition of lobbying that would capture all professional lobbyists, be they consultancy, in-house, other third-party lobbyists such as management consultancies etc. We deliberately exempted non-professional lobbying activity such as constituency enquiries.

The definition and a supporting FAQ can be viewed here:
3. Is the proposed legislation for a Statutory Register of lobbyists likely to be sufficient to address the problem; and are the Political and Constitutional Reform Committee’s proposals (wider registration, disclosure of issues and enhanced Ministerial disclosure) necessary, either as an interim measure or longer term?

As above in 1 and 2, the proposed legislation is unfair and unfit for purpose. It is unfair because it will result in a tiny group of public affairs consultancies having to register. The PRCA does not take issue with the Register being independent of industry, whilst being funded by those on the Register. However, as so few professional lobbying organisations are expected to go on the Register, the current cost - the Government estimates that it will cost £500,000 in the first year and then £200,000 annually – will be incredibly exorbitant for the simple act of registration required.

It is unfit for purpose as it excludes the majority of lobbyists due to the narrow definition outlined in 2. The Government will not meet its own objective of increasing transparency but instead covering fewer than on existing voluntary models.

We found the Political and Constitutional Reform Committee’s proposals to be a helpful and constructive step in the right direction as it fully endeavoured to understand the lobbying industry. The PRCA agrees with the Committee that having no Statutory Register at all would be better than what the Government is currently proposing. We believe the Bill will reduce transparency, rather than increase it, if so few of our members are likely to be required to register.

4. To what extent should the focus of finding a solution to the problems around lobbying be on those that are likely to be lobbied rather than those who do the lobbying?

Although we do not believe there is a lobbying problem, the issue of transparency should certainly focus on both the lobbied as well as lobbyists. The PRCA will continue to operate its voluntary Register and uphold its ethical code of conduct, particularly as we do not expect the majority of our members to be required to go on the Statutory Register.

The PRCA produces its voluntary Register quarterly and within a month of the end of that quarter. This covers all lobbying activity conducted by members including monitoring and advice, and not simply direct communication with policymakers. On the other hand, MPs do not have to publish their meetings, and although the Government does have to publish ministerial meetings it does not do so efficiently. There is a clear asymmetry.

5. Do you consider that the existing rules are sufficient? If not how should they be changed?

To tackle the asymmetry outlined in 4 there clearly needs to be a more efficient system of publishing ministerial meetings, and there needs to be an examination to see whether it should be widened to cover more than just ministers.
6. Do you think it is a good idea to have a code of conduct or guidance directly applicable to any individual or organisation that is lobbied? If so, what are the main elements that should be included in any code of conduct or guidance and how could it be enforced?

It must be recognised that such codes of conduct for Government and Parliamentarians are already in place. There are also existing laws to cover unethical and illegal behaviour such as bribery. It should be obvious to an individual when they are being lobbied, and therefore what response is proportionate and appropriate.

7. Is there a case for establishing an external regulator for lobbying or are existing oversight mechanisms sufficient?

As the PRCA does not see a problem with lobbying, we do not think an external regulator of the industry is necessary. In light of the current Bill and its proposed costs, we are concerned that any external regulation would be overly and unnecessarily onerous, and we fear any more legislation would further undermine existing oversight mechanisms such as the PRCA Code of Conduct and PRCA Public Affairs Register.

A broad Statutory Register that covers all professional lobbyists will help improve transparency, and we support the Political and Constitutional Reform Committee’s proposal for a “hybrid” model that indicates on the Register whether the lobbying organisation abides by an industry body code of conduct.

8. Do you agree that some form of sanctioning is a necessity? What form could it take?

The PRCA Code of Conduct includes sanctions against members who contravene its rules. The most powerful sanction is to revoke membership. At the same time, media coverage and publicity of misbehaviour is crucial. However, it should be pointed out that our members join the PRCA to demonstrate their adherence to ethical codes.

For Government and Parliament, please see our answer to 6 above.

For the Register, the PRCA is in favour of sanctions for those who do not register that are required to do so by law. However, this must be coupled by a significant reduction in the subscription fee so that organisations do not suffer the vicious cycle of not being able to afford registering, and then suffering financial penalties for not doing so. It is also counter-intuitive to punish a small lobbying consultancy for not declaring its lobbying activity whilst larger in-house lobbying organisations are not required to register at all.

9. Do you think an outcome which relies on individuals who are lobbied taking proactive personal responsibility for being transparent in dealings with lobbyists is desirable and feasible? a. If not, what are the impediments stopping such a process? b. How could it be monitored properly without leading to an increase in bureaucracy?

The PRCA has maintained throughout the debate on lobbying that whilst we uphold high ethical standards that our members adhere to, responsibility always ultimately rests with politicians and officials for their personal dealings. It is entirely desirable and feasible that this should be expected of publically accountable individuals and entities.
10. What should an individual do to ensure that he/she is aware of the dangers of potential conflicts of interest?

The PRCA is less concerned with conflicts of interest, which the PRCA considers to be straightforward for the politician/official concerned, than it is with the ‘revolving door’ of former government officials moving directly into roles in industry and business. Rules on the moratorium period that prevents former officials from lobbying should be tightened. We would welcome further examination from the Committee on this issue. It is also worth noting that former MPs/SpAds/ministers etc. that move to in-house roles would not be covered by the Government’s Register but would be captured by the PRCA/APPC/CIPR definition.

11. Would enhanced disclosure by individuals and organisations provide the pertinent information on who is lobbying whom and sufficient incentive for decision makers and legislators to be balanced in the views they seek? Would this taken together with the Freedom of Information regime ensure sufficient transparency and accountability to enable effective public scrutiny of lobbying?

The lobbying industry is in favour of more transparency, not less. That is why we are disappointed that the Government’s current Statutory Register proposal is not going to provide the pertinent information we desire. A Register that covered all professional lobbyists - and in the case of third parties, their clients – would provide the pertinent information and increase transparency by consolidating the existing effective voluntary Registers. The incentive should not be on decision-makers, who need no added incentive to be fair and balanced, but on professional lobbyists currently outside the voluntary models to join a Statutory Register. That is why the exorbitant cost of subscription fees for the Statutory Register should be minimal to encourage, rather than act as a disincentive to, registration.

In sum, a universal Statutory Register of all professional lobbyists coupled with a more efficient and broader system of ministerial meetings and the Freedom of Information regime would ensure sufficient transparency and accountability to enable effective public scrutiny of lobbying. The PRCA hopes this will lead to a greater understanding of the lobbying industry, and recognition that is not the problem.

We strongly urge the Government, even at this late stage, to reconsider its unfair and unfit for purpose proposals. The Committee on Standards in Public Life has the opportunity to make the Government aware of the inherent failings of the Transparency of Lobbying Bill in its response to this call for evidence. We would welcome the opportunity to provide further oral evidence to the Committee.