

Submission

to the

Government Administration Committee

on the

Lobbying Disclosure Bill

5 October 2012

Submission by the New Zealand Bankers' Association to the Government Administration Committee on the Lobbying Disclosure Bill

Executive Summary

1. NZBA supports transparency around lobbying but does not support the Bill as drafted. Further work is needed on defining the problem the Bill seeks to remedy. Problem definition would also allow for a cost-benefit analysis of the proposed legislation.
2. The compliance burden would be particularly heavy for the large number of smaller organisations caught by the Bill. An alternative approach would be to have Members of Parliament report on their meetings with advocates.
3. Should the Bill proceed:
 - a. the definition of lobbying should exclude incidental or social interactions with Members of Parliament and their staff, where there is no formal advocacy agenda, and
 - b. it should be applied consistently and there should be no exemptions for special interest groups.
4. For further information, please contact:

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About NZBA

5. NZBA works on behalf of the New Zealand banking industry in conjunction with its member banks. NZBA develops and promotes policy outcomes which contribute to a safe and successful banking system that benefits New Zealanders and the New Zealand economy.
6. The following thirteen registered banks in New Zealand are members of NZBA:
 - ANZ National Bank Limited
 - ASB Bank Limited
 - Bank of New Zealand
 - Bank of Tokyo-Mitsubishi, UFJ
 - Citibank, N.A.
 - The Co-operative Bank Limited
 - The Hongkong and Shanghai Banking Corporation Limited
 - JPMorgan Chase Bank, N.A.

- Kiwibank Limited
- Rabobank New Zealand Limited
- SBS Bank
- TSB Bank Limited
- Westpac New Zealand Limited.

Discussion

Consultation process

7. NZBA commends the Member responsible for the Bill for an excellent consultation process on the Bill. The level of engagement with interested parties has been exemplary.

NZBA supports transparency in lobbying activities

8. NZBA supports open access to government and transparency around lobbying activity. As an industry organisation we operate on the principle of openness, for example by making public our position on issues of interest.

Unnecessary fix

9. NZBA does not support the Bill as drafted. The Bill is unnecessary as it aims to address an issue of little consequence in New Zealand. The purpose of the Bill is to increase transparency around lobbying activity directed at Members of Parliament. The Bill draws its inspiration from the experience of Canada and the United States. New Zealand is very different from North America in terms of its scale and how its democracy functions. We have not seen the access scandals reported in other jurisdictions. New Zealand is a small society which enjoys openness both through wide access to its policy and law makers, and by Parliamentary and media scrutiny of government decisions. This openness is a defining aspect of New Zealand democracy, and is supported by New Zealand being ranked globally as least corrupt by Transparency International. There is no evidence in New Zealand of a problem that requires this kind of regulation of advocacy. Before we could support legislation, we consider there is a need for a problem definition to be presented. This would also allow a cost-benefit analysis of the proposed legislation to be undertaken.

Chilling effect

10. New Zealand's democracy relies on the free-flow of ideas to ensure informed decision-making. Policy and law makers routinely receive a range of advice from both officials and other sectors. The Bill, as drafted, may have the unintended consequence of inhibiting advice streams other than from officials. This 'chilling effect' would be detrimental to the policy process by making decisions less robust, and potentially seriously affecting desired outcomes. It would also serve to strengthen the influence of advice from officials.

Compliance burden

11. The Bill's definition of a lobbyist captures a wide range of individuals and organisations. The need for these individuals and organisations to register with the Auditor-General, and file returns on lobbying activity, imposes a significant burden compared to the supposed benefits of the Bill. This compliance burden would be particularly heavy for the

large number of smaller organisations caught by the Bill, including businesses, charities, non-profit organisations, and membership associations. The cost of compliance would be disproportionate to the supposed benefits of the Bill's proposed regime.

12. Were the Bill to proceed, NZBA would support a reporting regime that would avoid unnecessary compliance costs on those currently captured by the Bill. An alternative approach would be to have Members of Parliament report on their meetings with lobbyists, similar to the existing Register of Pecuniary Interests of Members of Parliament.

Existing tools

13. Consideration should be given to how the proposed legislation fits with existing tools designed to provide transparency around government activity. For example, the Official Information Act is a proven mechanism that supports open government. It is also a relatively cost-effective way of ensuring transparency on an as-needed basis.

Definition of lobbying

14. As drafted, we believe the current definition of lobbying activity is too wide. Should the Bill proceed, the definition of lobbying required to be reported should exclude incidental or social interactions with Members of Parliament and their staff, where there is no formal advocacy agenda.

Consistent coverage

15. NZBA is aware of publicly reported efforts to exempt, or apply different reporting requirements, for particular organisations. Were the Bill to proceed, it would have to be applied consistently to all parties that seek to advocate their position to Members of Parliament. Special treatment for particular groups would be detrimental to the aim of the Bill in two ways. It would create different classes of advocates, and discriminate against those who are not granted special dispensations. It would also undermine the aim of greater transparency around lobbying by allowing certain groups special access. A two-tier system would be inherently inequitable, and create a perception of improper influence; the opposite of what the Bill seeks to achieve.