

**The NSW Independent Commission Against Corruption:
'The regulation of lobbying access and influence in NSW: a chance to have your say'
Submission, May 2019**

Lobbying: Corruption Risks

What do you consider to be the actual or perceived corruption risks in lobbying?

Our perspective is from the healthcare sector and we are concerned about payments from pharmaceutical and medical device companies to health professionals, healthcare organisations such as hospitals and clinics, medical societies, medical research institutes, and consumer/patient groups.(1-8) A risk of these payments is that the decisions made or commented upon by these groups - such as prescribing decisions, drug purchasing decisions, or public reimbursement decisions – may be influenced more by commercial concerns than evidence of drug efficacy and safety.

Definition of Lobbyist

Should the definition of lobbyist be expanded?

In addition to considering lobbying by direct employees of companies (e.g., pharmaceutical and device companies) and industry associations (e.g., Medicines Australia), we also need to consider industry funding of health professionals, healthcare organisations and associations, academic researchers, and patient/consumer groups. If a person with financial links to a company lobbies government, that person should be subject to the same rules and requirements for transparency as a direct lobbyist.

Lobbying: Key issues for Debate

What do you consider to be the key issues which would benefit from debate in a Public Inquiry?

Due to fragmented data sets, a lack of data linkage, and a lack of transparency, it is currently difficult to investigate the association of pharmaceutical industry payments to the healthcare sector with prescribing and other care provision decisions in Australia. For example, unlike the United States where the Sunshine Act legislation has created a centralised searchable registry of pharmaceutical industry payments to physicians and teaching hospitals, the disclosure landscape is still fragmented in Australia. Although Medicines Australia, the pharmaceutical industry trade associations, requires member companies to publicly report some payments, they are not in a central registry.(1) Additionally, gifts of food and drink are excluded from publicly reported payments although these gifts have been shown to be linked to prescribing patterns that are favourable to the sponsor (9) and such gifts are ubiquitous in Australia, with over 90% of industry-sponsored events for health professionals including provision of food and drinks.(7) Moreover, the available reports likely underestimate the true extent of industry sponsorship as the disclosure requirement applies only to Medicines Australia member companies.

In Australia it is very difficult, if not impossible, to link payments to individual physicians with their prescribing patterns. Such linkage is crucial to understanding for example whether payments to professionals to promote specific medicines are associated with increased rates of off-label or inappropriate use of that medicine. This type of information can be a very helpful and necessary first step required for planning of targeted interventions.

Additionally, submissions from members of the public, health professionals, and consumer and professional organisations on coverage decisions made by the Pharmaceutical Benefits Advisory Committee are not publicly available, making it unfeasible to study the impact of industry payments on position statements. In contrast, due to the public availability of submissions on public policy in the United States, it has been possible to expose tobacco industry efforts to financially support scientists, healthcare professionals and consumers to lobby against tobacco regulation.(10-16) In the United States, it has also been possible to document the link between organisational financing from opioid manufacturers and positions in policy submissions on proposed guidelines for opioid prescribing use.(17)

Therefore, **the lack of transparency of commentaries considered for public policy, the lack of data linkage and the currently fragmented disclosure landscape** are key issues for debate.

Lobbying: Priorities for Reform

What areas of regulatory reform, if any, do you consider to be a priority? Do you have suggestions based on other regulatory systems?

A centralised, mandatory registry of lobbying activities and payments is a necessary reform. The Open Payments database in the United States is an example of a mandatory, centralised registry of payments from the pharmaceutical industry to all registered physicians. Second, as mentioned above, open access to public commentary is needed to enhance transparency around decisions about use of public money, such as pharmaceutical coverage. Thirdly, given the amount of funding available from the corporate and business sectors to facilitate lobbying, as compared with independent (e.g. non industry funded) health consumer organisations, grassroots community representatives and representatives of disadvantaged population groups within Australia, there is a need to ensure that government officials shelter a set proportion of their calendars to meetings with organisations and individuals without corporate financing. Consideration should also be given to provision of small grants allowing community organisations without corporate subsidies to participate in advocacy.

Should lobbyists be prohibited from giving gifts to government officials?

We think that regulations about giving gifts is another area that needs reform. Evidence from social sciences showed that “gifts of negligible value can influence the behaviour of the recipient in ways the recipient does not always realize”.⁽¹⁸⁾ In the healthcare sector, it has been shown that even a single sponsored meal with an average value of less than US\$20 was associated with increased prescribing of the promoted brand medication, and that prescribing of the promoted brand increased with the numbers of meals received.⁽⁹⁾ We believe that transparency around gifts, including gift registries, is necessary but insufficient to prevent gifts from influencing decision makers. We suggest that gifts should be prohibited.

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Date: 24/05/19

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