



founded 1881

November 8, 2011

Richard M. Thomas
Associate General Counsel
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3917

Re: RIN 3209-AA04, Standards of Ethical Conduct for Employees of the Executive Branch; Proposed Amendments Limiting Gifts From Registered Lobbyists and Lobbying Organizations; Proposed rule, 76 Fed. Reg. 56330 (September 13, 2011)

Dear Mr. Thomas:

The Consumer Healthcare Products Association (CHPA) appreciates the opportunity to comment on the above captioned proposed rule, which would restrict use of certain exceptions to gift rules for executive branch employees of the federal government. As a 501(c)(6) association representing the makers of nonprescription, or over-the-counter, medicines and dietary supplements, CHPA's ability to interact with federal agency officials in educational seminars, widely-attended gatherings, and at industry-hosted briefings for foreign government officials in their country at which US executive branch employees are customarily present would be negatively and unnecessarily impacted.

We certainly agree with the Office of Government Ethics that it is vital that federal employees avoid potential conflicts of interest that could undermine public trust in the integrity of government decision-making. But we do not believe all aspects of the proposed rule are necessary to advance that objective. We urge the Office of Government Ethics to revise its proposed exception for gifts to allow federal employees to attend the entirety of substantive educational programs and events at which the federal employee speaks or makes a presentation, and to revise the proposed removal of the existing exception for meals or refreshments from a private entity in a foreign area.

1. CHPA and other 501(c)(6) associations advance purposes similar to professional societies or scientific organizations, and the same rules should apply. As the Office of Government Ethics (OGE) acknowledges, widely-attended gatherings (such as conferences and seminars) can provide a significant training opportunity or a legitimate development benefit that furthers the interests of an agency. This principle holds true

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whether the entity hosting the conference or seminar is a professional society, scientific organization, or a trade association. While CHPA is indeed an organization currently registered under the Lobbying Disclosure Act, the majority of the association's activities do not involve lobbying. Those non-lobbying activities advance our tax-exempt purpose in areas such as the conduct of joint research on the safety and efficacy of nonprescription medicines tens of millions of Americans rely on; in resolving industry-wide issues; in development of voluntary nonprescription medicine or dietary supplement labeling; in efforts to improve technical standards; in the dissemination of educational materials on the responsible use of medicines; in industry-specific education; and in sharing best practices and information with our membership. This sharing of information among members can serve to improve compliance with government regulations – a purpose that advances the federal government's goals and objectives.

2. The proposed changes to the widely-attended gathering exception should be amended to allow a speaker to attend the entire event at which they speak. CHPA holds a number of conferences or workshops at which federal employees are invited to attend at an appropriate government employee registration fee to cover the direct costs of attendance. We appreciate OGE's recognition that this type of practice is and would remain appropriate. In instances where a federal employee speaks or gives a presentation at a conference or workshop, the speaking federal employee does not pay a registration fee, and can attend the entire two-day conference or workshop – not simply the day of their speech or presentation. This practice applies to all speakers, not just federal employees. These federal employees are thus afforded the opportunity to continue to advance legitimate benefits that further the interests of their agency. Also, participation in the full meeting provides valuable context to help the employee direct their remarks. We therefore urge OGE to amend the proposed rule to continue to allow a federal employee who speaks or presents at a conference or workshop to attend the conference or workshop beyond the day or their speech or presentation at no cost where such attendance advances the agency's interests.

3. A de minimis meal or refreshment exception is needed for joint education or training events. CHPA periodically co-hosts educational or training workshops on an agreed upon topic with a federal government agency under a memorandum of understanding with the federal government agency where no registration fee is paid by any of the attendees – federal employee or CHPA member – but refreshments are provided to all by the association under the MOU. Without providing for a de minimis exception for refreshments, the proposed rule would have the absurd result where the association members in attendance could have coffee or juice while federal employees at the workshop would be segregated away from the beverage table.

4. A de minimis meal or refreshment exception is needed for private entities in a foreign area. As with the existing widely attended gathering exception, CHPA has provided lunch or refreshments at briefings held for foreign government agencies in their

countries at which U.S. federal employees have been present. These briefings advance the association's purposes in educating foreign officials about U.S. laws, regulations, or policies, and industry's role in their implementation. These briefings have also provided an opportunity to discuss removal of non-tariff barriers to trade or to advance regulatory harmonization objectives consistent with the same objectives set by the US Government. As these briefings can be held in conjunction with government-to-government events between the US and foreign government, it has been customary to invite US federal employees who are present at the government-to-government event to join the industry briefing, along with a lunch or refreshments at the briefing. It strikes us as awkward to segregate US federal employees during the lunch or refreshment portions of a briefing where the US federal employee is present in the legitimate interest of their agency. We ask the OGE to amend the proposed rule to allow for attendance at a meal or for refreshments in a foreign area under such circumstances.

If we can provide further information, please feel free to contact us.

We thank you for considering our comments, and urge you to amend the proposed rule.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Spangler', with a stylized flourish extending to the left.

David C. Spangler
Senior Vice President, Policy,
General Counsel & Secretary