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November 11, 2011

VIA E-MAIL

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

Re: RIN 3209-AA04  
Standards of Ethical Conduct for Employees of the Executive Branch; Proposed  
Amendments Limiting Gifts from Registered Lobbyists

Dear Mr. Thomas:

These comments are submitted on behalf of the Association of Veterinary Biologics Companies (AVBC), a national trade association representing companies licensed by the U.S. Department of Agriculture to produce and distribute vaccines, diagnostic test kits, and other biological products for use in domestic livestock, poultry, and pets. AVBC could be affected if these proposed rules are adopted.

AVBC is opposed to the proposed changes in the regulations contained in the above-cited docket because it is an illogical and overbroad response to the concern that lobbyists unduly influence federal employees.

In the preamble to this proposal, the Office of Government Ethics (OGE) reaffirms the principle that certain widely attended gatherings of government and non-government persons can serve important government purposes. OGE also reaffirms the principle that it is appropriate for federal employees to accept offers of free attendance at “substantive events that would provide a legitimate educational or professional development benefit that furthers the interests of the agency.”

OGE proposes to specify that government employees may attend educational and professional development activities conducted by organizations classified as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or universities, nonprofit professional societies, and scientific organizations, “in connection with the entity’s educational or professional development activities.” For these activities, the entity can host or sponsor

participation by federal employees without regard to the organization's status under the Lobbying Disclosure Act.

Erroneously, OGE proposes a definition that trade associations, i.e., some of the organizations classified under Section 501(c)(6) of the Internal Revenue Code which are registered lobbying organizations do not have as a principal purpose the conduct of educational and professional development activities. OGE contends in the preamble to the proposed rule that trade associations "may sponsor educational activities for their members and even the public, but the primary concern of such associations generally is not the education and development of members of a profession or discipline, which is the focus of the proposed exclusion."

There is no justification offered for the assertion that the "primary concern of [trade] associations generally is not the education and development of members." The suggestion that the federal government and/or its employees will not benefit, or there is some harm that outweighs the benefit, reflects a misunderstanding of the role and activities of federal employees in regulatory agencies. Furthermore, this is an inaccurate, overly narrow characterization of the activities of trade associations. Trade associations perform many functions to improve the products or services of an industry, to share and promote best practices, and to share advances in the field. With regard to an industry which is regulated by the federal government, federal employees in regulatory roles have as great a need to learn of advances and new ideas as members of industry.

Trade associations help address industrywide issues that could otherwise threaten economic growth or public health, and they help set safety and technical standards that benefit everyone in exactly the same way as professional associations and scientific organizations. This is equally true whether or not the trade association is registered as a lobbying organization.

There is an intersection of government and industry interests, and trade associations can provide a focus and a forum to explore these interests. Today, government and industry both play important roles with regard to production, consumption, job creation, and investment. In regulated industries, there must be a mutual understanding and a free exchange of ideas, knowledge, and expertise to ensure informed policy making.

Trade associations are among the many types of organizations that sponsor programs in consonance with government interests. They regularly hold seminars, conferences, trade shows, and other programs that forecast industry performance and spotlight concerns. Government employees tasked with promulgating or enforcing regulations most assuredly benefit from attending programs where they can learn about the latest developments in a field, see new product demonstrations, and understand how industries might be impacted by rulemaking. At the same time, trade association members have the opportunity to learn more about agencies' interests and processes and are better prepared to comply with federal regulations. This is equally true whether or not the trade association is registered as a lobbying organization.

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These proposed changes in the regulations are not an efficient or fair way address the suggested problem. They would also needlessly restrict the ability of many government employees to learn about the industries that they are charged with regulating or assisting. The proposed rule should be withdrawn.

Yours truly,

*/s/ John W. Thomas*

John W. Thomas  
Executive Director and Counsel