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O.R.L. office of the registrar of lobbyists BRITISH COLUMBIA

INSIDE THIS ISSUE:

THE WAY FORWARD:

REVISING THE BC ORL COMPLIANCE STRATEGY

It is an "old saw" among lobby regulators, and something of an understatement, that achieving compliance with lobby regulation is notoriously difficult.

The lobbying community is far-flung, making it hard for regulators to get the message to people who are lobbying that there is a law requiring them to register. In many jurisdictions, including British Columbia, the lobbying industry is still evolving, and although an industry association is emerging in British Columbia as I write, there isn't yet a well-developed industry core that could take on some of the self-educating role that we see professional associations assuming in fields such as accounting, architecture, or the health professions.

On the positive side, the more contact we have with the lobbying community, the more we learn about how to effectively carry out our mandate to regulate lobbyist registration in BC.

My office spent a very productive summer meeting with lobbyists, lobbyist industry associations, civil society, academics, other lobbyist regulators and public office holders as we conducted a public consultation on whether BC needs a lobbyist code of conduct. There has been frank discussion about issues of common concern, and I look forward to continuing discussions with our stakeholders in the future.

In the vast majority of cases, our contact with the lobbying community suggests that members of the industry in BC are working toward achieving high professional standards. As is often the case, it is a small number of "outliers" who bear most responsibility for negative public perceptions. For those few who ignore or evade their responsibilities under the law, administrative penalties are a necessary compliance tool.

The time is right to evaluate how effective our compliance strategy is and to turn our efforts toward honing our oversight. I will continue to use all the tools in my regulatory tool box, including administrative penalties at my disposal. Overall, my office will spend the coming months refining our compliance strategy, based on all we have learned in the two years since the amended *Lobbyists Registration Act* came into force.

- Elizabeth Denham, Registrar of Lobbyists

CRA Rules:

Charities and political activity

By Bob Wyatt and Peter Broder

Bob Wyatt

Peter Broder

Influencing government – at any level – is often a critical component of any organization's work. Organizations seek policy and legislative changes, contracts and grants and other benefits that can be given only by government.[1]

This is as true for charities as it is for any other type of organization. The most significant difference is that by their very nature – their operation for the public benefit – charities are seeking to influence governments on behalf of their beneficiaries. Those beneficiaries run the gamut of society – from the inner-city poor to patrons of the arts, from school children to newly-arrived refugees.

Canada's 85,000 registered charities are located across the country – in small towns and in large cities. They face a variety of rules that govern their actions. In some provinces, they are subject to the same rules as any other group that seeks to lobby government; they are required to register and report regularly on their activities. In other provinces, including Alberta, charities are exempt from the provisions of the provincial lobbyist legislation, although they are still subject to the federal lobbyist regime.

But the various forms of lobbying legislation are rarely the major concern of charities. Rather, they are concerned about whether particular activities constitute "political activities." In Canadian charity law, the term "lobbying" isn't used; rather, a charity's ability to retain its status under the *Income Tax Act* depends, in part, on its staying within the allowable limits of political activities.

There is definitely overlap between "political activities" and "lobbying," but there are also significant differences. But more than the difference between those two legal terms, the biggest problem facing charities is often the lack of awareness – internally and externally – of what charities are and aren't allowed to do. The lack of knowledge, or (sometimes worse) incorrect understandings, can often create serious internal disputes and potentially create bigger legal issues for charities.

In recent months, the issue of allowable political activities (and the source of funding for some of those activities) has been very much in the news as a result of activities involving environmental charities. Charges and counter-charges have been exchanged – indeed, one federal minister accused some charities of engaging in "money laundering." In the face of this hoopla, numerous charities dialled back what they were doing – in most cases, because they don't understand what they can and cannot do.

"The reality is that most charities can engage in far more political activity than they do."

The reality is that most charities can engage in far more political activity than they do.

The rules – with a long series of useful examples – are contained in a Canada Revenue Agency (CRA) policy, CPS-022.[2]

Let's start with the only absolute prohibitions. First, a charity may not engage in an illegal activity. Second, and more relevant, a charity may not, under any circumstances, engage in partisan political activities, regardless of the level of government involved. This means, for example, that a charity may not purchase tickets to a fundraising dinner put on by a candidate or a political party, nor may it reimburse staff or volunteers who purchase such tickets. They are not permitted to do or say anything that suggests that the charity believes that people should vote, or not vote, for a particular candidate or party.

Beyond those prohibitions, there is lots of room for charities to engage with government, whether it be at the municipal, provincial or federal level. In fact, there is far more room than most charities contemplate – or ever have used.

And the CRA policy is clear as to why this should be so. The introductory part of the policy includes these statements:

> By working with communities at the grassroots level, charities are trusted by and understand the needs of the people they serve. This is important work that engages individuals and communities in shaping and creating a more inclusive society. Through their dedicated delivery of essential programs, many charities have acquired a wealth of knowledge about how government policies affect people's lives. Charities are well placed to study, assess, and comment on those government policies. Canadians benefit from

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CRA Rules: Charities and Political Activity

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the efforts of charities and the practical, innovative ways they use to reserve complex issues related to delivering social services. Beyond service delivery, their expertise is also a vital source of information for governments to help guide policy decisions. It is therefore essential that charities continue to offer their direct knowledge of social issues to public policy debates.

The policy then goes on to state what charities can do.

Many charities – and a number of commentators (informed or otherwise) – refer to the "10% rule" – a rule of thumb that says that a charity's engagement in political activities cannot exceed 10% of the charity's assets.

That's only part of the story.

It's true – there is a 10% rule that applies to political activities (although there's some flexibility in it, particularly for smaller charities). However, not every contact with a government is a political activity.

For example, in most circumstances, public-awareness campaigns, communicating with elected representatives or public officials and releasing the text of a representation made to government are considered to be charitable activities for the purposes of the CRA policy, and thus not subject to the 10% rule.[3] It's important to note that to fall within this category, what the charity is doing must not entail efforts to mobilize public support for a political position and the policy states that the activity must be:

- connected to its work or an issue related to that work;
- connected to the charity's purpose;
- based on a position that is well-reasoned;
- not based toward information that the charity knows or ought to know is false, inaccurate or misleading; and
- not primarily emotive.

A charity can do as much of this charitable activity as it wants, so long as the activity remains subordinate to the charitable purpose of the organization.[4]

So we now know what a charity absolutely cannot do, and what things are charitable activities, but not political activities. That leaves us only to explore those things that are political activities, which are subject to the 10% rule.

CRA assumes an activity is political if it has any of the following attributes:

- It explicitly communicates a call to political action, such as encouraging the public to contact an elected representative or public official and urge them to retain, oppose or change the law, policy or decision of any level of government in Canada or a foreign country.
- It explicitly communicates to the public that the law, policy or decision should be retained, opposed or changed.
- It explicitly indicates in its materials (internal or external) that the intention of the activity is to incite or organize to put pressure on an elected representative or public official to retain, oppose or change the law, policy or decision of any level of government in Canada or a foreign country.

The policy does not say that a charity cannot do any of these things, but only that there are limits on such activities. There is no clear legal decision about how an agency determines what 10% of its resources are. CRA says it includes the total of a charity's financial assets, "as well as everything the charity can use to further its purposes, such as its staff, volunteers, directors and its premises and equipment." In the few cases where a charity has had its registration revoked for political activities and the courts have issued a ruling on the matter, the charity has been found to use such a significant portion of its resources that there has been no need to start counting exactly what resources have been used. Thus, for example, there is no clear formula for how a charity should value its volunteers for the purposes of this limit, or what breakdown should be made of premises and equipment.

> ***"...a charity's engagement in political activities cannot exceed 10% of the charity's assets."***

The recent controversies about charities' political activities did reveal some interesting data: almost no charities report that they spend anywhere close to 10% of their assets on political activities. While additional research would need to be undertaken to determine if this reflects reality or under-reporting, the results have led some to question whether charities should be spending more on political activities – a question that will no doubt continue to perplex charity executives and directors for years.

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1. This article is meant to provide legal information, but not legal advice. Charities may need to consult their own legal advisors to determine how these issues affect their specific situations.

2. Available online at http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html (Retrieved July 25, 2012)

3. Note, however, that some of these same activities may fall within the definition of lobbying, depending on the jurisdiction involved.

4. It is important to note that an organization's charitable purposes are those which were recorded by CRA or elsewhere at the time of charitable registration. The charitable purposes are often different from the mission statement or vision statement. If a charity is unsure of its official charitable purposes, it can request a copy of its registration application (and any changes made since then) by calling the CRA Charities Directorate. An organization that finds its purposes have changed significantly should give serious thought to updating its information with CRA, and may wish to seek legal advice.

ROADWORKS: ASSESSING THE PROGRESS OF CANADA'S LOBBYING LAWS

BY DR. PAUL PROSS

Dr. Paul Pross

This is the second installment of a three-part article series adapted from a keynote address by Paul Pross, Professor Emeritus of the School of Public Administration, Dalhousie University. The address was presented at the lobbying seminar, "Why the Road Exists and Where the Rubber Hits It," held in Vancouver, BC, on December 2, 2011 and co-sponsored by the Office of the Registrar of Lobbyists for B.C. and the Institute of Governance Studies at Simon Fraser University. In the first installment, published in the May, 2012 issue of Influencing BC, Dr. Pross examined the impetus for and development of Canada's lobbying laws. In this issue, he discusses the current state of these laws in Canada.

It is twenty-three years since the federal Lobbyists *Registration Act* (LRA) came into force, and there have been considerable changes over that time. In the same timeframe, seven jurisdictions (recently, Manitoba, on April 30, 2012) the City of Toronto and, most recently, the City of Ottawa (July 6, 2012) have adopted similar legislation. The most significant changes that have been introduced in the federal and some provincial regulations include reporting communications with senior officials; the application of lobbying moratoria to many senior officials as they leave the public service; the elaboration of disclosure requirements; the introduction of lobbying codes of conduct; the conferring of powers of investigation on registrars; and, in some cases, the power to impose some penalties for non-compliance. With these additional powers, most registrars have received resources that go some distance to enabling them to actually carry out their responsibilities. In most cases, they have become accountable directly to legislatures rather than to the government of the day.

When we evaluate these developments from the three perspectives that influenced the initial lobby regulations (a bureaucratic concern, an integrity concern, and a need to shore up Canadian democracy), we see that bureaucratic concerns seem to play a less prominent part in guiding regulations, while democratic issues are now front and centre. In fact, it is my impression that the most important changes reflecting bureaucratic needs have been initiated by registry officials, rather than governmental users of registry data. Such changes, after all, were necessitated by the expansion of responsibilities on the part of registries and the modification of roles implicit in rendering regulators accountable to legislatures. With expanded resources for investigation and the authority to apply administrative penalties, to name only two of the most important changes, have come increased concerns for internal efficiency and pressure to secure better compliance. For public servants in general, however, lobby regulations may have become merely a part of the regulatory background "noise" that all have to deal with. Despite vigorous education initiatives on the part of commissioners and registrars, the public service may not use the registry as much as was expected when the LRA was adopted. Public officials may not frequently access registries or analyze registry information.[1]

"...most registrars have received resources that go some distance to enabling them to actually carry out their responsibilities."

The emphasis on democratic concerns was in evidence on March 23, 2011, when the Federal Commissioner of Lobbying, Karen Shepherd, appeared before the House of Commons Standing Committee on Access to Information, Privacy and Ethics. She opened her remarks by stressing the role that lobby regulation plays in promoting transparency. ("Administering the *Lobbying Act*." Office of the Commissioner of Lobbying of Canada. December, 2011.) Indeed, nearly all the important changes in role, accountability and disclosure that have come about at federal and provincial levels – not to mention efforts to impede revolving doors – can be associated with public demands for transparency and for reducing, if not eliminating, privileged access. We look more closely at these in a moment.

The introduction of reforms that promote transparency was accompanied by some public debate. Justice Gomery's recommendation that lobby regulation be conducted under the aegis of Parliament, for example, was discussed by parliamentarians and constitutional specialists. Integrity issues, however, have received very little public attention. Periodic scandals excite intense media interest that usually fades before pundits and specialists are asked fundamental questions about the role, if any, that lobby regulation plays in preventing criminal activity, triggering enquiry or simply providing useful information. This lack of public debate makes it difficult to evaluate the integrity aspects of current lobby regulation. Other evidence is unsatisfactory. Statistics do not seem to help. However, the fact that there have been few prosecutions stemming from lobby regulations, together with guarded comments in regulators' annual reports, suggests that there are problems with either the regulations or with police procedures, or both.

A number of factors hamper investigations into non-compliance and illegal lobbying. One of the chief of these is the nature of lobbying

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ROADWORKS: ASSESSING THE PROGRESS OF CANADA'S LOBBYING LAWS

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itself. It often takes time to detect illicit lobbying. Evidence may be elusive. The investigative process may be time-consuming. Where resources permit, registry officials first verify the accuracy of registrations, then, where questions arise, submit them to administrative review that may lead the registrar or commissioner to send letters that vary in severity from a gentle reminder to a warning. Ultimately the registrar or commissioner may order officials to carry out an investigation. In doing so, some will have authority to seize documents and summon witnesses, but in several cases legislation obliges regulators to stop investigations if they find that the police are already involved or if they have reason to believe that a crime has been committed. In both cases, their findings are referred to the police.

There have been improvements since the federal law came into force in 1989. Most registrars/commissioners are now empowered to verify and investigate. Codes of conduct enable some to broaden the scope of enquiries. Some have better resources. More extensive and timely disclosure permits better analysis. Legislation in some jurisdictions establishes longer periods for prosecuting summary offences, thereby reducing the number of cases that have to be dropped because regulators have not been alerted early enough to non-compliance. Finally, some jurisdictions have empowered lobby regulators to impose administrative penalties. In itself, this suggests that the enforcement provisions of the legislation have been inadequate.

Improvements have not been introduced across the board. The short time frame allowed for prosecution still hampers some registrars investigating summary offences. It continues to be difficult to identify unregistered lobbying. After all, what is not known, cannot be regulated. There appears to be a significant need to improve the fit between investigations under lobby regulations and police investigations for influence peddling, corruption and so on. We will return to these points shortly.

Earlier, we saw that the greatest changes in lobby regulation have stemmed from concern for the democratic deficit and have been directed especially at enhancing transparency. Openness – government's capacity for engagement with the general public – and equality of access to officials have had less attention.

Transparency is now the foremost concern driving lobby regulation. Its key aspects have involved elaboration of disclosure requirements;[2] the tightening of timelines for reporting; improved access to registry sites; better support at some registries for review, verification and investigation of filings; and on-going campaigns on the part of commissioners and registrars to educate the public about lobbying and its regulation. The most important of these reforms has been the decision at the federal level and in British Columbia, Alberta, Ontario, Quebec and Newfoundland to make lobby regulators accountable to the legislature itself, thereby greatly reducing their exposure to the risk of pressure from senior civil servants and elected officials. While governmental influence is still possible, regulators do have more freedom to investigate, to provide more candid and better researched information and in some cases to impose administrative penalties. Most important: the legislature, the media and ultimately the public can be better informed.

Some progress has been made to open government to broader public access. As regulation has improved transparency, so the registries have alerted attentive publics to the activities of key stakeholders. This has enabled organized groups, individuals and communities of interest that have not been consulted to voice their concerns and put forward alternative views, even to marshal opposition and demand standing. Unfortunately it does not appear to have encouraged many agencies to welcome these interests as stakeholders. Many agencies still treat them as "the opposition." They try to manage them rather than listen to them, limiting their input to inadequate "public consultation." In other words, we have to conclude that lobby regulation has done little to open decision-making processes to a wider public.

Nor has lobby regulation fostered equality amongst the interests that petition government. There has been some benefit. Moratoria on lobbying by designated public office holders after they leave office have limited their ability to work the "old-boy network." But the network still operates. As the executive director of a public interest group put it to me during an interview in 2001, "when I look across the table… I realize that [industry] does not play by the same rules. … Industry plays by the rules of the rich and powerful."

The situation for weaker voices has deteriorated since 1985. Government funding has been reduced.[3] Available support is more strictly controlled and seldom permitted to support advocacy. There is increased regulation of public interest groups registered as charities, leading some to refer to a "charity chill" that discourages them from engaging in any advocacy out of fear that the Canada Revenue Agency will revoke their status. This "embedded regulation" constrains some charities even more than the regulations promulgated under the *Income Tax Act*.[4]

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Roadworks: Assessing the progress of Canada's lobbying laws

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These restrictions seriously impede the capacity of many public interest groups to participate equally with business groups in public debate, and that contributes to the widespread concern that our democracy is failing. As Michael Ignatieff put it in a sobering essay on the ten years since the 9/11 attacks:

> There has been a cascade of failure. … It is always good to be skeptical of what governments tell us. But we are beyond skepticism now, into a deep and enduring cynicism. ("9/11 and the Age of Sovereign Failure," *Globe and Mail*, September 9, 2011.)

The unequal strength of the voices that clamour for government attention has contributed to that cynicism. Lobby legislation, by enhancing transparency, has helped to make us aware of the problem of inequality. Perhaps, too, it can play a small part in addressing it. In the next installment of this discussion we will look at that possibility along with other developments we can expect to see in Canadian lobby regulation.

Dr. Paul Pross is a Professor Emeritus of the School of Public Administration, Dalhousie University. Dr. Pross is the author, co-author, or editor of a number of books and articles on Canadian public policy, among them his influential study of Canadian pressure groups, Group Politics and Public Policy

In the next and final installment, Dr. Pross will discuss changes still needed to achieve effective lobby regulation.

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1. Documents released during the Jaffer affair, for example, indicate that few of those who met with Rahim Jaffer and Patrick Glemaud appear to have questioned their status as lobbyists. In her annual report for 2010-11, Commissioner Shepherd notes that, of a total 37 allegations of breaches of the *Lobbying Act*, 18 came from monitoring conducted by her staff, 10 from voluntary disclosure and only 9 from government agencies, private citizens and parliamentarians.

2 Disclosure varies across jurisdictions, but at its most extensive now includes: "particulars" describing the objects of lobbying; corporate affiliates with a direct interest in the outcome of the undertaking; business activities of corporations; activities of non-profit organizations; descriptions of organization memberships; amounts and sources of government funding to corporations or organizations; names of designated former public office holders, their offices and termination dates; target agencies; communication techniques, including grass-roots campaigns; composition of coalitions; and, at the federal level, monthly reports of communications with designated public office holders.

3. See Peter R. Elson, "A short history of voluntary sector-government relations in Canada." *The Philanthropist*. 21, 2009 (1):36-73.

4. See A. Paul Pross and Kernaghan R. Webb, "Embedded Regulation: Advocacy and the Federal Regulation of Public Interest Groups," in Kathy L. Brock (ed.) *Delicate Dances: Public Policy and the Nonprofit Sector* (Kingston, Ont.: Queen's University. School of Policy Studies. Public Policy and the Third Sector Series. 2003.)

Charities Can Be Lobbyists, Too

By Jordan Bateman

Jordan Bateman

Lobbying has a simple litmus test: if you regularly meet with politicians or government officials to get money or a specific public policy changed in your favour, whether behind closed doors or in the public eye, you're a lobbyist and you should register—even if you're a charity.

Sadly, charities are more reliant on government funding than ever before. Not only do charities give government-granted income tax receipts to donors, many not-for-profits have become hopelessly dependent on a stream of government money, mainly from the proceeds of gaming.

The B.C. government will hand out $135 million in gaming grants to not-for-profits this year. That's on top of direct grants, research dollars, government contracts, the millions charities receive in tax breaks and the millions government loses through income tax deductions—80 per cent of British Columbians give to charity every year, with annual donations averaging $543 each.

With both the federal and provincial governments running deficits, this is borrowed money taxpayers are handing over to charities. We are spending the future's money on today's wants.

The public needs to feel confident that these funds are being handed out in a transparent, accountable manner. If a charity is regularly talking to its MLA or a cabinet minister about more funding, that is clearly lobbying and should be logged with the Lobbyists Registry. One-off meetings with an MLA are fine, but any coordinated strategy or ongoing push for money or policy should be subject to lobbyist rules.

That goes for public policy changes too. It is entirely appropriate and expected for a not-for-profit to advocate for the people it works with by asking government officials for new or amended laws or regulations. But democracy works best when taxpayers can see how those changes came about, and making the lobbying world transparent is the safest way to go.

Charities may feel they have nobler goals than the private sector in dealing with government, but the same test of transparency and accountability should apply to both.

Jordan Bateman is the B.C. Director of the Canadian Taxpayers Federation (www.taxpayer.com).

Editor's note: In BC, it isn't necessary to meet regularly in order to be lobbying in the legal sense, so you might need to register whether you meet regularly or not. For more information, contact the Office of the Registrar of Lobbyists for BC at info@bcorl.ca.

Lobbying and the Charitable Purpose:

Why charities should be excluded from the Lobbyists Registration Act

By Alison Brewin

Alison Brewin

The purpose of the *Lobbyists Registration Act* is to enhance transparency, accountability and democratic society. I support these values as cornerstones of justice, equality and human dignity. I consider the Office of the Registrar of Lobbyists and the monthly list of lobbying activities as one of the best pieces of public policy in action of the current government.

It is the only public information available that illustrates *private* interests trying to influence government decisions. As a policy wonk, I love it. Except for the misguided inclusion of charitable organizations in the LRA net.

A registered charity is not allowed to spend more than 10% of its resources on political activities. Political activities are defined as including seeking to "retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country." Under the LRA, they must register if they use 100 hours of paid time (5% of a FTE) seeking to influence a decision of a public official.

Law and society already demand transparency from charitable organizations through the 10% rule, but also through:

- The governance structure,
- The expectation of donors,
- Project funding agreements,
- Contractual arrangements with government,
- Annual General Meetings and reporting requirements, and, finally,
- The clients and community served.

Charitable purposes are just that: charitable. There is intense pressure on charities from donors, government and funders, to keep administrative costs to a bare minimum. Even in government contracts and gaming grants, the organization is expected to use funds for program delivery. The general rule is 10-15% of any budget is for admin tasks, which barely covers administering the project itself.

Any exclusion from a legal framework needs to be rationally connected to the purpose of the law (e.g., the reason gay marriage is legal in Canada – no one could make a rational argument for the exclusion of same-sex couples). Excluding charities from the *Lobbyists Registration Act* is rational: they are already limited to non-lobbying activities by well-applied federal laws; they are pressured every day to keep administrative and salary costs down; and, they are easy to identify and therefore exclude.

Charities are hard working organizations managing under-resourced budgets, doing work that is 100% for the *public* good. They should not be required to take on the transparency issues of the private sector.

Alison Brewin is the former Executive Director of West Coast LEAF and currently works as a Non-Profit Consultant.

Websites of Interest

Registrar of Lobbyists for BC
www.lobbyistsregistrar.bc.ca

Office of Commissioner of Lobbying of Canada
www.ocl-cal.gc.ca

Office of the Integrity Commissioner for Ontario
lobbyist.oico.on.ca

Government Relations Institute of Canada
www.gric-irgc.ca

Save the Date!

Second Seminar on Lobbying in BC

The second seminar on lobbying in BC is tentatively scheduled for January 25, 2013, in Vancouver.

Last December, the Office of the Registrar of Lobbyists (ORL) and Simon Fraser University's Institute of Governance Studies co-hosted the first seminar on lobbying in BC. The seminar, "Why the Road Exists and Where the Rubber Hits it: A Conversation on Lobbying," brought together over 100 legal experts, regulators, academics, lobbyists and members of the media to explore challenges facing lobbyists and regulators.

The January 2013 seminar will be co-hosted by the BC ORL, the Institute of Governance Studies and a newly-formed BC lobbyist industry association. The seminar will again be a one-day event, with the focus for sessions on best practices in lobbying.

Please watch the BC ORL website, www.lobbyistsregistrar.bc.ca, for more information as it becomes available.

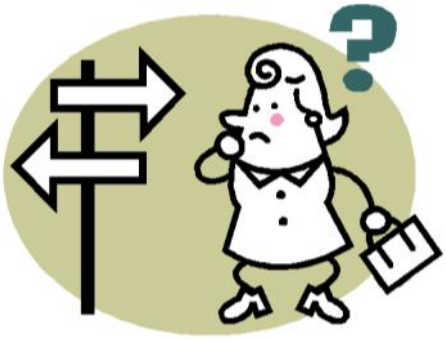
Ask the Registrar

Q. I'm an Assistant to the CEO of my company, and I regularly fill out my boss's paperwork. Is it all right if I fill out my boss's lobbyist registration?

A. You can help, but your boss must submit the registration him- or herself. The designated filer – i.e., your boss, not you – is legally responsible for certifying that the information in the registration is true to the best of his or her knowledge. Designated filers are required by law to certify that the information filed about their or their company's lobbying activities is accurate, and they can't know whether it is if they hand the registration process off to someone else. If a registration is found to contain inaccuracies, the designated filer is the person who will be held legally responsible for filing false information. You can do the legwork involved in filling out the registration form, but your boss will then need to sit down and review it, make sure that the information is accurate, and be the one to click the button to certify the information as accurate and submit the registration to the Registrar. Certifying and submitting a registration to the BC Lobbyist Registry may not be delegated: it is the designated filer's legal responsibility.

Q. I'm the designated filer for my organization. I'd rather not publish my own email address on the Lobbyists Registry. May I use my company's generic email address instead?

A. It depends on which email address you usually use. The lobbyist registration law in BC requires that a designated filer named in a registration provide his or her own contact information. If "John Smith" is named in the "Designated Filer Contact Information," then the contact information appearing under John Smith's name must be the contact information that usually appears on John Smith's business card. If there are questions or problems with your registration, it's important that the Registry staff be able to contact you directly, because you are legally responsible for the registration. If you regularly use the generic company email address as your own business contact email on your business card, then you can use that email address on your lobby registration, but if not, then you must enter the email address that usually appears on your business card.



Q. I know of a local company that met with my MLA, but I checked the Lobbyists Registry and they aren't registered there. Don't people need to register as lobbyists before they talk to an MLA?

A. No, there is nothing in the BC *Lobbyists Registration Act* that says an individual or organization must be registered before they meet with a public office holder. It is the responsibility of lobbyists themselves to determine whether and when they are required to register, and public office holders are not obliged to check if lobbyists are registered or refuse to meet with anyone because they are not registered. Citizens expect that MLAs will be available for consultation, and the law governing lobbying in BC does not seek to limit any individual's ability to speak with an elected representative.

The law also provides some flexibility in time frames for filing a registration or conditions under which lobbying must be registered. Consultant lobbyists must register their lobbying activity within ten days after entering into an undertaking to lobby, so it is possible that a meeting could occur within those ten days, before the undertaking has been registered. Organizations that lobby are required to register only when the combined efforts of all paid employees who contribute to the lobbying effort reach 100 hours in the previous 12-month period. Organizations that do not reach the 100 hours threshold in 12 months are not required to register, nor are organizations whose lobbying is carried out by people who are not paid, e.g., volunteers.

ORL Lobbyist Code of Conduct Consultation

The ORL has been carrying out a public consultation regarding whether BC needs a code of conduct for lobbyists.

In April, 2012, the ORL published a discussion paper on the issue and began holding meetings with stakeholders in June. The office has received valuable input from the lobbying community, public office holders and members of the academic community.

Feedback will be analyzed and incorporated into a report to be presented to the legislature toward the end of the 2012 calendar year. Click here to read the paper.

Ontario's Lobbyist Registrar calls for changes to Ontario's lobbying law

Lynn Morrison, Ontario's Integrity Commissioner and Lobbyist Registrar, is recommending amendments to Ontario's *Lobbyist Registration Act*. The act came into force in 1999.

Some substantive changes recommended by the Registrar include:

- Providing the Registrar with the power to investigate and issue administrative monetary penalties;
- Restricting persons who lobby government from being paid to provide advice to government on the same matter;
- Eliminating the 20% "significant part of duties" threshold for in-house lobbyists to register;
- Amalgamating for-profit and not-for-profit in -house lobbyists under one category;
- Requiring former public office holders who lobby to register, regardless of time spent lobbying, and aligning post-employment rules for ministers' staff with the act; and
- Clarifying that "grass-roots communication" meets the definition of lobbying.

Ms. Morrison published her recommendations in May of this year, calling for a thorough and thoughtful review of the act, including consultation with stakeholders.

In July, the government of Premier Dalton McGuinty issued a statement committing to amending the *Lobbyists Registration Act*. Proposed amendments included:

- Giving the Integrity Commissioner more enforcement powers, including the ability to prohibit individuals from lobbying;
- Giving the Integrity Commissioner new investigative powers, including the ability to compel testimony and obtain key documents;
- Requiring lobbyists to identify the specific MPP and ministers' offices they lobby;
- Preventing lobbyists from accepting additional fees for preferred outcomes;
- Prohibiting lobbyists from providing paid advice to a ministry and lobbying on the same subject matter;
- Providing the Integrity Commissioner with the ability to establish a lobbyist code of conduct; and
- Incorporating for-profit and not-for-profit organizations under the same category of 'in-house' lobbyists, treating both classes of lobbyists the same and capturing more lobbying activity.

Calendar of Events

August 8, 2012
ORL Annual Report tabled in the BC Legislature

September 9-11, 2012
Toronto: National Lobbyist Registrars and Commissioners Conference

September 21, 2012
Open Data Learning Summit, Vancouver, BC

September 28, 2012
Right-to-Know Week: Sunshine Summit 2012 – Does Open Government Matter? For details, see capapa.org/Sunshine.html

November, 2012
ORL will present Code of Conduct Consultation Report to BC Legislature

January 25, 2013
Second Seminar on lobbying in BC, Vancouver, BC

We're Online!

www.lobbyistsregistrar.bc.ca

Thanks for reading this issue of Influencing BC!

To find out more about the Office of the Registrar of Lobbyists for British Columbia, or to comment on any of the information contained in this e-zine, please visit our website at www.lobbyistsregistrar.bc.ca, or contact our office.

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