



## NANCY BÉLANGER, COMMISSIONER OF LOBBYING

STANDING COMMITTEE ON ACCESS TO INFORMATION, PRIVACY AND ETHICS

2020-11-27

### OPENING REMARKS

Good afternoon Mister Chair and Committee members.

I am very pleased to appear before you today to discuss the administration and enforcement of the Lobbying Act over the past several months.

As the Commissioner of Lobbying, I am accountable to Parliament. My mandate includes the following three areas of activities:

#### REGISTRY OF LOBBYISTS

First, I must establish and maintain a Registry of Lobbyists. As the main tool for enabling transparency of lobbying activities, the Registry provides Canadians with information about who is communicating with public officials and about what subjects.

On any given day, there are about 6,200 active lobbyists registered. Since February 2020, of the over 6,000 posted registrations, 1757 were new. Since then, lobbyists have also provided details with respect to more than 21,000 arranged and oral communications.

When compared with the same period in 2018 and in 2019, it's clear that more communications are occurring in 2020. While Health was the top subject registered and communicated in February, March and April 2020, Economic Development became the top subject in May and has remained so ever since.

To make it easier for Canadians to identify and track lobbying activities directly related to the pandemic, the Office created an easy to access search feature of registrations for that topic. There are currently 640 such registrations.

#### EDUCATION AND OUTREACH

Second, my mandate includes raising awareness of the Act and Code with lobbyists, public office holders and other stakeholders.

Since the beginning of the pandemic, to assist those who were new to the Registration process, our Client Services team provided assistance. As the government announced funding programs related to COVID-19, we published guidelines to ensure continued compliance from lobbyists.

We also gave presentations to lobbyists and public office holders on the lobbying regime. This means that more than 300 individuals now know more about the requirements of the Lobbying Act and Lobbyists' Code of Conduct.

The Office's website remains the main tool to reach lobbyists and the public. A new website was launched in April 2020.

## COMPLIANCE AND ENFORCEMENT

Third, I enforce the Act and Code.

Allegations of non-compliance with the Act and Code are dealt with in two steps. First, a preliminary assessment is undertaken to evaluate the nature of the alleged contravention, obtain initial information and determine whether the subject matter falls within my jurisdiction. Following this assessment, and when necessary to ensure compliance with either the Act or Code, an investigation is commenced.

When I complete an investigation under the Code of Conduct, I table a report to Parliament.

When I have reasonable grounds to believe an offence under the Act has been committed, I must refer the matter to a peace officer, most often, the RCMP. Offences under the Lobbying Act include failing to register, failing to file a monthly communication report, providing inaccurate information, and lobbying while subject to the five-year prohibition.

Since April 2020, I opened sixteen (16) preliminary assessments and currently have five (5) ongoing investigations. Also since April, I referred three (3) investigation files to the RCMP. As of today, there are eleven (11) files with the RCMP. When such a referral is made, I must suspend my investigation until the matter has been dealt with. Only once this has occurred, can I complete the investigation and report to Parliament.

The Act is clear that I must conduct investigations in private, that means that I cannot comment. These matters may become criminal investigations and I cannot jeopardize them.

## REGISTRATION REQUIREMENTS UNDER THE ACT

Although I am unable to comment on cases, I would like to highlight certain aspects of the Act as it relates to some of the issues that the committee is studying.

Under the Lobbying Act, communications in relation to the awarding of a contract is a registrable activity but only for consultant lobbyists not for in-house lobbyists.

For in-house lobbyists, the Act requires that the most senior paid officer of the organization or corporation file a registration when the collective lobbying activities of the organization or corporation represent a significant part of the duties of one employee. The significant part of duties threshold has been established at 20% or more of overall duties. When this threshold is met, the senior officer has two months to register these activities.

When it comes to the five-year ban on lobbying for former designated public office holders, the Act prohibits these former officials from lobbying as a consultant or as an in-house lobbyist for an organization. However, if a former designated public office holder is employed by a corporation, this individual is entitled to lobby as long as the communications do not amount to a significant part of his or her work.

Like any other allegations of non-compliance, these elements are assessed when conducting a preliminary assessment or an investigation.

As I have stated to the Committee in the past, the "significant part of duties" threshold should be removed from the Lobbying Act and this will be one of my recommendations should the Lobbying Act be reviewed.

I would also recommend the elimination of discrepancies related to in-house lobbyists regardless of whether they are employed by a corporation or organization. I believe that this would increase fairness, and clarity, in ensuring that both corporations and organizations are subject to the same requirements.

#### MY OFFICE

Finally, with respect to the impact of the pandemic on the results achieved by my Office, I have been impressed by the team's ability to work together and continue to deliver excellence during a time of heightened stress and insecurity. Not only did the employees of my Office adjust quickly to a new way of working and find ways to support each other virtually, they continued to ensure the delivery of all aspects of the mandate. For this, I am very grateful to each and every member of my staff.

#### CONCLUSION

Mister Chair and Committee members, thank you, and I welcome your questions.