



Government
of Canada

Gouvernement
du Canada

OFFICE OF THE COMMISSIONER OF LOBBYING



Access to Information Act and Privacy Act

ANNUAL REPORT 2008-2009

This publication is available upon request in accessible formats.

For a print copy of this publication, please contact:

Office of the Commissioner of Lobbying
Operations Directorate
255 Albert Street, 10th Floor
Ottawa ON K1A 0R5

Tel.: (613) 957-2760

Fax: (613) 957-3078

Email: QuestionsLobbying@ocl-cal.gc.ca

This publication is also available electronically on the Web in HTML and PDF formats at the following address: www.ocl-cal.gc.ca.

Permission to Reproduce

Except as otherwise specifically noted, the information in this publication may be reproduced, in part or in whole and by any means, without charge or further permission from the Office of the Commissioner of Lobbying, provided that due diligence is exercised in ensuring the accuracy of the information reproduced; that the Office of the Commissioner of Lobbying is identified as the source institution; and that the reproduction is not represented as an official version of the information reproduced, nor as having been made in affiliation with, or with the endorsement of, the Office of the Commissioner of Lobbying.

For permission to reproduce the information in this publication for commercial redistribution purposes, please email: QuestionsLobbying@ocl-cal.gc.ca.

Catalogue No. Iu77-3/2009E-PDF

ISBN 978-1-100-12880-1

Aussi offert en français sous le titre Loi sur l'accès à l'information et Loi sur la protection des renseignements personnels - Rapport annuel 2008-2009, Commissariat au lobbying.



Table of Contents

Preface 4

About the Organization

Recent History of the Office of the Commissioner of Lobbying 5

Responsibility for Information and Privacy Rights / Delegation of Authority 5

Introduction / Highlights 6

Fees 7

Information Holdings 7

Website 7

Reading Room 7

Part I - Access to Information

Statistical Report 8

Education and Training Activities 8

Complaints and Appeals 8

Appeals to the Federal Court 9

Part II- Privacy

Statistical Report 10

Complaints and Appeals 10

Appeals to the Federal Court 10

Data Matching and Sharing Activities 10

Appendix I

Report on the *Access to Information Act* 11

Appendix II

Report on the *Privacy Act* 13

Preface

The *Access to Information Act* and the *Privacy Act* (Revised Statutes of Canada 1985, Chapter A-1) were proclaimed on July 1, 1983. Therefore, this is the twenty-fifth year of operation of these two statutes.

The *Access to Information Act* (ATIA) gives Canadian citizens and permanent residents a broad right of access to information contained in government records, subject to certain specific and limited exceptions. The *Privacy Act* extends to individuals the right of access to information about themselves held by the government, again subject to specific and limited exceptions. The law also protects the individual's right to privacy by preventing others from having access to personal information and gives individuals substantial control over its collection and use.

On February 6, 2006, the Office of the Registrar of Lobbyists (ORL) was transferred from Industry Canada to the Treasury Board Secretariat's portfolio as an independent department for purposes of the *Financial Administration Act*. In December of 2006, the *Federal Accountability Act* received Royal Assent and amended the *Lobbyists Registration Act*, renamed the *Lobbying Act*, and created the Office of the Commissioner of Lobbying (OCL), who reports directly to Parliament. These amendments came into force, simultaneously with the Lobbyist Registration Regulations and the Designated Public Office Holder Regulations, on July 2, 2008. This report therefore covers the OCL's first fiscal year of operation as an Agent of Parliament, under the *Access to Information Act* and the *Privacy Act*.

Section 72 of both the *Access to Information Act* and the *Privacy Act* requires that the head of every government institution prepare for submission to Parliament an annual report on the administration of these acts within the institution during each financial year. This annual report is intended to describe how the OCL fulfilled its responsibilities under each of these acts, from April 1, 2008, to March 31, 2009.

ABOUT THE ORGANIZATION

Recent History of the Office of the Commissioner of Lobbying

In May of 2004, the *Lobbyists Registration Act* was amended by Bill C-4, *An Act to Amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and Other Acts in Consequence*, Statutes of Canada, as S.C. 2004, c. 7, which created the new positions of Ethics Commissioner and Senate Ethics Officer. The function of Registrar of Lobbyists remained within Industry Canada until February 6, 2006.

On February 6, 2006, the Office of the Registrar of Lobbyists (ORL) was transferred from Industry Canada to the Treasury Board portfolio as an independent department for purposes of the *Financial Administration Act*. On December 12, 2006, the *Federal Accountability Act*, also known as Bill C-2, which amended the *Lobbyists Registration Act* (LRA) and other statutes, received Royal Assent, as S.C. 2006, c. 9. The modified LRA, renamed the *Lobbying Act* (LA), came into force simultaneously with its new regulations on July 2, 2008. The *Lobbying Act* created the position of Commissioner of Lobbying, who reports directly to Parliament. The Commissioner has increased powers of investigation and an education mandate. The changes brought to the LA also included a five-year prohibition on lobbying by former designated public office holders, the obligation for lobbyists to report prescribed communications with designated public office holders on a monthly basis. Additionally, there is a prohibition on the payment of contingency fees to lobbyists and the receipt of these fees by lobbyists.

Responsibility for Information and Privacy Rights

The *Access to Information Act* and the *Privacy Act* each confer the authority to exercise full powers to the Commissioner of Lobbying and to the OCL's Access to Information and Privacy (ATIP) Coordinator.

The ATIP Coordinator is responsible for the development, coordination and implementation of effective policies, guidelines and procedures to manage the organization's compliance with the above Acts. The Coordinator makes decisions on the disposition of access requests; promotes awareness of the legislation to ensure organizational responsiveness to the obligations imposed on the government; monitors and advises on compliance with the Acts, regulations, procedures and policies; and acts as spokesperson for the organization in dealings with the Treasury Board Secretariat, the Information and Privacy Commissioners, and other government departments and agencies.

The ATIP Coordinator is responsible for conducting consultations with other governments within Canada and other federal organizations. Under the LA, the OCL collects information from registrants and lobbyists. Disclosures filed by registrants are accessible on our Web site at the following address: www.ocl-cal.gc.ca. In the event of requests for information related to possible administrative reviews and investigations conducted under the *Lobbyists' Code of Conduct*, the OCL will undertake appropriate notification and consultation procedures with interested parties before disclosing any records. The OCL will, on occasion, convey personal information to federal investigative agencies in keeping with the provisions of the *Privacy Act*. The Coordinator is the point of contact on issues involving the collection of personal information and privacy.

ANNUAL REPORT 2008-2009

Introduction / Highlights

On February 6, 2006, the Office of the Registrar of Lobbyists (ORL) was transferred from Industry Canada to the portfolio of the President of the Treasury Board, as an independent department for purposes of the *Financial Administration Act*. In December of 2006, the *Federal Accountability Act* received Royal Assent and amended the *Lobbyists Registration Act*, to be renamed the *Lobbying Act*, and created the Office of the Commissioner of Lobbying (OCL), who reports directly to Parliament. These amendments came into force, simultaneously with the Lobbyist Registration Regulations and the Designated Public Office Holder Regulations, on July 2, 2008. Therefore, this is the OCL's first annual report as an Agent of Parliament. During the last fiscal year, the OCL received only one request under the *Access to Information Act*, and no requests under *the Privacy Act*.

The sole request submitted to the OCL under the *Access to Information Act* (ATIA) originated from the media and was treated formally. The standard \$5 application fee was received from the requester.

The OCL disclosed the requested information in part and otherwise invoked subsection 68(a), concerning published material or material available for purchase by the public, since the remaining information was already available publicly on the Registry of Lobbyists. The OCL spent a total of \$9,413.40 on costs associated with the ATIA and utilized approximately 0.02 person years towards its implementation.

There are two outstanding complaints from the media under the *Access to Information Act*, one which was initially received in 2005, when the former ORL was still part of Industry Canada. A similar complaint was lodged with the Information Commissioner's Office that is related to one of the media requests the former ORL had received during a previous fiscal year. Both of these complainants allege that the exclusion invoked by the former ORL, concerning subsection 68(a) of the Act, was not properly applied. The respective investigations by the Information Commissioner's Office are still in progress.

A significant change pursuant to the *Lobbying Act*, which came into force on July 2, 2008, is the obligation for lobbyists to report communications with "designated public office holders" (DPOH), who are public office holders of senior rank, on a monthly basis and published on the OCL's Web site. The former ORL completed a Preliminary Privacy Impact Assessment (PPIA) concerning this new obligation, to assess the need for a complete Privacy Impact Assessment (PIA). The ORL subsequently concluded that a PIA was not required and informed the Office of the Privacy Commissioner (OPC) to that effect. The OPC subsequently agreed with the ORL's conclusion that there is no significant privacy risk and that a PIA was not required.

Fees

The *Access to Information Act* (ATIA) authorizes fees for certain activities related to the processing of formal requests under the Act. In addition to a \$5 application fee, search, preparation and reproduction charges may also apply. The current fee structure is specified in the *Access to Information Regulations*. No fees are imposed for reviewing records, overhead or shipping costs. Moreover, in accordance with section 11 of the ATIA, no fees are charged for the first five hours required to search for a record or to prepare any part of it for disclosure. No fees are applicable under the *Privacy Act*.

The *Access to Information Act* permits the waiving of fees when deemed to be in the public interest. In accordance with Treasury Board guidelines, the OCL will consider waiving fees under \$25.

For fees over \$25, the organization will examine fee waiver requests on a case-by-case basis. In considering such requests, the organization will take into account costs in processing each access application and the degree of public benefit to be derived from the release of the accessible information.

Information Holdings

The OCL is responsible for providing a full accounting of information holdings to the Treasury Board Secretariat and ensuring that updates are provided on a timely basis for inclusion in the *Info Source* publications.

The *Info Source* publications contain a description of the classes of institutional records held by the OCL. The OCL does not have any exempt banks. For 2008-2009, information may be found in the following publications:

2008–2009 Info Source — Sources of Federal Government Information

2008–2009 Info Source — Sources of Federal Employee Information

Info Source can be obtained through public or academic libraries or it may be viewed online on the Treasury Board Secretariat's Web site at: <http://www.infosource.gc.ca>

OCL Web site

Address: www.ocl-cal.gc.ca. This site allows the user to access and search the Registry of Lobbyists, as well as to obtain reports and other information on lobbying at the federal level. It also contains links to various organizations of interest.

Reading Room

A reading room is available at the OCL's office, situated on the 10th Floor at 255 Albert Street, Ottawa, Ontario, Canada K1A 0R5.

Part I - ACCESS TO INFORMATION

Statistical Report

On February 6, 2006, the Office of the Registrar of Lobbyists (ORL) was transferred from Industry Canada to the portfolio of the President of the Treasury Board, as an independent department for purposes of the *Financial Administration Act*. Thus, as of that date, the former ORL became subject to the same reporting requirements as any other government institution named in Schedule I (Section 3) of the *Access to Information Act* (ATIA), with respect to the preparation of an annual report, which may be found in Appendix I. In 2008-2009, the first year in which the OCL prepared an annual report as an Agent of Parliament, there was only one request submitted under the ATIA.

The only request submitted to the OCL under the ATIA, originated from the media. The OCL disclosed the requested information in part and otherwise invoked subsection 68(a) concerning published material or material available for purchase by the public, since the balance of the information requested was already available publicly on the Registry of Lobbyists.

The usual application fee of \$5 was cashed for this request. The OCL spent a total of \$9, 413.40 on costs associated the ATIA and utilized approximately 0.02 person years towards its implementation.

Education and Training Activities

Last fiscal year, the OCL adopted a new software system to track requests and process documents efficiently and has trained the OCL's ATIP Coordinator and ATIP Advisor in its use. The OCL is also training at least one more individual as a back-up. The annual costs associated with renting the software system have been included in Section 10 (X), in the Statistical Report under: Administration: "Operations and Maintenance" (O and M).

The ATIP Advisor analyses and processes the OCL's ATIP requests, and provides advice to the ATIP Coordinator, who is also the Director of Operations and is ultimately responsible for each request.

Complaints and Appeals

No complaints were received by the OCL or from the Office of the Information Commissioner during the last fiscal year. However, one of two previous complaints was related to a request under the *Access to Information Act*, which was initially received in 2005, when the former ORL was still part of Industry Canada. The ORL was named as the government institution that is the subject of the investigation, essentially transferring the complaint from Industry Canada to the ORL. The complainant alleged that the exclusion invoked by the former ORL was not properly applied. The investigation by the Commissioner's Office is still in progress.

The former ORL was also advised that a similar complaint was lodged with the Information Commissioner's Office that is related to one of the media requests the former ORL had received during a previous fiscal year. The investigation by the Information Commissioner's Office is still in progress.

Appeals to the Federal Court

There were no appeals filed during the above period.

Part II - PRIVACY

Statistical Report

On February 6, 2006, the Office of the Registrar of Lobbyists (ORL) was transferred from Industry Canada to the portfolio of the President of the Treasury Board as an independent department for purposes of the *Financial Administration Act*. Thus, as of that date, the OCL is subject to the same reporting requirements as any other government institution named in Section 3 of the Schedule to the *Privacy Act*, with respect to the preparation of an annual report, which may be found in Appendix II. In 2008-2009, as in the previous three years in which the previous ORL prepared annual reports, there were no requests received under the *Privacy Act*.

A significant change brought by the *Federal Accountability Act* to the *Lobbying Act*, which came into force on July 2, 2008, is the obligation for lobbyists to report monthly, on the OCL's Web site, communications with designated public office holders (DPOH), who are public office holders of senior rank. In accordance with the relevant Treasury Board Secretariat's (TBS) directive, the former ORL performed a Preliminary Privacy Impact Assessment (PPIA) by filling out a TBS questionnaire to assess the need for a Privacy Impact Assessment (PIA). The ORL subsequently concluded that a PIA was not required, and informed the Office of the Privacy Commissioner to that effect.

The Office of the Privacy Commissioner (OPC) replied at the end of the last fiscal year and concurred with the ORL's conclusion and that there was no significant privacy risk. As an added precaution, the Lobbyists Registry contains a note warning against users volunteering any private information. This measure was approved by the OPC.

The following table illustrates the OCL's PPIA and PIA statistics for the period of 2008-2009:

<u>Number</u>	<u>Preliminary Privacy Impact Assessments / Privacy Impact Assessments</u>
0	PPIAs initiated;
0	PPIAs completed;
0	PIAs initiated;
0	PIAs completed;
0	PIAs forwarded to the Office of the Privacy Commissioner (OPC); and
0	PIA summaries posted on the OCL's Web site.

Complaints and Appeals

There were no complaints or appeals during the above period.

Appeals to the Federal Court

There were no appeals filed during the above period.

Data Matching and Sharing Activities

There were no data matching or sharing activities undertaken during the above period.

**APPENDIX I - 2008-2009 REPORT ON THE
*ACCESS TO INFORMATION ACT***



REPORT ON THE ACCESS TO INFORMATION ACT / RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution Office of the Commissioner of Lobbying / Commissariat au lobbying				Reporting period / Période visée par le rapport 1 April/avril 2008 to/à 31 March/mars 2009	
Source	Media / Médias 1	Academia / Secteur universitaire 0	Business / Secteur commercial 0	Organization / Organisme 0	Public 0

I Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information	
Received during reporting period / Reçues pendant la période visée par le rapport	1
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	1
Completed during reporting period / Traitées pendant la période visées par le rapport	1
Carried forward / Reportées	0

II Disposition of requests completed / Disposition à l'égard des demandes traitées			
1. All disclosed / Communication totale	0	6. Unable to process / Traitement impossible	0
2. Disclosed in part / Communication partielle	1	7. Abandoned by applicant / Abandon de la demande	0
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0	8. Treated informally / Traitement non officiel	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0	TOTAL	1
5. Transferred / Transmission	0		

III Exemptions invoked / Exceptions invoquées							
S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	0	S. Art. 18(b)	0	S. Art. 21(1)(a)	0
(b)	0	(b)	0	(c)	0	(b)	0
(c)	0	(c)	0	(d)	0	(c)	0
(d)	0	(d)	0	S. Art. 19(1)	0	(d)	0
S. Art. 14	0	S. Art. 16(2)	0	S. Art. 20(1)(a)	0	S. Art. 22	0
S. 15(1) Art. International rel. / Relations intern.	0	S. Art. 16(3)	0	(b)	0	S. Art. 23	0
Defence / Défense	0	S. Art. 17	0	(c)	0	S. Art. 24	0
Subversive activities / Activités subversives	0	S. Art. 18(a)	0	(d)	0	S. Art. 26	0

IV Exclusions cited / Exclusions citées			
S. Art. 68(a)	1	S. Art. 69(1)(c)	0
(b)	0	(d)	0
(c)	0	(e)	0
S. Art. 69(1)(a)	0	(f)	0
(b)	0	(g)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	1
31 to 60 days / De 31 à 60 jours	0
61 to 120 days / De 61 à 120 jours	0
121 days or over / 121 jours ou plus	0

VI Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	0	0
Consultation	0	0
Third party / Tiers	0	0
TOTAL	0	0

VII Translations / Traduction		
Translations requested / Traductions demandées		0
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	1
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Fees / Frais			
Net fees collected / Frais net perçus			
Application fees / Frais de la demande	1	Preparation / Préparation	0
Reproduction	0	Computer processing / Traitement informatique	0
Searching / Recherche	0	TOTAL	1
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		0	\$ 0
Over \$25.00 / De plus de 25 \$		0	\$ 0

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 3,359
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 6,054
TOTAL	\$ 9,413
Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	0.02



APPENDIX II - 2008-2009 REPORT ON THE *PRIVACY ACT*



REPORT ON THE PRIVACY ACT
RAPPORT CONCERNANT LA LOI SUR LA PROTECTION
DES RENSEIGNEMENTS PERSONNELS

Institution Office of the Commissioner of Lobbying / Commissariat au lobbying	Reporting period / Période visée par le rapport 1 April / avril 2008 to / à 31 March / mars 2009
--	---

I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels	
Received during reporting period / Reçues pendant la période visée par le rapport	0
Outstanding from previous period / En suspens depuis la période antérieure	0
TOTAL	0
Completed during reporting period / Traitées pendant la période visées par le rapport	0
Carried forward / Reportées	0

II Disposition of request completed / Disposition à l'égard des demandes traitées	
1. All disclosed / Communication totale	0
2. Disclosed in part / Communication partielle	0
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	0
5. Unable to process / Traitement impossible	0
6. Abandoned by applicant / Abandon de la demande	0
7. Transferred / Transmission	0
TOTAL	0

III Exemptions invoked / Exceptions invoquées	
S. Art. 18(2)	0
S. Art. 19(1)(a)	0
(b)	0
(c)	0
(d)	0
S. Art. 20	0
S. Art. 21	0
S. Art. 22(1)(a)	0
(b)	0
(c)	0
S. Art. 22(2)	0
S. Art. 23 (a)	0
(b)	0
S. Art. 24	0
S. Art. 25	0
S. Art. 26	0
S. Art. 27	0
S. Art. 28	0

IV Exclusions cited / Exclusions citées	
S. Art. 69(1)(a)	0
(b)	0
S. Art. 70(1)(a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

V Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	0
31 to 60 days / De 31 à 60 jours	0
61 to 120 days / De 61 à 120 jours	0
121 days or over / 121 jours ou plus	0

VI Extentions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	0	0
Consultation	0	0
Translation / Traduction	0	0
TOTAL	0	0

VII Translations / Traductions	
Translations requested / Traductions demandées	0
Translations prepared / Traductions préparées	0
English to French / De l'anglais au français	0
French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation	
Copies given / Copies de l'original	0
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Corrections and notation / Corrections et mention	
Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention annexée	0

X Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	
Salary / Traitement	\$ 0
Administration (O and M) / Administration (fonctionnement et maintien)	\$ 0
TOTAL	\$ 0
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	

