



Office of the Commissioner
of Lobbying of Canada

Commissariat au lobbying
du Canada



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OFFICE OF THE COMMISSIONER OF LOBBYING OF CANADA



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Free and open access to government is an important matter of public interest.

Lobbying public office holders is a legitimate activity.

It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.

A system for the registration of paid lobbyists should not impede free and open access to government.

Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1A 0R5

The Honourable Noël A. Kinsella
Speaker of the Senate
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Speaker:

Pursuant to section 11 of the *Lobbying Act*, I have the honour of presenting to you the fourth annual report of the Commissioner of Lobbying for tabling in the Senate.

This report covers the fiscal year ending March 31, 2012.

Sincerely yours,

A handwritten signature in blue ink, appearing to be 'K. Shepherd'.

Karen E. Shepherd

Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1A 0R5

The Honourable Andrew Scheer, M.P.
Speaker of the House of Commons
Room 316-N, Centre Block
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Speaker:

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This report covers the fiscal year ending March 31, 2012.

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Karen E. Shepherd

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MESSAGE FROM THE COMMISSIONER OF LOBBYING



I am pleased to present the Annual Report for the Office of the Commissioner of Lobbying for 2011-2012. This report highlights the main accomplishments of my organization in helping me to deliver on my mandate. My mandate is stated in the *Lobbying Act* and covers three areas of activity: maintaining a registry of lobbyists that is accessible to Canadians; fostering greater awareness of the requirements of the *Lobbying Act* through education and outreach; and ensuring compliance with the legislation and the *Lobbyists' Code of Conduct*.

The Registry of Lobbyists is an important tool for all Canadians. It is the primary source of information on who is lobbying federal public office holders and about which topics. Since I became Commissioner, I have improved the system to make it easier for lobbyists to comply with registration requirements. Access to this information is also key to fostering transparency. To that end, I focused this year on improving the search and reporting capacity of the Registry. Several lobbyists, public office holders and representatives of the media were surveyed and participated in focus groups. The additional tools and features to be implemented in 2012-2013 will represent the greatest improvement to the usability of the system since its creation.

I have long said that awareness of the Act's requirements is a key requirement for greater compliance. My outreach activities include in-person meetings and written communications. My staff and I continue to meet with lobbyists, elected officials and their staff, and senior managers of the federal public service, to ensure that they understand the requirements of the *Lobbying Act* and the *Lobbyists' Code of Conduct*. My website is an important outreach tool. This year, I launched an improved website that makes it easier for visitors to



find the information they need among the broad range of resources available on the Canadian lobbying regime.

Canada has a lobbying model which is recognized as a leader in ensuring transparency and lobbying disclosure. This year, I was asked to participate in several international fora to present the Canadian perspective and discuss key issues. In January 2012, I attended the International Conference on Probity and Transparency in Congress and in the Political Party System in Santiago, Chile. I provided an overview of the Canadian lobbying regime and shared my experience in administering the *Lobbying Act*. In February, I met with members of the United Kingdom Public Administration Select Committee who visited Canada to learn more about post-employment measures for public office holders. In March, I was also contacted by the Government of Ireland to provide insight on the Canadian model as they are considering introducing lobbying legislation. In Canada, representatives of the legislative branch of the province of Saskatchewan consulted with me in

developing a recommendation for a lobbying regime for their province.

I am pleased to report significant achievements with respect to the enforcement of the *Lobbying Act*. This year, five Reports on Investigation were tabled in Parliament. In these Reports, I found that seven lobbyists had breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism, by failing to register lobbying activities. Breaches of the *Lobbyists' Code of Conduct* do not result in fines or jail penalties. I believe, however, that by publicly exposing wrongdoing, the subjects of the Reports are deterred from repeating the offence. It also provides all lobbyists with an incentive to comply with both the *Lobbying Act* and the *Lobbyists' Code of Conduct*.

This year, the House of Commons Standing Committee on Access to Information, Privacy and Ethics undertook a statutory review of the *Lobbying Act*. I appeared twice before the Committee to present and explain my recommendations for amendments to the legislation. The amendments I recommended are primarily intended to improve transparency by capturing a greater share of lobbying activities and enable me to enforce the legislation more decisively.

My goal remains to ensure that both the *Lobbying Act* and the *Lobbyists' Code of Conduct* are administered in a way that fosters greater transparency and encourages high ethical standards in federal lobbying activities. I look forward to the challenges and opportunities that the coming year will bring. I have built a strong team to support me in my mandate. It continues to be an honour to work with them and to serve Parliament and Canadians.



Karen E. Shepherd
Commissioner of Lobbying

FOSTERING TRANSPARENT LOBBYING ACTIVITIES



Greater transparency of lobbying activities is the main objective of the *Lobbying Act* (the Act). Public office holders and the public should be able to know who is engaged in lobbying activities with the federal government. The Act mandates that the Commissioner of Lobbying establish and maintain a Registry of Lobbyists (the Registry) through which individuals, corporations and organizations can publicly disclose their lobbying activities.

The Registry is accessible 24 hours a day, seven days a week. It discloses who is being paid to communicate with federal public office holders and on what subject matters. It is the primary tool for providing reliable, up-to-date information about individuals, not-for-profit organizations and for-profit corporations who lobby the federal government by communicating with elected officials or public servants. Approximately 5,000 lobbyists are registered to lobby federal public office holders. As the table below demonstrates, this number has remained relatively stable over the past few years.

The information contained in the Registry includes:

- who lobbies and which firms, corporations, organizations or associations they lobby on behalf of;
- which parent and subsidiary companies or corporations benefit from lobbying activities;
- the organizational members of coalition groups;
- a general description of the subject matter of lobbying activities, as well as some details;
- which Government of Canada departments or agencies are being contacted;
- the names and descriptions of the specific legislative proposals, bills, regulations, policies, programs of interest and grants, contributions or contracts sought;
- the positions former public office holders have held within the Government of Canada before they started lobbying; and
- information regarding oral and arranged communications with designated public office holders.

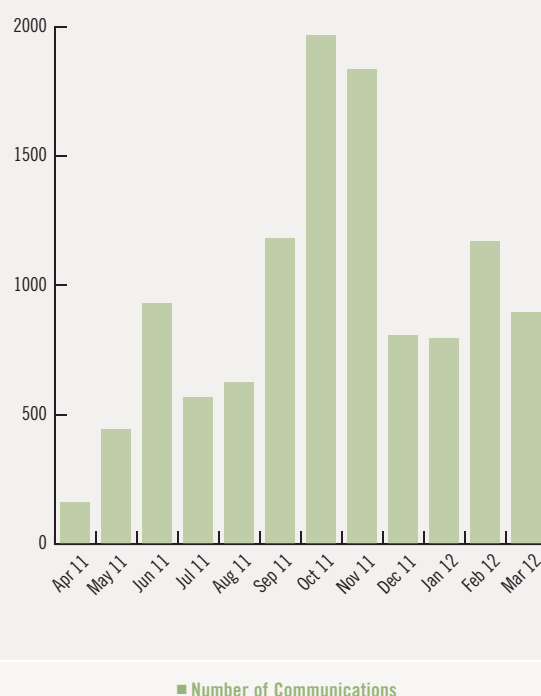
ACTIVE LOBBYISTS BY TYPE (as of March 31)	2012	2011	2010
Consultant lobbyists	814	814	753
In-house lobbyists (corporations)	1,786	1,808	1,791
In-house lobbyists (organizations)	2,582	2,507	2,725
Total registered individual lobbyists (all types)	5,182	5,129	5,269

ACTIVE REGISTRATIONS BY CATEGORY (as of March 31)	2012	2011	2010
Consultant lobbyists (one registration per client)	2,123	2,136	2,229
Corporations	310	311	291
Organizations	492	484	434
Total active registrations (all categories)	2,925	2,931	2,954

The information contained in the Registry is searchable online at no cost to users. In addition to displaying individual registrations, the system can produce standard reports on demand to show: the number of active lobbyists by type, the number of active registrations by type, the number of active registrations by subject matter, and the number of active registrations by federal government institution. It can provide a list of recent registrations, as well as registrations that have been terminated during the previous 30 days.


In accordance with the Act, registrants must disclose oral and arranged communications with designated public office holders (DPOHs) on a monthly basis. This category of high level decision-makers includes: ministers and their staff; deputy ministers; assistant deputy ministers; senior positions in the Canadian Armed Forces; the Comptroller General of Canada; as well as Members of Parliament and Senators. The reporting of these communications is unique to the federal regime in Canada. The transparency of lobbying activities is enhanced by having the information of who is meeting with high level decision-makers on a monthly basis.

NUMBER OF ORAL AND ARRANGED COMMUNICATIONS DISCLOSED, BY MONTH



ACHIEVING FASTER PROCESSING TIMES WHILE MAINTAINING DATA INTEGRITY

The information submitted by lobbyists in their initial registrations is certified by the registrant for accuracy. Prior to being posted on the Registry, this information is reviewed by my Office for completeness and compliance with the *Lobbying Act* and *Lobbyists Registration Regulations*. In the interest of transparency, significant efforts are made to keep the time it takes to process



registrations to a minimum and to accelerate their posting to the Registry.

This year, we continued to streamline registration processes and were able to meet our three-day service standard for posting registrations.

Faster processing should not be achieved at the expense of data quality. To gain assurance of the quality of the information contained in registrations, I undertook a quality assurance review in August 2011. I am pleased to report that results of this review confirmed the continued high quality of the information in the Registry.

IMPROVING THE TECHNOLOGY BEHIND THE REGISTRY

In 2011-2012, technological enhancements were made to the Registry, including a complete upgrade to the system's platform. Some of these improvements to the platform were undertaken to simplify how lobbyists submit their monthly communication reports. The Registry look-and-feel was updated and is now fully compliant with Web Content Accessibility Guidelines (WCAG 2.0). In addition, the registration process has become entirely paperless, further improving turnaround times, information management and the greening of operations.

IMPLEMENTING STRONGER STANDARDS FOR CLIENT SERVICE

I have implemented service standards, which are being monitored to assess the performance of the organization, primarily in helping lobbyists comply with the requirements of the Act. These standards ensure that I maintain a user focused and efficient registration process.


According to these service standards, my staff endeavour to:

- activate user accounts within 24 hours upon receipt of a completed Registrant User Agreement;
- approve or provide feedback on registrations within three business days;
- answer telephone calls received during business hours within 30 seconds, 80% of the time;
- respond to phone messages within 24 hours;
- acknowledge receipt of e-mail inquiries within 24 hours; and
- respond to less complex e-mail inquiries within two business days, and within 14 calendar days to more complex questions.

IMPROVING SEARCH AND REPORTING TOOLS

In 2011-2012, I turned my focus on how to improve the search and reporting functions of the Registry. There is a broad range of information available on lobbying activities and it has become increasingly important to make this information available in ways that facilitate analysis and increase transparency.

My Office surveyed users of the Registry, including lobbyists, public office holders and representatives of the media, to better understand their needs and requirements for information. This will help in the development of new search features and reporting tools to facilitate both the display and the manipulation of the Registry data.



There is also a growing trend towards accessing Registry information in alternative formats. In 2011-2012, my Office responded to sixteen separate requests from media and academics for large-scale datasets of Registry information. The growing number of requests suggests that, while the availability of Registry data is contributing to increased transparency of lobbying activities, it is not structured in a way that readily allows for easy large-scale analysis. My Office is working to determine how to organize the Registry data in order to facilitate analytical work, from which all Canadians may benefit.

REACHING OUT TO BUILD AWARENESS



The *Lobbying Act* (the Act) provides the Commissioner of Lobbying with a mandate to foster public awareness of the requirements of the Act. To that end, educational programs have been developed to reach out to lobbyists, their clients and public office holders.

IMPROVING COMPLIANCE THROUGH EDUCATION AND AWARENESS

I believe that communicating the requirements of the Act leads to better compliance. In 2011-2012, my staff and I met with nearly 800 individuals, including lobbyists, public office holders, parliamentarians and their staff, and academics from various post-secondary institutions across Canada. I appeared three times before the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

COMMUNICATING WITH LOBBYISTS

Significant effort and resources are devoted each year to inform and educate lobbyists about the requirements of both the Act and the *Lobbyists' Code of Conduct* (the Code).

This year, my outreach efforts were targeted at individuals and groups of lobbyists to foster an in-depth understanding of legal and ethical requirements. These sessions provided lobbyists with opportunities to address issues of concern, and helped me to identify areas where further clarification was required to facilitate registration and ensure compliance with the Act and the Code.

Registered lobbyists were provided with information via e-mail about specific changes to registration requirements or other key information such as the tabling of Reports on Investigation throughout the year. The use of mass e-mail is a cost-effective approach to reach registrants, one that complements my website. It allows me to provide guidance in a


timely fashion and raise awareness about specific aspects of the lobbying regime, with a view to achieving greater compliance.

Communications with potential registrants

Advisory letters are sent to individuals who appear to be engaging in lobbying activities but who are not registered. This year, 76 individuals, corporations and organizations were subject to compliance verification after my Office's monitoring activities revealed that they might be lobbying federal public office holders. My Office confirmed that approximately 91% percent of the recipients were registered as required by the Act. Further analysis indicated that six advisory letters had to be sent to educate and assist potential registrants in determining if they needed to register. Two new registrations occurred as a result of the advisory letters, and three recipients responded that they did not meet the 'significant part of duties' threshold for registration set out in the Act. The remaining recipient had not replied as of March 31, 2012.

Communications with lobbyists to improve timeliness of reporting

In 2011-2012, my Office educated registrants who were late in filing their registrations. Each time my Office receives a registration that is late, an assessment is undertaken to determine the registrant's compliance history and the steps they will put in place to improve the timeliness of their reports in the future. My primary goal is to write the registrants and educate them about the timelines prescribed in the *Lobbying Act* to ensure that future reporting occurs within prescribed timeframes. This constitutes a warning, and the registrant is added to a monitoring list. Should a registrant file a subsequent registration outside of the prescribed timeframe, I may initiate an administrative review. These efforts to ensure that disclosures meet



the timeframes set out in the Act contribute to Canadians' confidence in the information provided in the Registry.

EDUCATING PUBLIC OFFICE HOLDERS

Federal public office holders, whether they are elected or appointed, have a key role to play in fostering a better understanding of the *Lobbying Act* and its requirements. When public office holders understand the requirements of the Act and Code, they can better contribute to recognizing the legitimacy of lobbying activities while ensuring a culture of compliance.

I regularly meet with senior federal officials and their management teams in departments and agencies across the federal public service. These sessions provide effective fora for sharing information relating to lobbying activities and discussing specific requirements of the Act. This year, I provided educational sessions to representatives from a range of federal institutions including: the Treasury Board Secretariat; the Prime Minister's Office; Shared Services Canada; the Office of the Minister of State (Small Business and Tourism); the Office of the Minister of State (Seniors); and the Privy Council Office.

I conducted a series of meetings with several of the ministers of the 20 most-lobbied government institutions. I met with the ministers of the following government institutions: Public Works and Government Services Canada, Citizenship and Immigration Canada, Transport Canada, Natural Resources Canada, Intergovernmental Affairs, Treasury Board, Canadian Heritage, and Justice Canada. The objectives of these meetings were to outline the requirements of the Act, share views on its implementation to date and determine future outreach and information needs for their institutions.

In 2011-2012, my outreach efforts were directed towards specialized communities of public office holders. For instance, I met with the federal Interdepartmental Values and Ethics Network to provide information about the Act and answer questions.

I also met with the Deputy Minister/President of the Canada School of Public Service (CSPS) to discuss how information on the *Lobbying Act* is delivered in the context of the various courses offered by the CSPS. Working with a Learning and Development specialist at the CSPS, all course materials relating to the Act were systematically reviewed and suggestions were offered for improvements. Members of my staff have served as guest speakers in the course "How Ottawa Works" and I hope to continue this relationship in the future.

ASSISTING PARLIAMENTARIANS

As an independent Agent of Parliament, I report directly to both Houses of Parliament. I appear primarily before the House of Commons Standing Committee on Access to Information, Privacy and Ethics to report on my activities in administering the *Lobbying Act* and the *Lobbyists' Code of Conduct*. In so doing, I endeavour to provide all necessary information to help parliamentarians understand the various elements of my mandate and allow them to effectively perform their oversight role. I appeared in September 2011, following the last general election, to outline my mandate and answer questions from the members.

The House of Commons Standing Committee on Access to Information, Privacy and Ethics was also mandated this year to undertake a statutory review of the *Lobbying Act*. I appeared twice before the committee to explain my recommendations for amendments to the legislation and answer questions from the members to facilitate their review. The legislative review process is discussed in a later section of this report.



CONNECTING WITH COUNTERPARTS

The community that works to ensure that lobbying is conducted in an ethical and transparent manner is relatively small. It is critical for me to maintain a close connection with a network of provincial and international counterparts in order to share experiences and discuss concerns about the administration of our respective lobbying regimes.

Meetings of the Lobbyists Registrars and Commissioners of Canada provide a unique venue to discuss ways to address existing and emerging challenges in various lobbying jurisdictions. The group met twice this year, once in September 2011 and once in February 2012. My counterparts from Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Quebec, as well as from the City of Toronto, and I shared views on the previous year's activities, discussed challenges related to the statutory review of the federal legislation, as well as approaches to compliance and enforcement under our respective legislation.

In February, representatives of the province of Saskatchewan's legislative Committee on Intergovernmental Affairs and Justice visited Ottawa as part of their study of selected lobbying legislation. The Committee has been tasked with developing recommendations for a lobbying regime in Saskatchewan. My Office coordinated meetings for them with my provincial counterparts. I also met with members of the Committee to discuss my experience in administering the federal lobbying regime.

I continue to be active on the international front. Specifically, in December 2011, I attended the annual Conference of the Council on Governmental Ethics Laws (COGEL) in Nashville, Tennessee. I participated on a Canada/U.S. panel and presented my perspective on key aspects of the Canadian federal lobbying regime. In January, I attended the International Conference on Probity and Transparency in Congress and in the Political Party System in Santiago, Chile, where I presented the Canadian perspective and shared my experience with respect to the lobbying legislation. I also met with senior Chilean government and business officials to discuss the Canadian lobbying regime. The result of both the conference and the discussions was a strong appreciation for the federal lobbying regime we have in Canada.

During their February visit to Canada, I met with members of the United Kingdom Parliamentary Public Administration Select Committee which is responsible for examining the effectiveness of business appointments of former public office holders. The Committee was particularly interested in learning more about the Canadian lobbying legislation, including my role and the provisions that apply to former designated public office holders with respect to post-employment measures.

REACHING OUT TO CANADIANS THROUGH THE WEBSITE

My website is a cost-effective tool to disseminate a broad range of information to lobbyists, public office holders, parliamentarians, media and the general public. This year, the website received 90,000 visits, resulting in almost 350,000 page views.

The educational material posted on my Office's website includes:

- multimedia tutorials on the registration process;
- PowerPoint presentations that highlight the key features of the *Lobbying Act*;
- interpretation bulletins and advisory opinions explaining important requirements of the Act; and
- guidance on the application of the rules under the *Lobbyists' Code of Conduct*.

An improved website was launched in February 2012, primarily to facilitate navigation by users. It gives more prominence to the Registry of Lobbyists. It is now easier for users to login, create an account or search for information on lobbying activities. Documents were reorganized within the website to make it easier for users to find information on the Act, the Code and related topics.

In addition, my website is now fully compliant with the Web Content Accessibility Guidelines (WCAG 2.0). These guidelines ensure that websites are accessible to persons with disabilities, especially those with visual impairments.

My Office has already received positive feedback on the new website design and structure and I will continue to improve the site's content and navigation.



ENSURING COMPLIANCE WITH THE ACT AND THE CODE



I believe that education and outreach activities are key to fostering greater compliance with the *Lobbying Act* (the Act) and the *Lobbyists' Code of Conduct* (the Code). However, in order to be effective at deterring non-compliance with the requirements of the Act, my efforts to educate must be complemented by a program of monitoring and enforcement. It is also important that appropriate follow-up take place after reviews and investigations, and that there be consequences for those who are found to be in breach of either the Act or the Code.

In addition, to ensure the integrity of the data submitted by lobbyists in monthly communication reports, every month a sample of reports is verified for accuracy through communications with designated public office holders (DPOHs). Upon request, I issue decisions whether to grant exemptions from the Act's five-year prohibition on lobbying to former DPOHs.

LOOKING INTO ALLEGED BREACHES

The legislation provides me with the authority to look into alleged breaches of the Act or the Code. Alleged breaches can be identified either through my own observations or brought to my attention through complaints. I take all allegations seriously, and assess each one on its own merit before I decide on an appropriate course of action.

I can look into alleged breaches based on information published in the media and other public sources of information, or through the monitoring of information submitted to the Registry. Complaints and external allegations come from a variety of sources, including employees of government departments, parliamentarians and private citizens. Evidence of a breach may also be brought to my attention through voluntary disclosure by lobbyists.

The majority of allegations related to breaches of the Act concern individuals, firms or organizations that may be

conducting lobbying activities without being registered in accordance with the requirements of the Act.

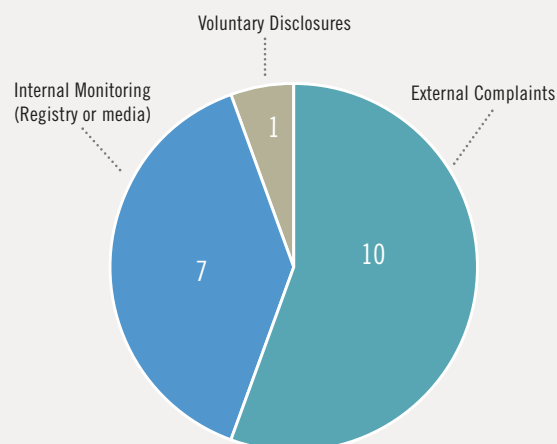
Compliance Assessments

This year, I refined the monitoring process to ensure that registrants who have previously been under review by my Office were in compliance. These include registrants who had committed minor infractions such as late filing. My Office conducts periodic reviews of registrations and monthly communication reports submitted by these individuals to determine whether their compliance record is improving.

This year, 44 such compliance assessments were conducted, which led me to initiate three administrative reviews.

The chart below presents, by source, the number of alleged breaches of the Act and the Code that came to my attention in 2011-2012.

BREAKDOWN OF ALLEGATIONS, BY SOURCE



CONDUCTING ADMINISTRATIVE REVIEWS

The Process

Prior to opening an investigation, I will usually initiate an administrative review when I become aware of an alleged breach of the Act or the Code. This year, I initiated 18 administrative reviews.

An administrative review is a fact-finding exercise that informs my decision regarding whether to open an investigation under section 10.4 of the Act. Administrative Review Reports provide a well-documented and extensive assessment of the allegations to ensure that I have the necessary information to make a decision, which could be the subject of judicial review in Federal Court.

For reasons of procedural fairness and natural justice, compliance measures must be applied in a manner that is fair and consistent. A policy document outlining the factors on which I have been basing my decisions was published last year. The document is entitled *Guiding Principles and Criteria for Recommending Compliance Measures* and is available on my Office's website. Some of the factors considered include:

- The nature and gravity of the alleged transgression.
- The degree of injury (transparency, public confidence and trust).
- The length of time that has elapsed since the act or omission was committed.
- The degree of negligence or intent.
- Whether the act or omission was voluntarily disclosed by the subject.
- The subject's compliance history.

Outcomes of administrative reviews

There are four possible outcomes following an administrative review.

1. **The review is closed because the allegation was unfounded.** Reasons why allegations are unfounded include: the subject did not communicate in respect of a registrable subject; their activity was not undertaken for payment; or, the 'significant part of duties' threshold for registration was not met by the corporation or organization employing the individual. In such cases, I will advise the person and the complainant of my decision by letter.

CASE STUDY 1: ALLEGATION UNFOUNDED

In January 2012, I initiated an administrative review after receiving information that individuals employed as in-house lobbyists had offered complimentary tickets to an event to various public office holders. The objective of the administrative review was to determine if Rule 8 of the Lobbyists' Code of Conduct had been breached by assessing the following factors: 1) the degree to which the lobbyists had advanced the private interest of each public office holder by offering them these tickets; 2) the degree to which the lobbyists interacted with the public office holders as a consequence of their employment; and 3) the degree to which their lobbying activities could fall within the purview of the public office holders' responsibilities.

After verifying information in the Registry of Lobbyists, conducting interviews with the lobbyist and other witnesses, and identifying the various roles and responsibilities of the public office holders, I determined that a breach of Rule 8 had not occurred. My decision took into consideration that some public office holders had paid for their tickets, and others did not occupy positions of interest to the entity employing the lobbyists. Based on the evidence gathered by my Office, I was assured that, during the event, these public office holders had not been the object of lobbying activity by the organization providing the tickets. The review was closed.

2. **The review is closed even though the allegation is well-founded.** In cases where I consider the gravity of the transgression to be low, I may choose to employ alternative compliance measures that I consider better suited to ensuring compliance with the Act. These measures would include, for instance, educating the person on the requirements of the Act or requesting that a correction be made to the Registry of Lobbyists. In my view, such files do not warrant a referral to the RCMP or a formal investigation under the Act. However, once an administrative review is closed, these individuals are subject to further monitoring by my Office to ensure that they remain in compliance.

CASE STUDY 2: ALLEGATION IS WELL-FOUNDED, ALTERNATIVE COMPLIANCE MEASURES ARE EMPLOYED

In March 2011, my Office conducted an assessment after a consultant lobbyist failed to register an undertaking within the ten-day timeframe prescribed in the Lobbying Act. I determined that further review or investigation was not necessary given that this was a first-time registration by the lobbyist, and he had put measures in place to ensure future compliance. The lobbyist's name was placed on a list for compliance monitoring by my Office.

In January 2012, based on a compliance monitoring activity, I initiated an administrative review regarding the late filing of monthly communication reports by this same individual. Based on the review, I decided that further investigation was not necessary. The lobbyist had a strong compliance history, having properly submitted over 40 monthly communication reports for his sole client; and he had put new procedures in place to ensure future compliance. The registrant was informed in a letter of the results of the administrative review and reminded of the time limits for filing registrations and monthly communication reports. The registrant was also advised that future non-compliance would result in further measures being taken as outlined in the Lobbying Act and that his future lobbying activities would continue to be monitored.

3. **A formal investigation is initiated when I determine that an alleged breach is serious and appears to be well-founded.** The Act prescribes that I shall initiate an investigation if I have 'reason to believe' that an investigation is necessary to ensure compliance with the Act or the Code. In some instances, I may initiate more than one investigation based on information provided to me in a single Administrative Review Report.

CASE STUDY 3: TWO INVESTIGATIONS ARE INITIATED BASED ON INFORMATION OBTAINED DURING AN ADMINISTRATIVE REVIEW

In February 2011, my Office was contacted by an organization who had hired a consultant lobbyist to communicate with public office holders. The organization informed me that, months after entering into a contract on their behalf, the consultant had yet to register the undertaking. I opened an administrative review. After conducting interviews with the client and public office holders, I determined that I had reason to believe that a formal investigation was necessary to ensure compliance. I commenced an investigation in May 2011. The investigation is ongoing.

4. **The matter is referred to a peace officer (the RCMP in the case of the Lobbying Act) if I have 'reasonable grounds to believe' that an offence has been committed under the Lobbying Act, or any other Act of Parliament or of the legislature of a province.** In such cases, the Act prescribes that I suspend looking into a matter until it has been dealt with by the RCMP.

CASE STUDY 4: A FILE IS REFERRED TO THE RCMP, AND THE INVESTIGATION IS SUSPENDED

In June 2011, I opened an administrative review after receiving information from a public office holder that an individual had attempted to arrange a meeting on behalf of a third party without properly registering as a lobbyist. Individuals must register a consultant lobbyist undertaking if, for payment and on behalf of any person or organization, they undertake to arrange a meeting between a public office holder and any other person. Based on the information received, and interviews conducted with relevant public office holders, the alleged lobbyist and other parties involved, I commenced an investigation. However, I immediately suspended the investigation and referred the matter to the RCMP, as I had reasonable grounds to believe that an offence had been committed under the Lobbying Act.

It should be noted that the length of time required to complete an administrative review or an investigation will vary in each case, depending on various factors, such as the complexity of the file and the availability of witnesses or evidence. In addition, when a file is referred to the RCMP, I am no longer in control of the length of time it takes to complete a file.

The Lobbying Act provides me with some degree of discretion. I may, for instance, refuse to look into a matter, or cease looking into a matter, if, in my opinion, it could more appropriately be dealt with under another Act of Parliament; the matter is not sufficiently serious or important; dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose;

The table below provides information about the 30 administrative reviews closed in 2011-2012.

OUTCOME	NUMBER OF ADMINISTRATIVE REVIEWS CLOSED
Unfounded – Not a registrable communication	5
Unfounded – Not for payment	1
Unfounded – Not registrable activity	1
Unfounded – Not an improper influence (Rule 8)	1
Unfounded – No breach of Code	1
Unfounded – Accurate information in registration	1
UNFOUNDED – SUBTOTAL	10
Well-founded – Subject to education and further monitoring	12
Well-founded – Investigation commenced*	3
WELL-FOUNDED – SUBTOTAL	15
Ceased – New interpretation of Rule 8 of the Lobbyists' Code of Conduct	4
Ceased – Subject deceased	1
CEASED – SUBTOTAL	5
TOTAL NUMBER OF ADMINISTRATIVE REVIEWS CLOSED, 2011-2012	30

*One file was referred to the RCMP as I had reasonable grounds to believe that an offence had been committed under the Act.

or for any other valid reason. More detail regarding the factors I consider when applying this discretion is provided in my *Guiding Principles and Criteria for Recommending Compliance Measures*.

CONDUCTING INVESTIGATIONS

As required by the Act, I will initiate an investigation if I have ‘reason to believe’ an investigation is necessary to ensure compliance with the Act or the Code. In most cases, an investigation is initiated based on information brought to my attention in an Administrative Review Report. In some instances, however, I may determine that an investigation is necessary before initiating or completing an administrative review.

During, or upon completion of an investigation, I might decide that I have ‘reasonable grounds to believe’ that an offence has been committed under the Act. If so, the Act requires that I immediately suspend the investigation and advise a peace officer having jurisdiction to investigate the offence (i.e., the RCMP). The RCMP will inform me if they decide not to proceed with the matter. I subsequently determine whether I have sufficient grounds to continue with a *Lobbyists’ Code of Conduct* investigation.

This year, I initiated three new investigations.

INVESTIGATION CASELOAD FOR 2011-2012

Investigation caseload on April 1, 2011	11
New investigations initiated during 2011-2012	3
Investigations closed: Reports to Parliament	5
Investigations closed: Ceased	1
Investigation caseload on March 31, 2012	8

As of March 31, 2012, eight investigations remained in my Office’s caseload. The lobbyists are alleged to have breached the Principle of Professionalism in the *Lobbyists’*

Code of Conduct by: failing to properly register, lobbying while subject to the five-year prohibition, failing to provide accurate information, or by failing to observe the highest professional and ethical standards. Five of the investigations were initiated after receiving disclosures or complaints from the general public or from public office holders. The remaining three were initiated based on information that came to my attention through media monitoring or during the course of other reviews and investigations.

The Act requires that I provide subjects of investigations with an opportunity to present their views prior to determining my findings and conclusions and deciding whether to prepare a Report on Investigation for tabling in both Houses of Parliament.

The *Lobbying Act* provides me with the authority to cease an investigation for one or more reasons outlined in subsection 10.4(1.1) of the Act. In 2011-2012, I ceased one investigation based on additional evidence a subject provided me after they had an opportunity to review the Investigation Report.

REFERRING FILES TO A PEACE OFFICER

The *Lobbying Act* requires that I suspend my investigation and immediately advise a peace officer whenever I have reasonable grounds to believe that an offence has been committed under the Act. In 2011-2012, I suspended one investigation and referred it to the RCMP.

The *Lobbying Act* also requires that I immediately suspend an investigation if I discover that the subject matter is already under police investigation. In 2011-2012, I ceased one administrative review that I had previously suspended, after I learned that the subject had passed away.



REPORTING TO PARLIAMENT

The Act requires that, after conducting an investigation into an alleged breach of the Code, I must prepare a Report on Investigation, including my findings, conclusions and reasons for those conclusions, and submit it for tabling in both Houses of Parliament.

When investigating an alleged breach of the *Lobbyists' Code of Conduct*, I am in effect performing the function of an administrative tribunal. The Act states that: “for the purpose of conducting the investigation, the Commissioner may [proceed] in the same manner and to the same extent as a superior court of record.” I am, therefore, obligated to apply recognized standards of procedural fairness and natural justice. To that end, the Act requires that, before submitting a Report on Investigation to Parliament, I must provide the subject under investigation with an opportunity to present his or her views. My practice is to share a copy of my Office’s Investigation Report with the subject, requesting that he or she respond within 30 days. Extensions to that period have been granted upon request.

My Reports on Investigation take into account the Investigation Report that was provided to me by my Office, as well as any views presented by the subject. In 2011-2012, six Investigation Reports were submitted to individuals to provide them with an opportunity to present their views. At the end of March 2012, two Investigation Reports were with the subjects to allow them to present their views for my consideration.

Five Reports on Investigation were tabled in Parliament in 2011-2012

Breaches of the Code do not carry penalties in terms of fines or jail terms. The offence is made public when Reports on Investigation are tabled in Parliament. This serves as a specific deterrent for the individual in question and as a general deterrent for all lobbyists. In

my view, the tabling of reports improves compliance by reminding lobbyists of the consequences of failing to conform to the lobbyist registration regime, including the impact on their credibility and reputation, and their ability to attract or retain clients.

The five Reports on Investigation that were tabled in 2011-2012 related to the lobbying activities of: Messrs. René Fugère and André Nollet; Mr. Paul Ballard; Mr. Graham Bruce; Mr. Mark Jiles; and, Messrs. Rahim Jaffer and Patrick Glémaud. Summaries of these Reports on Investigation can be found in Annex E.

MANAGING AND REPORTING ON THE CASELOAD

In order to deal with a growing inventory of files since becoming Commissioner, I have implemented new processes to expedite the completion of reviews and investigations while maintaining their quality and thoroughness. This year, I initiated a total of 18 administrative reviews, and closed 30, making it the first year in which my Office was able to close more files than were opened.

A preliminary assessment is conducted for each allegation received to systematically determine the most appropriate course of action in every case. For instance, rather than automatically initiating a full-fledged administrative review, I have streamlined existing processes to enable me to determine whether a transgression is minor in nature, or more serious. For minor transgressions to the Act or the Code, such as late registrations, an administrative review is conducted to review factors such as the registrant's compliance history and whether measures have been taken by the registrant to prevent future transgressions. In more serious cases, such as allegations of unregistered lobbying, a more extensive administrative review is conducted, involving interviews and more detailed analysis, in order to determine if an investigation is warranted.

Since the coming into force of the Act on July 2, 2008, 79 administrative reviews were opened, and 78 were closed.

In my 2010-2011 Annual Report, I expressed my intention to conduct an internal review of all files opened or closed since the creation of my Office on July 2, 2008, as well as any files completed by my predecessor, the Registrar of Lobbyists. The objective was to verify the accuracy and consistency of information relating to the administrative review and investigation files, and obtain a degree of confidence in the accuracy of the data reported about each and every file. I also expressed my intention to make the results of the review public in the next Annual Report.

A review of all completed administrative reviews, investigations and exemption reviews was conducted by my Office. This review focussed primarily on the dates that allegations were brought to our attention, when files were opened and closed, when they were publicly reported in Reports on Investigation and in Annual Reports, and other key milestones in the processing of files. These include the date of referrals to the RCMP, dates correspondence was sent to individuals advising them of the outcome of a review, and key decision points.

Our review revealed that efforts to document key dates and information relating to case files has improved

over the years. However, there has been some variation in the approach to determining such elements as file opening and closing dates. A consistent approach to capturing and reporting data has been adopted, and amendments have been made to our case tracking documents to ensure information is reported in future with accuracy and consistency. After reviewing the amendments it has been noted that although the number of files opened and closed over the course of the years remains the same, the data by fiscal year may have increased or decreased to reflect our changes. This is the result of changes made to the *Date Opened* or *Date Closed* of files that may have been initiated or completed near a fiscal year-end.

Summary tables describing details of our review and investigation caseload, first published on my website in March 2011, have been amended to reflect our improved methodology. In anticipation of implementing an automated case management system sometime in the near future, my Office also began to map all business processes relating to reviews and investigations.

The following is an up-to-date list showing the number of administrative review, investigation and exemption review files in our caseload before and after July 2, 2008. Updated versions of the more detailed summaries are available.

ADMINISTRATIVE REVIEWS

YEAR	INITIATED (ORL)	INITIATED (OCL)	COMPLETED (ORL)	COMPLETED (OCL)	BALANCE
2004-2005	11	-	1	-	10
2005-2006	9	-	5	-	14
2006-2007	19	-	7	-	26
2007-2008	21	-	11	-	36
2008-2009	5	8	1	5	43
2009-2010	-	17	-	12	48
2010-2011	-	36	-	31	53
2011-2012	-	18	-	30	41
TOTAL	65	79	25	78	41

Note: The Office of the Commissioner of Lobbying (OCL) replaced the Office of the Registrar of Lobbyists (ORL) with the coming into force of the *Lobbying Act* on July 2, 2008.



INVESTIGATIONS

YEAR	INITIATED (ORL)	INITIATED (OCL)	TABLED (ORL)	TABLED (OCL)	CEASED	BALANCE
2004-2005	0	-	0	-	-	0
2005-2006	8	-	0	-	-	8
2006-2007	2	-	4	-	-	6
2007-2008	0	-	0	-	-	6
2008-2009	0	0	0	0	0	6
2009-2010	-	3	-	-	-	9
2010-2011	-	8	-	3	3	11
2011-2012	-	3	-	5	1	8
TOTAL	10	14	4	8	4	8

EXEMPTION REVIEWS

YEAR	APPLICATIONS RECEIVED	REVIEWS COMPLETED	APPLICATIONS WITHDRAWN	BALANCE	OUTCOME		
					OTHER (INELIGIBLE)	EXEMPTION DENIED	EXEMPTION GRANTED
2008-2009	7	3	0	4	1	0	2
2009-2010	4	5	2	1	1	3	1
2010-2011	5	3	3	0	0	2	1
2011-2012	6	4	0	2	1	2	1
TOTAL	22	15	5	2	3	7	5

VERIFYING THE ACCURACY OF MONTHLY COMMUNICATION REPORTS

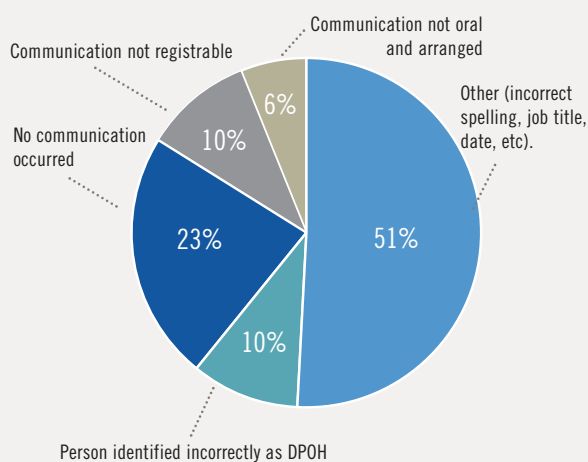
The Act requires registered lobbyists to disclose, on a monthly basis, 'oral and arranged' communications about registrable subject matter with designated public office holders (DPOHs). These reports include information about the date and topic of discussion, as well as the name and title of the DPOH with whom the communication took place. Every month, my Office verifies the accuracy of a sample of approximately five percent of all monthly communication reports submitted

by lobbyists for the previous month by requesting written validation from the relevant DPOH.

In 2011-2012, 100 letters were sent to designated public office holders, asking them to verify 512 reports submitted by registrants (out of approximately 9,747 reports submitted during the year). For the vast majority of those communications verified, DPOHs contacted indicated that the information submitted by lobbyists was correct. Respondents identified a total of 31 errors, the majority of which were of a clerical nature (e.g., names spelled incorrectly).¹ My Office followed up with registrants on all errors identified. The following table highlights the types of errors reported by the DPOHs contacted.

¹ Monthly communication reports submitted during March and April 2012, reporting oral and arranged communications that took place in February and March 2012, have not yet been verified. Sampling is done on a monthly basis.

**TYPES OF ERRORS REPORTED BY DPOHs
THROUGH VERIFICATION OF MONTHLY
COMMUNICATION REPORTS.**



REVIEWING APPLICATIONS FOR EXEMPTIONS FROM THE FIVE-YEAR PROHIBITION ON LOBBYING

The Act prescribes a five-year prohibition on lobbying for former designated public office holders. This prohibition is intended to prevent former high-level federal decision-makers from using advantages and personal connections derived from their government positions for lobbying purposes. However, the Act provides me with the authority to exempt individuals from the application of the prohibition, if I am of the opinion that such an exemption would not be contrary to the purposes of the Act.

A process to review applications for exemption was developed and implemented to ensure that I am provided with sufficient information regarding whether to grant an exemption or not. Although it is not prescribed by the Act, I have decided, in the interest of procedural fairness, to provide the applicant with an opportunity to present

his or her views on my intent to grant or deny an exemption before I render my final decision.

The Act sets out circumstances or factors that I may consider when determining whether an exemption to the five-year prohibition should be granted, such as:

- the individual was a designated public office holder for a short period;
- the individual was a designated public office holder on an acting basis;
- the individual was employed under a program of student employment; or
- the individual had administrative duties only.

In 2011-2012, I reviewed six applications for exemption from the five-year prohibition. Four reviews were completed. I denied two applications because the applicants could not demonstrate that their employment as a designated public office holder fell within the criteria for exemptions set out in the Act. One review was closed as the applicant was deemed ineligible for exemption until such a time that he ceased holding a designated public office holder position. One exemption was granted to an individual formerly employed as a Special Assistant in the Office of a Minister of State, because his employment was for a short period. As required by the Act, the exemption was made public on my website. As of March 31, 2012, there were two ongoing exemption reviews.

Exemption Review Service Standards

In 2010-2011, I adopted service standards for selected portions of the exemption review process. They are available on my Office's website.

This year, all exemption reviews were completed within these service standards.

SUPPORTING THE STATUTORY REVIEW OF THE *LOBBYING ACT*



In March 2011, I presented my recommendations for amendments to the *Lobbying Act* to the House of Commons Standing Committee on Access to Information, Privacy and Ethics (ETHI), in the context of the statutory review of the legislation. The review was interrupted because of the general election in May 2011.

Following the election, the legislative review began anew. I appeared before ETHI in December 2011, and submitted a slightly revised version of the report outlining my recommendations.²

My recommendations for amendments are based on the experience in administering the legislation over the previous five years.

Recommendation 1:

The provisions regarding the ‘significant part of duties’ should be removed from the *Lobbying Act* and consideration should be given to allowing limited exemptions.

Recommendation 2:

The Act should be amended to require that every in-house lobbyist who actually participated in the communication be listed in monthly communication reports, in addition to the name of the most senior officer.

Recommendation 3:

The prescribed form of communications for the purposes of monthly communication reports should be changed from ‘oral and arranged’ to simply ‘oral’.

Recommendation 4:

The Act should be amended to require lobbyists to disclose all oral communications about prescribed subject-matters with designated public office holders, regardless of who initiates them.

Recommendation 5:

The Act should be amended to make explicit the requirement for consultant lobbyists to disclose the ultimate client of the undertaking, as opposed to the firm that is hiring them.

Recommendation 6:

The provision of an explicit outreach and education mandate should be maintained in the *Lobbying Act* to support the Commissioner’s efforts to raise awareness of the legislation’s rationale and requirements.

Recommendation 7:

The Act should be amended to provide for the establishment of a system of administrative monetary penalties (AMPs) for breaches of the *Lobbying Act* and the *Lobbyists’ Code of Conduct*, to be administered by the Commissioner of Lobbying.


Recommendation 8:

The requirement for the Commissioner to conduct investigations in private should remain in the *Lobbying Act*.

Recommendation 9:

An Immunity provision, similar to that found in sections 18.1 and 18.2 of the *Auditor General Act*, should be added to the *Lobbying Act*.

²Karen E. Shepherd, “Administering the *Lobbying Act*— Observations and Recommendations Based on the Experience of the Last Five Years”, available at: <http://www.ocl-cal.gc.ca>.



The Committee held seven additional meetings during which it heard from 24 witnesses, many of whom submitted written recommendations for consideration. I appeared again before the Committee in February 2012 to answer any questions that members had on information presented during these testimonies and on my own recommendations.

At my February appearance, I was asked by the Committee members if I would like to add to my original recommendations. I indicated the following:

- Outside members of Boards of Directors should be listed on corporation or organization registrations, in the same way that employees are (rather than the current practice of registering individually as consultant lobbyists). I believe that this should be the case for all outside members, whether paid or unpaid.
- Former designated public office holders may have considerable influence when they leave their offices, which is why Parliament introduced a five-year post-employment prohibition on lobbying in the *Lobbying Act*. This prohibition currently applies only to former designated public office holders who are paid to communicate. I believe that extending this provision to all former designated public office holders, whether paid or unpaid, would be in the public interest.



LIST OF ACRONYMS AND ABBREVIATIONS

Act	<i>Lobbying Act</i>
AMPs	Administrative Monetary Penalties
Code	<i>Lobbyists' Code of Conduct</i>
COGEL	Council on Governmental Ethics Laws
CSPS	Canada School of Public Service
DPOH	Designated Public Office Holder
ETHI	House of Commons Standing Committee on Access to Information, Privacy and Ethics
FCA	Federal Court of Appeal
GPG	GPG-Green Power Generation Corp.
LRS	Lobbyists Registration System
Office	Office of the Commissioner of Lobbying
POH	Public Office Holder
Registry	Registry of Lobbyists
RCMP	Royal Canadian Mounted Police
WCAG	Web Content Accessibility Guidelines

ANNEX B



ABOUT THE OFFICE

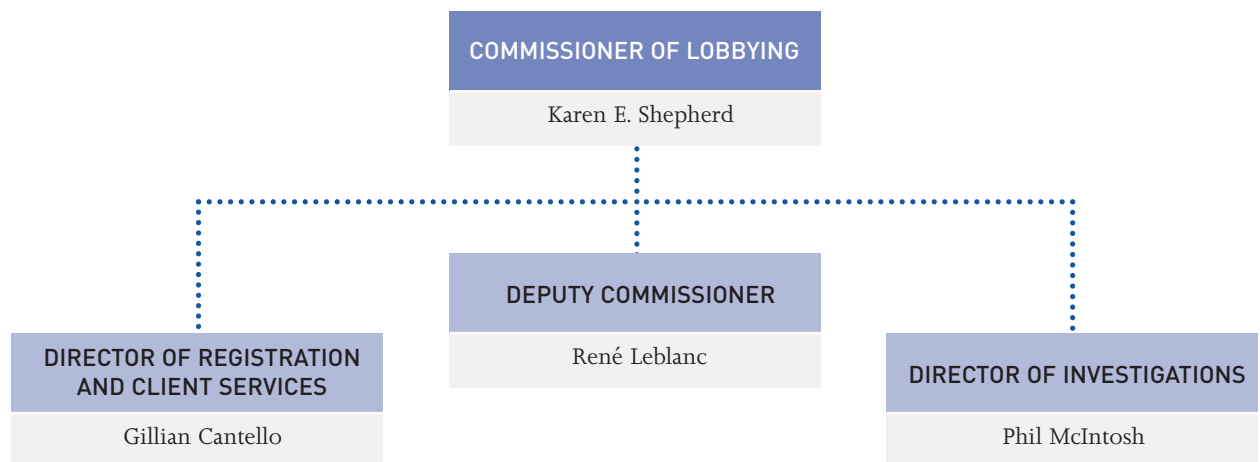
Who We Are

The Commissioner of Lobbying is an independent Agent of Parliament, appointed by resolution of Parliament under the *Lobbying Act* (the Act) for a term of seven years. The purpose of the Act is to ensure transparency and accountability in the lobbying of public office holders, in order to contribute to confidence in the integrity of government decision-making. The Commissioner administers the Act by:

- maintaining the Registry of Lobbyists, which contains and makes public the registration information disclosed by lobbyists;

- developing and implementing educational programs to foster public awareness of the requirements of the Act; and
- conducting reviews and investigations to ensure compliance with the Act and the *Lobbyists' Code of Conduct* (the Code).

The Commissioner is supported by the Office of the Commissioner of Lobbying, which was established in 2008 under the Act. The Commissioner reports annually to Parliament on the administration of the Act and the Code and is required to table reports on any investigations conducted in relation to the Code.



Our Organization

The Office, when fully staffed, has 28 full-time employees and an overall budget of about \$4.6 million. It is divided into four groups.

- **The Office of the Commissioner** includes the Commissioner, a Senior Legal Counsel, a Senior Advisor, and an Administrative Assistant. The Commissioner has the rank and authority of a Deputy Head of a federal department.
- **The Office of the Deputy Commissioner** is responsible for all corporate services, including: integrated strategic and operational planning; financial and human resource management; information technology; strategic policy; internal and external communications advice, security, facilities management and workplace safety. The Deputy Commissioner is also responsible for the coordination and delivery of all outreach activities.
- **The Registration and Client Services Directorate** is responsible for developing and maintaining the Lobbyists Registration System (LRS). The LRS allows lobbyists to register their lobbying activities and perform amendments, renewals and terminations. This group provides assistance to registrants, public office holders and the general public in using the LRS and in searching the Registry.
- **The Investigations Directorate** is responsible for supporting the Commissioner in her mandate to ensure compliance with the *Lobbying Act* and the *Lobbyists' Code of Conduct*. The directorate monitors lobbying activities, verifies the accuracy of monthly communication reports submitted by lobbyists, and reviews and investigates allegations of non-compliance. It also reviews applications for exemptions to the five-year prohibition on lobbying for former designated public office holders.

What We Do

MAINTAIN THE REGISTRY

The Office works to ensure that the Lobbyists Registration System is an easy-to-use tool for lobbyists to register their lobbying activities. To this end, the system is refined on an ongoing basis. In addition, systems and processes are in place to ensure that interruptions and downtime are kept to a minimum. This allows Canadians access to the Registry of Lobbyists 24 hours a day, seven days a week.

DELIVER EDUCATION AND AWARENESS PROGRAMS

The Office undertakes a range of activities to ensure that public office holders, lobbyists, their clients and Canadians are aware of the requirements of the Act. Our efforts are focused on key activities to reach stakeholders in the most cost-effective way possible.

CONDUCT REVIEWS AND INVESTIGATIONS

The Office strives to ensure that all lobbyists are compliant with the *Lobbying Act* and the *Lobbyists' Code of Conduct*. Administrative reviews and investigations are conducted to examine every alleged breach of the Act or the Code. Rigorous monitoring and verification processes also contribute to compliance.

ANNEX C



LOBBYING ACT

Purpose and Description

The *Lobbying Act* (the Act) provides for the public registration of individuals who are paid to communicate with public office holders (POHs) with regard to certain topics as prescribed in the legislation. Public office holders are defined in the Act as virtually all persons occupying an elected or appointed position in the Government of Canada, including members of the House of Commons and the Senate and their staff, as well as officers and employees of federal departments and agencies, members of the Canadian Forces and members of the Royal Canadian Mounted Police.

The preamble to the Act sets out four basic principles pertaining to the registration of lobbyists:

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.
- A system for the registration of paid lobbyists should not impede free and open access to government.

Individuals must be registered if they communicate with federal POHs, for payment, with regard to:

- the making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs;
- the awarding of federal grants, contributions or other financial benefits; and
- in the case of consultant lobbyists, the awarding of a federal government contract and arranging a meeting between their client and a POH.

The *Lobbying Act* provides for the following three categories of lobbyists:

CONSULTANT LOBBYISTS

Consultant lobbyists are individuals who are paid to lobby on behalf of a client. Consultant lobbyists may be government relations consultants, lawyers, accountants or other professional advisors who provide lobbying services for their clients. They must file a registration for each individual undertaking (i.e., for each mandate from a client).

IN-HOUSE LOBBYISTS (CORPORATIONS)

In-house lobbyists (corporations) are employees of corporations that conduct commercial activities for financial gain and who lobby as a significant part of their duties. These individuals are usually full-time employees who devote a significant part of their duties to public affairs or government relations work. As the registrant, the most senior paid officer must register the corporation if the total lobbying activity of all employees represents a significant part of the duties of one equivalent full-time employee. The registration must include the names of all senior officers who engage in any lobbying activity, as well as the name of any employee (senior officer or otherwise) who individually devotes a significant part of his or her duties to lobbying activities.

IN-HOUSE LOBBYISTS (ORGANIZATIONS)

In-house lobbyists (organizations) are employees of non-profit organizations, such as associations, charities and foundations, including non-profit corporations. As the registrant, the most senior paid officer of such an organization must register the names of all employees engaged in lobbying activities, if the total lobbying activity of all such employees represents a significant part of the duties of one equivalent full-time employee.

DISCLOSURE REQUIREMENTS

All three categories of lobbyists are required to disclose certain information within time limits specified in the Act. This information includes:

- names of their clients, or corporate or organizational employers;
- names of the parent or subsidiary companies that would benefit from the lobbying activity;
- organizational members of coalition groups;
- specific subject matters of lobbying;
- names of the federal departments or agencies contacted;
- sources and amounts of any public funding received; and
- communication techniques used, such as meetings, telephone calls or grass-roots lobbying.

Although their reporting requirements differ slightly, corporations and organizations must also provide general descriptions of their business or activities.

Regulations

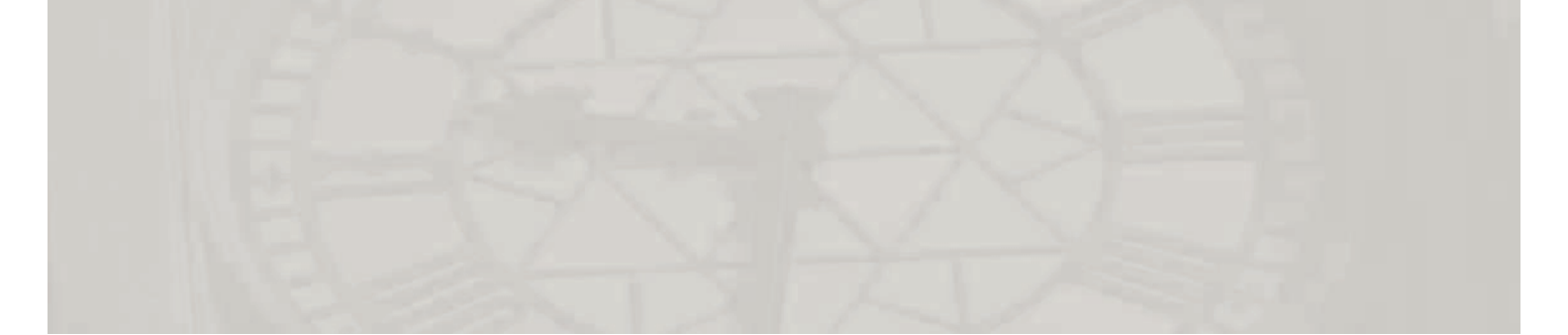
The *Lobbying Act* authorizes the Governor in Council to make regulations respecting the submission of returns and other registration requirements of the Act, and in relation to various aspects of the lobbyists' registration regime.

The *Lobbyists Registration Regulations* set the form and manner in which lobbyists must file returns required by the Act. Returns disclose information regarding the lobbying activities of registrants. The Regulations also set out additional information to be disclosed in returns, beyond what is required by the Act. They set the timeframes to respond to a request by the Commissioner for correction or clarification of

information submitted in returns. The Regulations also describe the type of communication that will trigger monthly returns. The Lobbyists Registration System reflects the form and manner of registration set out in the *Lobbyists Registration Regulations*.

The Act defines designated public office holders to include ministers, ministers of state and ministerial staff, deputy heads, associate deputy heads and assistant deputy ministers and those of comparable rank throughout the public service. The *Designated Public Office Holder Regulations* further designate various positions in the Canadian Forces and the Privy Council Office, as well as the Comptroller General of Canada, with the result that the persons occupying those positions are included as "designated public office holders" under the *Lobbying Act*. The Regulations came into force on July 2, 2008 and further designated the following 11 positions or classes of positions:

- Chief of the Defence Staff;
- Vice Chief of the Defence Staff;
- Chief of Maritime Staff;
- Chief of Land Staff;
- Chief of Air Staff;
- Chief of Military Personnel;
- Judge Advocate General;
- any position of Senior Advisor in the Privy Council to which the office holder is appointed by the Governor in Council;
- Deputy Minister (Intergovernmental Affairs) Privy Council Office;
- Comptroller General of Canada; and
- any position to which the Office holder is appointed pursuant to paragraphs 127.1(1)(a) or (b) of the *Public Service Employment Act*.



On September 20, 2010, the Regulations were amended to add three more classes of positions to the category of designated public office holder:

- the position of Member of the House of Commons;
- the position of Member of the Senate; and
- any position on the staff of the Leader of the Opposition in the House of Commons or on the staff of the Leader of the Opposition in the Senate, that is occupied by a person appointed pursuant to subsection 128(1) of the *Public Service Employment Act*.

ANNEX D



LOBBYISTS' CODE OF CONDUCT

Under the *Lobbying Act* (the Act), the Commissioner of Lobbying is responsible for developing a lobbyists' code of conduct. The current *Lobbyists' Code of Conduct* (the Code) is the result of extensive consultations with a large number of people and organizations with an interest in promoting public trust in the integrity of government decision-making. The Code, which came into effect on March 1, 1997, is not a statutory instrument. The Commissioner is, however, responsible for enforcement of the Code.

The purpose of the Code is to assure the Canadian public that lobbyists are required to adhere to high ethical standards with a view to conserving and enhancing public confidence and trust in the integrity, objectivity and impartiality of government decision-making. In this regard, the Code complements the disclosure and registration requirements of the Act.

The Code is based on the same four basic principles stated in the *Lobbying Act*.

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.
- A system for the registration of paid lobbyists should not impede free and open access to government.

The Code is made up of the following three overriding principles followed by eight specific rules:

Principles

INTEGRITY AND HONESTY

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

OPENNESS

Lobbyists should, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

PROFESSIONALISM

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the *Lobbyists' Code of Conduct* as well as all the relevant laws, including the *Lobbying Act* and its regulations.

Rules

TRANSPARENCY

1. Identity and purpose

Lobbyists shall, when making a representation to a public office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.

2. Accurate information

Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

3. Disclosure of obligations

Lobbyists shall indicate to their client, employer or organization their obligations under the *Lobbying Act*, and their obligation to adhere to the *Lobbyists' Code of Conduct*.



CONFIDENTIALITY

4. Confidential information

Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

5. Insider information

Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

CONFLICT OF INTEREST

6. Competing interests

Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

7. Disclosure

Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

8. Improper influence

Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.

ANNEX E

COMMISSIONER'S REPORTS ON INVESTIGATION TABLED IN 2011-2012

RENÉ FUGÈRE AND ANDRÉ NOLLET (NOVEMBER 2011)

It was alleged that Mr. René Fugère engaged in unregistered consultant lobbying activities on behalf of Scierie Opitciwan Limited Partnership, a Quebec sawmill.

In 2003, the former Ethics Counsellor elected not to open an investigation to examine the application of the *Lobbyists' Code of Conduct* to his lobbying activities. The decision not to open an investigation was challenged in Federal Court. An investigation was initiated by the Registrar of Lobbyists in 2006. During that investigation, the activities of Mr. André Nollet also came under scrutiny.

Following my appointment as Commissioner, I decided to continue the investigation. In my Report, I concluded that Mr. Fugère and Mr. Nollet both communicated with public office holders in an attempt to influence the awarding of a grant, contribution or other financial benefit, received payment for their services, and thus engaged in activities that required them to register as lobbyists, which they did not. As a result, I concluded that they breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism, Rule 2 (Accurate information) and Rule 3 (Disclosure of obligations).

PAUL BALLARD (NOVEMBER 2011)

This investigation related to allegations received from Industry Canada that Mr. Paul Ballard engaged in unregistered lobbying activities on behalf of Intellivax Inc., a company seeking federal funding for the development of a vaccine.

An investigation concerning the allegations under the former *Lobbyists Registration Act* and the *Lobbyists' Code of Conduct* was initiated by the Registrar of Lobbyists in October 2005. I decided to continue the investigation

following my appointment as Commissioner. The investigation involved interviews, and a review of correspondence and evidence of payments made to Mr. Ballard.

In my Report, I concluded that Mr. Ballard engaged in activities for which he received payment, which required him to register as a lobbyist. As a result, he breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism, Rule 2 (Accurate information) and Rule 3 (Disclosure of obligations).

GRAHAM BRUCE (NOVEMBER 2011)

It was alleged that Mr. Graham Bruce, a consultant associated with Granneke Management and Consulting Services, engaged in lobbying activity during a period when he was not registered as a lobbyist.

An administrative review concerning the allegations under the former *Lobbyists Registration Act* and the *Lobbyists' Code of Conduct* was initiated by the Registrar of Lobbyists in 2007 based on media reports that Mr. Bruce had met with federal public office holders, on behalf of the Cowichan Indian Band, without being registered. The administrative review involved interviews, and a review of correspondence and evidence of payments made to Mr. Bruce. In September 2009, I opened an investigation based upon information provided to me in an Administrative Review Report. I referred this matter to the RCMP in October 2009, as I had reasonable grounds to believe that a breach of the *Lobbyists Registration Act* had occurred. In September 2010, the file was returned to my Office by the RCMP, with an indication that no charges would be laid in the matter. I determined that I had sufficient grounds to continue with a *Lobbyists' Code of Conduct* investigation.

In this Report, I concluded that Mr. Bruce arranged client meetings with public office holders, received payment for his services, engaged in activities that required him to register as a lobbyist and consequently

breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism, Rule 2 (Accurate information) and Rule 3 (Disclosure of obligations).

MARK JILES (NOVEMBER 2011)

It was alleged that Mr. Mark Jiles engaged in lobbying activity during a period when he was not registered as a lobbyist.

An administrative review concerning the allegations under the former *Lobbyists Registration Act* and the *Lobbyists' Code of Conduct* was initiated by the Registrar of Lobbyists in 2008 after receiving a complaint and supporting documentation from Members of the Legislative Assembly of British Columbia. It involved interviews and a review of correspondence and evidence of payments made to Mr. Jiles. In March 2010, based upon information provided to me in an Administrative Review Report, I opened an investigation. As I had reasonable grounds to believe that a breach of the *Lobbyists Registration Act* had occurred, I also referred this matter to the RCMP in March 2010. In September 2010, the file was returned to my Office by the RCMP, with an indication that no charges would be laid in the matter. I determined that I had sufficient grounds to continue with a *Lobbyists' Code of Conduct* investigation.

In this Report, I concluded that Mr. Jiles arranged client meetings with public office holders, received payment for his services, engaged in activities that required him to register as a lobbyist and breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism, Rule 2 (Accurate information) and Rule 3 (Disclosure of obligations).

GPG-GREEN POWER GENERATION CORP., PATRICK GLÉMAUD AND RAHIM JAFFER (DECEMBER 2011)

There were allegations that GPG-Green Power Generation Corp. (also known as GPG) engaged in unregistered lobbying activities when submitting project proposals to

various federal departments seeking funding for green energy projects in amounts ranging from \$20 million to \$100 million (totalling \$178 million).

In October 2010, based on information provided to me in a report prepared by my Investigations Directorate on ten allegations, I determined that, in four cases, I had reasonable grounds to believe that offences had been committed under the *Lobbying Act*. As required under the Act, I immediately suspended my investigation and sent a copy of the report and supporting documentation to the RCMP. In March 2011, the RCMP advised me that they had closed their file due to the potential limitations for prosecution under the *Lobbying Act*.

I subsequently determined that I had sufficient grounds to continue with a *Lobbyists' Code of Conduct* investigation and I instructed my Office to resume the investigation of the activities of GPG, Mr. Glémaud and Mr. Jaffer.

My Report on Investigation concluded that Mr. Glémaud and Mr. Jaffer both communicated with public office holders in respect of the awarding of a grant, contribution or other financial benefit on behalf of GPG, and that their lobbying activities on behalf of GPG constituted a significant part of their duties. Mr. Glémaud, as the most senior officer of GPG, was responsible for filing an in-house corporation registration. Mr. Jaffer, as the only other employee of the corporation, had an obligation to ensure that lobbying activity he performed on behalf of the corporation was properly registered. By neglecting to meet these responsibilities, I concluded that they breached the *Lobbyists' Code of Conduct*, specifically the Principle of Professionalism and Rule 2 (Accurate information). I also concluded that Mr. Jaffer breached Rule 3 (Disclosure of obligations).

In addition, I concluded that Mr. Glémaud had breached the Principle of Professionalism and Rule 2 (Accurate information) of the Code, by failing to register consultant lobbying activity performed while paid as legal counsel to RLP Energy Inc.



STATISTICAL INFORMATION

Subject matter of lobbying activities

The following table shows, in rank order, the 20 subject matters most frequently identified by lobbyists in their registration for this fiscal year. The remaining two columns show the rank ordering of subject matters for the two previous fiscal years. This information is based on the registrations that were active on March 31, 2012.

SUBJECT MATTER OF LOBBYING	2011-2012	2010-2011	2009-2010
Industry	1	1	1
Taxation and Finances	2	2	2
Environment	3	3	3
International Trade	4	4	4
Health	5	5	5
Transportation	6	7	7
Science and Technology	7	6	6
Consumer Issues	8	8	8
Agriculture	9	9	14
Energy	10	10	10
Government Procurement	11	11	12
Employment and Training	12	12	11
Infrastructure	13	14	9
Aboriginal Affairs	14	13	15
Regional Development	15	15	13
International Relations	16	16	16
Defence	17	17	17
Intellectual Property	18	19	19
Internal Trade	19	20	20
Financial Institutions	20	18	-

Government institutions

The following table shows, in rank order, the 20 federal government institutions most frequently identified by lobbyists in their registration for this fiscal year. The remaining two columns show the rank ordering of institutions for the two previous fiscal years. This information is based on the registrations that were active on March 31, 2012.

GOVERNMENT INSTITUTION	2011-2012	2010-2011	2009-2010
House of Commons	1	2	11
Industry Canada	2	1	1
Prime Minister's Office	3	4	3
Finance Canada	4	3	2
Foreign Affairs and International Trade Canada	5	5	5
Privy Council Office	6	6	4
Environment Canada	7	7	6
Senate of Canada	8	8	9
Health Canada	9	9	7
Transport Canada	10	10	8
Natural Resources Canada	11	11	10
Agriculture and Agri-Food Canada	12	12	14
Public Works and Government Services Canada	13	14	13
Treasury Board Secretariat	14	13	12
Department of National Defence	15	15	15
Aboriginal Affairs and Northern Development Canada*	16	16	16
Department of Canadian Heritage	17	17	17
Justice Canada	18	18	18
Fisheries and Oceans Canada	19	-	-
Western Economic Diversification Canada	20	-	-

*Name changed from Indian and Northern Affairs Canada in June 2011