

Office of the Commissioner  
of Lobbying of Canada



Commissariat au lobbying  
du Canada



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# ANNUAL

Office of the Commissioner of Lobbying of Canada

# REPORT

.....

2015-16

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Cat. No. Lo1-2016

ISSN 1924-2468

Aussi offert en français sous le titre

*Rapport annuel 2015-2016, Commissariat au lobbying du Canada*

**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 0H2

The Honourable George J. Furey  
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 eighth annual report of the Commissioner of Lobbying for tabling in the Senate.

This report covers the fiscal year ending March 31, 2016.

Sincerely yours,

A handwritten signature in blue ink, appearing to be "K. Shepherd", with a stylized flourish at the end.

Karen E. Shepherd



Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1A 0H2

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

Dear Mr. Speaker:

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

This report covers the fiscal year ending March 31, 2016.

Sincerely yours,

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line.

Karen E. Shepherd





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# MESSAGE FROM THE COMMISSIONER

## Introduction

It is my pleasure to table the eighth Annual Report of my mandate as Canada's first Commissioner of Lobbying. I am proud of the work that my organization and I have done over these past eight years. In addition to reporting on this year's activities, I am taking the opportunity to highlight our accomplishments over the course of my mandate.

As Commissioner of Lobbying, it is my responsibility to administer the *Lobbying Act* (the Act) and the *Lobbyists' Code of Conduct* (the Code). The Act sets out disclosure requirements to ensure that federal lobbying activities are conducted in a transparent manner. The Code lays out principles and rules that establish the high ethical standards that are expected of lobbyists when they conduct their activities.

The preamble of the Act provides the four principles upon which the federal lobbying regime is founded:

- 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 general public be able to know who is engaged in lobbying activities.
- The system for the registration of paid lobbyists should not impede free and open access to government.



A handwritten signature in blue ink, which appears to be 'K. Shepherd', written over a horizontal line.

**Karen E. Shepherd**  
Commissioner of Lobbying

## OECD principles

Over the years, amendments to the Canadian federal lobbying legislation have led to a strong regime that is recognized around the world. The Canadian model stands out among countries that have enacted lobbying legislation or are looking to put a legislative framework in place. Many countries believe that there is much to be learned from the Canadian experience and have sought advice and expertise from my Office over the years.

I am proud of what I was able to accomplish over the last eight years in managing the lobbying regime at the federal level.



10 principles  
for transparency  
and integrity  
in lobbying

[www.oecd.org/  
corruption/ethics/  
Lobbying-  
Brochure.pdf](http://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf)

The federal lobbying regime was first established when the *Lobbyists Registration Act* came into force in 1989.

The Organisation for Economic Cooperation and Development (OECD) has established 10 principles for transparency and integrity in lobbying that countries should ensure are part of any lobbying regime. The Canadian regime reflects these principles. For example, the parameters of what makes a communication “lobbying” and what makes an individual a “lobbyist” are well defined; the Registry of Lobbyists provides transparency of lobbying activities to allow Canadians to scrutinize lobbying activities; post-employment rules exist for senior public officials; and codes of conduct are in place for lobbyists and public officials. In addition, there are consequences for non-compliance, and an independent body is in place to examine allegations of non-compliance. Finally, the Act is subject to a mandatory five-year review provision, which enables Parliament to reflect on whether the Act is meeting its objectives.

### History

The federal lobbying regime was first established when the *Lobbyists Registration Act* came into force in 1989. This represented a first step towards transparency of lobbying activities at the federal level. This legislation introduced the obligation for lobbyists to register but the disclosure requirements were limited.

The lobbying regime was strengthened with increased disclosure requirements in 1996 and the introduction of the *Lobbyists’ Code of Conduct* in 1997. The legislative framework was further improved in 2005 and 2008. In 2005, the definition of lobbying was clarified and the registration requirements for corporations and organizations were aligned. In 2008, the *Lobbying Act* established the position of Commissioner of Lobbying as an independent Agent of Parliament and provided the Commissioner with greater powers to investigate. The legislation expanded the information to be disclosed by lobbyists,

doubled the penalties for breaches of the Act, and required lobbyists to report communications with certain high level decision-makers, identified as designated public office holders. A five-year prohibition on lobbying was introduced to prevent former designated public office holders from using their contacts or knowledge obtained for their own personal benefit.

### Registry of Lobbyists

The preamble of the *Lobbying Act* states that it is desirable for public office holders and the public to be able to know who is engaged in lobbying activities. The Registry of Lobbyists is the primary tool for ensuring transparency of lobbying activities at the federal level. It is user-friendly and makes compliance as easy as possible for lobbyists. All information that lobbyists must disclose is available in the Registry, which has powerful search and reporting capabilities. Canadians can search the Registry and find out what is happening at the federal level.

The average number of lobbyists listed in the Registry at any time is approximately 5,000. That number has been stable for several years.

### Monthly Communication Reports

Every month, lobbyists must disclose certain communications with designated public office holders. The number of communication reports increased from about 600 to 1,000 per month following the inclusion of members of Parliament and Senators as designated public office holders in September 2010. While monthly communication reports do not contain a lot of information, I do believe they increase transparency by disclosing who is meeting with which key decision makers, when, and the general topic of discussion. Monthly communication reports are regularly consulted by the media and reported upon.

A five percent sample of monthly communication reports is selected every month to be verified. More than 4,300 reports have been verified since 2008 and most of the errors found were of a minor, clerical nature. This verification process has allowed me to achieve two key results. First, it demonstrates to lobbyists that these communication reports are being verified, thus encouraging compliance with the Act. Second, it provides an opportunity to educate designated public office holders about the disclosure requirements for lobbyists under the Act.

### Investments

Since 2008, I have invested significant funding to create a Registry that is secure and easy to use. Registration processing has been streamlined and the time to review and publish registrations in the system has declined from an average of 20 to three days.

A sophisticated system requires regular maintenance and periodic upgrades to ensure it continues to meet both legislative requirements and user expectations. Following the launch of the Registry, system developments focused primarily on adding new features to improve the user experience. Recently, a significant proportion of system development efforts have focused on improving the search function to make it easier to find information about lobbying in Canada at the federal level.

The Registry must keep pace with changing technologies and usage patterns while maintaining high standards for data integrity. Funding reductions announced in Budget 2012 resulted in my decision to place the Registry in maintenance mode. This meant that key software development activities and system upgrades were deferred. The system was recently moved to a new infrastructure and modern software platform. This move will ensure that I have the control and the flexibility

needed to continue to improve the user experience.

### Outreach and Education

In order for individuals to comply with any legislation or codes of conduct, they must clearly understand their responsibilities and obligations. For this reason, my predecessor, the Registrar of Lobbyists, focused on outreach and education tools such as interpretation bulletins, advisory opinions, and presentations to lobbyists and others to ensure that all stakeholders understood the requirements of the Act and the Code. I was pleased that Parliament recognized the importance of outreach and education when a specific provision was added to the *Lobbying Act*, providing the Commissioner of Lobbying with an explicit mandate in this regard.

Since 2008, my staff and I have met with more than 8,000 individuals, including lobbyists, public office holders, parliamentarians and their staff, and academics. We have devised targeted outreach activities around regulatory changes, such as when: the *Lobbying Act* came into force; the *Designated Public Office Holder Regulations* were amended; and the new *Lobbyists' Code of Conduct* came into force. Some of the key tools developed included: updated and new interpretation bulletins and advisory opinions; presentations; webinars; improvements to the OCL's website; detailed policy responses to questions from stakeholders; online questionnaires; and infographics. I also recently posted our first video on YouTube.

### Enforcement and Compliance

While education is important to ensure compliance, it must be accompanied by a strong enforcement program. Over the years, the capacity of my Office to enforce the Act has been strengthened as a result of legislative

amendments, and the development of processes to verify and address non-compliance.

The *Lobbying Act* introduced greater powers to investigate suspected breaches and doubled the penalties for those convicted of offences under the Act. In the past eight years, I have demonstrated that all allegations are taken seriously and that there are consequences to breaches of the Act and Code. I did so by developing a continuum of compliance measures to suitably address a range of non-compliance, using processes that respect the principles of fairness and natural justice. I made it a priority to streamline review and investigation procedures, and make use of technology to improve the management of files. I also implemented an efficient service-oriented process for reviewing applications for exemption from the five-year prohibition on lobbying.

In my experience, the vast majority of lobbyists want to comply with both the spirit and the letter of the law. Over the years, a number of lobbyists have come forward to voluntarily disclose potential breaches of the Act or the Code. Similarly, many lobbyists regularly approach my Office to verify their understanding of the Act or the Code before taking action.

For my part, I have demonstrated that there are consequences to not respecting the Act or Code. I have referred 14 cases to the RCMP as I had reasonable grounds to believe a breach of the Act had occurred. In 2013, an individual was tried and convicted of an offence under the Act for the first time, for failing to register a consultant lobbyist undertaking. He was fined \$7,500 by the Court, and I administered the first ever post-conviction prohibition, exercising my authority under the *Lobbying Act*. As of March 31, 2016, three court cases are pending.

In cases where the police decided not to pursue the matter, and where I determined that I had sufficient grounds to continue with a *Lobbyists' Code of Conduct* investigation,

I proceeded to complete these investigations. I tabled 10 Reports on Investigation in Parliament, in which I found 12 lobbyists to have breached the Code.

### **A stronger, clearer *Lobbyists' Code of Conduct***

The OECD principles point to the importance of lobbyists behaving in accordance with high ethical standards to maintain trust in government decision making. In Canada, this goal was facilitated by the introduction of a *Lobbyists' Code of Conduct* in 1997. In 2013, I launched an extensive consultation process during which I heard first-hand from a broad range of stakeholders, including: lobbyists; public office holders; the legal community; academics; and lobbying regulators in Canada and internationally. The result was the development of a stronger and clearer Code, which came into force on December 1, 2015.

The key changes to the *Lobbyists' Code of Conduct* are as follows:

- The Code only addresses the relationship between lobbyists and public office holders. All references to clients have been removed so the Code is consistent with the scope of the *Lobbying Act*.
- A principle on respect for democratic institutions was added.
- More explicit rules concerning conflict of interest were added, specifically in the areas of preferential access, political activities, and gifts.

### **Legislative Review**

While the lobbying regime is strong in Canada, there are opportunities for improvement. I outlined some of these during the legislative review that was conducted by the House of Commons Standing Committee on Access to Information, Privacy and Ethics in 2012.

I recommended, for instance, that:

- the application of the Act be expanded by removing the significant part of duties threshold for registration;
- consultant lobbyists be required to disclose the ultimate beneficiary of their lobbying, so that Canadians know whose interests they are advocating;
- more information be disclosed about communications between lobbyists and designated public office holders, including the name of every in-house lobbyist present; and
- every oral communication between lobbyists and designated public office holders be reported, whether or not they were arranged in advance.

More serious penalties were introduced in the *Lobbying Act* in 2008 in the form of increased fines and jail terms. As of March 31, 2016 there has been one conviction under the *Lobbying Act*. I continue to advocate for an enforcement model that would provide penalty options somewhere between my current practice of educating and monitoring activities for less serious transgressions, and time-consuming and costly court litigation and Reports on Investigation for more serious ones. During the legislative review, I recommended the introduction of administrative monetary penalties and the expansion of the Commissioner's authority to prohibit lobbyists from registering.

There have been no amendments made to the *Lobbying Act* or its regulations following the 2012 legislative review. The Act is due for another review in 2017. I look forward to continuing the discussion about how we can further strengthen the regulatory framework around lobbying.

## Conclusion

In closing, I am proud of what I was able to accomplish over the last eight years in managing the lobbying regime at the federal level. I would like to take this opportunity to thank the OCL staff for their support, professionalism and dedication. Without them, these successes would not have been possible.

I welcome the opportunity to work with them in the future as the Office explores, for instance, the use of technology to make the registry mobile friendly and to facilitate the posting of monthly communication reports, as well as other improvements to ensure it remains modern and robust. New proactive approaches to compliance, based on prevention, and a better integration of compliance activities across the organization can help foster compliance. Social media will also be explored to allow the OCL to reach a larger audience in a cost-effective manner.





# OFFICE OF THE COMMISSIONER OF LOBBYING OF CANADA

The Commissioner of Lobbying is an independent Agent of Parliament, appointed by resolution of both Houses of Parliament under the *Lobbying Act* (the Act) for a term of seven years. The purpose of the Act is to regulate the lobbying of federal public office holders. The Commissioner has a mandate to ensure transparency and accountability in the lobbying of public office holders.

The Commissioner is supported by the Office of the Commissioner of Lobbying (OCL), which was established in 2008. The Commissioner reports annually to Parliament on the administration of the Act and the Code.

## Our Programs

### Registry of Lobbyists

The OCL maintains an online, publicly available Registry of Lobbyists, which contains information disclosed by lobbyists. Lobbyists have access to a broad range of tools to assist them in registering their activities and reporting their communications with federal public office holders.

Tools are available to search the Registry and find information about who is lobbying whom and about what. A team of OCL advisors provides direct assistance to registrants, public office holders, and the general public in using and searching the Registry. The team also provides advice about the requirements of

the *Lobbying Act* (the Act) and the *Lobbyists' Code of Conduct* (the Code).

### Education and Outreach

An important aspect of the Commissioner's mandate is to raise awareness about the Act and the Code. The primary audience of education and outreach activities is the lobbying community. Other target groups include public office holders, parliamentarians, the legal community, academics, and other stakeholders interested in lobbying.

### Compliance and Enforcement

The OCL conducts monitoring and compliance verification activities to ensure that registrable lobbying activity is properly reported, and information provided by lobbyists is thorough, accurate and complete. Suspected and alleged non-compliance with the Act and the Code is reviewed and, where appropriate, formal investigations are undertaken to ensure that lobbying activities are ethical and transparent. The Commissioner presents findings and conclusions in Reports on Investigation submitted for tabling in Parliament. The OCL also reviews applications for exemptions from the five-year prohibition on lobbying to ensure that they are granted only when it would not be contrary to the purposes of the Act.

Corporate Services

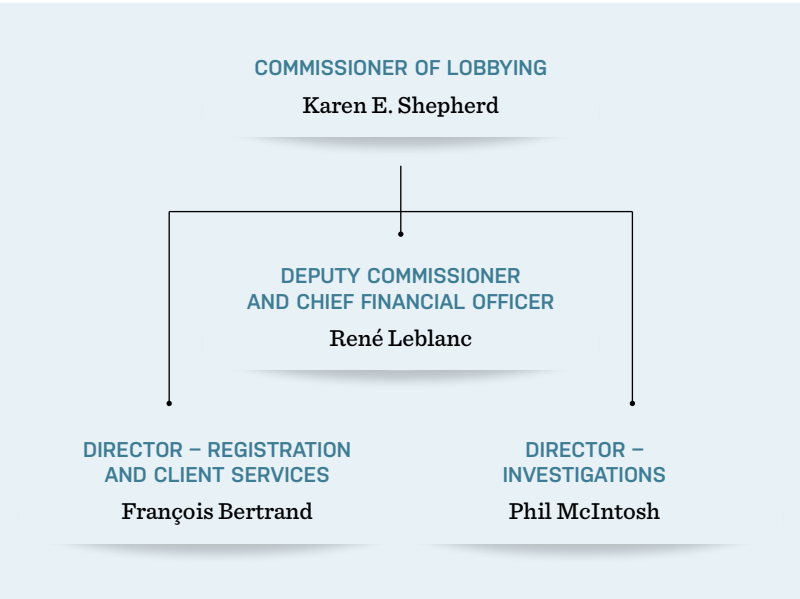
The OCL provides a full range of administrative services to support registration, education and compliance activities, as well as other corporate obligations of the organization. Corporate services include:

- financial management services, human resources services and information technology management;
- policy and communications services, performance measurement, business planning and reporting activities; and
- facilities and security management.

Our Organization

The Office has an overall budget of about \$4 million and has 28 full-time employees when fully staffed. It is divided into four groups.

FIGURE 1  
OCL organizational chart



- The **Office of the Commissioner** directly supports the Commissioner, including in her role of Deputy Head. This group provides legal and strategic advice, and administrative support.
- The **Office of the Deputy Commissioner and Chief Financial Officer** 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; audit and evaluation, security; facilities management; and workplace safety. The Deputy Commissioner and Chief Financial Officer 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 and report their lobbying activities and perform amendments, renewals and terminations of their registrations. This group provides assistance to registrants, public office holders and the general public in using the LRS, in searching the Registry, and in understanding the Act and the Code.
- 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 a sample 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.

# NEW LOBBYISTS' CODE OF CONDUCT INTRODUCED IN 2015

The purpose of the *Lobbyists' Code of Conduct* (the Code) is to assure Canadians that lobbying is done ethically and with the highest standards. In this regard, the Code complements the registration requirements of the *Lobbying Act* (the Act). It plays an important role in the federal lobbying regime by establishing a mandatory standard of conduct for individuals who engage in activity deemed registrable under the Act.

The first *Lobbyists' Code of Conduct* came into force on March 1, 1997. Canada's lobbying legislation was amended several times since it was introduced in 1989, but the Code remained unchanged since it came into force. In May 2015, I referred the new *Lobbyists' Code of Conduct* to the Standing Committee on Access to Information, Privacy and Ethics as the last step of an extensive two-year consultation process.

The new Code was published in the *Canada Gazette* and came into force on December 1, 2015.

Lobbyists – individuals who are required to register or be listed in a registration – must comply with the *Lobbyists' Code of Conduct*. The Code is also an important tool for federal public office holders. As the objects of lobbying, it is important that they understand the standards of conduct they should expect from lobbyists who communicate with them.

Breaches of the Code do not carry fines or jail terms. Following investigations into alleged breaches of the Code, the Commissioner of Lobbying is required to publish the findings and conclusions, and the reasons for them, in a Report on Investigation tabled in both Houses of Parliament. To date, I have tabled 10 reports on investigation that found 12 lobbyists in breach.

## Amendments to the *Lobbyists' Code of Conduct*

### Scope

I changed the scope of the Code to be consistent with that of the *Lobbying Act*. The main objective of the Act is to ensure transparency of communications between lobbyists and federal public office holders. As a result, all principles and rules in the Code which dealt with the interactions between lobbyists and their clients were removed or amended.

### New Principle on Respect for Democratic Institutions

I added a new principle concerning respect for Canada's democratic institutions to reflect the role that lobbyists play in the public policy process. When interacting with public office holders, the actions of lobbyists should not diminish public confidence and trust in government.



Commissioner's  
Reports

[lobbycanada.gc.ca/  
eic/site/012.nsf/  
eng/h\\_00018.html](http://lobbycanada.gc.ca/eic/site/012.nsf/eng/h_00018.html)



See Annex B for examples on how to comply with the new Code.

### Clarifying the Role of the Responsible Officer

For corporations and organizations, the *Lobbying Act* places the responsibility to register and report solely on the most senior paid employee (“the responsible officer”). To ensure that the Code is in line with the Act in this regard, I added a rule to specify the obligations of that individual, particularly with respect to informing every employee who is engaged in lobbying about their obligations under the Act and the Code.

### Rules Regarding Conflict of Interest

I amended the rule dealing with conflict of interest to reflect the court’s decision that both real and apparent conflicts of interest must be avoided to protect the legitimacy of government decisions and public confidence in those decisions. I also added four new rules to provide specific advice to lobbyists in the areas of preferential access, political activities, and the provision of gifts. All rules reflect the 2009 decision by the Federal Court of Appeal (2009 FCA 79), which clarified the interpretation of conflict of interest.

### Tools for lobbyists

To assist lobbyists in complying with the new Code, I developed a range of tools for lobbyists. I continue to listen to lobbyists and will develop more guidance and tools, as the need arises.

### Annotated *Lobbyists’ Code of Conduct*

The Annotated *Lobbyists’ Code of Conduct* provides additional explanations and legal context to the Code. The Annotated Code is not the official version of the *Lobbyists’ Code of Conduct* and is not intended as a substitute for legal advice.

### Guidance on the *Lobbyists’ Code of Conduct*

There are now five rules dealing with conflict of interest. When public office holders are placed in a conflict of interest, public confidence in the integrity of their decision making is diminished. During the consultation lobbyists indicated that it would be beneficial if guidance for the rules relating to conflict of interest was available before the new Code came into force. Therefore, I published guidance for these rules: Rule 6 which is the umbrella rule regarding conflict of interest; Rules 7 and 8 dealing with preferential access, Rule 9 regarding political activities, and Rule 10 which covers gifts.

### Advice to lobbyists regarding the application of the *Lobbyists’ Code of Conduct*

The high volume of requests for advice from the lobbying community has demonstrated a willingness to comply with the new *Lobbyists’ Code of Conduct*. To assist lobbyists further, I have developed a set of anonymized questions and answers based on advice provided by my Office that provide examples to lobbyists of how to comply with the new Code. I have published these in Annex B.

# FOSTERING TRANSPARENT LOBBYING ACTIVITIES

## Registry of Lobbyists

The *Lobbying Act* (the Act) requires the Commissioner of Lobbying to establish and maintain a Registry of Lobbyists that contains information about lobbying activities. Individuals, not-for-profit organizations and for-profit corporations engaged in lobbying the federal government must register their activities when required and report certain communications with designated public office holders.

As the primary source of information on who is lobbying federal public office holders and about which topics, the Registry plays a key role in fostering transparency. It is accessible online. There is no charge for lobbyists to register and it is free to consult. Registrations contain a wide range of information about lobbying activities, including:

- who is lobbying;
  - the names of lobbyists and whether they previously held federal public offices;
- who benefits from the lobbying;
  - the names of the organizations or corporations, including the parent and subsidiary corporations, that benefit from the lobbying activities;
  - the organizations that are members of coalition groups represented;
  - the government funding received by those represented;

- the names of the federal institutions lobbied;
- the subject matters of lobbying activities, including the legislative proposals, bills, regulations, policies and programs discussed, and grants, contributions and contracts sought; and
- the communication techniques used, such as meetings, telephone calls, written correspondence, and grass-roots lobbying.

The Registry also contains reports of communications, which disclose information about oral and arranged communications between lobbyists and designated public office holders. These monthly communication reports contain the following information:

- the date of the communication;
- the designated public office holder(s) present;
- the subject matter(s) discussed; and
- the name of the registrant.

## Registration Process

Under the *Lobbying Act*, consultant lobbyists are responsible for filing their own registrations. In the case of corporations and organizations which are required to register, it is the most senior paid officer who is responsible for filing the registration. These in-house registrations list employees who lobby federal public office

holders, as required by the Act. Individuals who communicate with federal public office holders should consult the *Are you required to register in the federal Registry of Lobbyists?* online tool to determine whether registration is required.

To start the process, new registrants must first create an account and complete a user agreement that sets out their responsibilities. The Act requires that the registrant then complete a registration and certify that the

information is accurate and complete. The information is reviewed by OCL staff to ensure it is complete before the registration is published. If corrections or additional information are required, the registrant must provide them within 10 days.

I am pleased to report that the average time to publish complete registrations was 2.6 days in 2015-16. This is well within our three-day service standard.

**FIGURE 2**  
Steps to register



## Registration Activities

Individuals who are responsible for filing registrations must ensure the information they disclose is filed and updated within the timelines prescribed in the Act. By the 15<sup>th</sup> of the month following a change in their registration, they must:

- update the targets or topics of their lobbying activities;
- update the list of in-house lobbyists to ensure it reflects the employees engaged in lobbying activity;
- terminate their registrations when they cease to engage in lobbying activities.

Every six months, if the registration has not changed and if no monthly communication reports have been filed, they must:

- verify and confirm that the information that is disclosed in their registration is still up to date.

In 2015-16, there were 9,230 registration activities. A total of 1,279 new registrations were filed and 3,073 registrations were updated. Registrants also certified that the information in 3,485 registrations did not change in the previous six months, terminated 1,009 registrations, and reactivated 384 registrations that had previously been terminated.

## Reporting communications with designated public office holders

Every month, lobbyists are required to report all “oral and arranged” communications they initiate with designated public office holders on registrable topics. In the case of communications regarding the awarding of a grant, a contribution, or any other financial benefit, it does not matter who initiated the communication for it to be reportable. Monthly communication reports must be filed by the 15<sup>th</sup> of the month following the communication.

In 2015-16, 11,627 communications were reported in the Registry, an average of almost 1,000 every month.

**FIGURE 3**

Number of monthly communication reports posted, by month

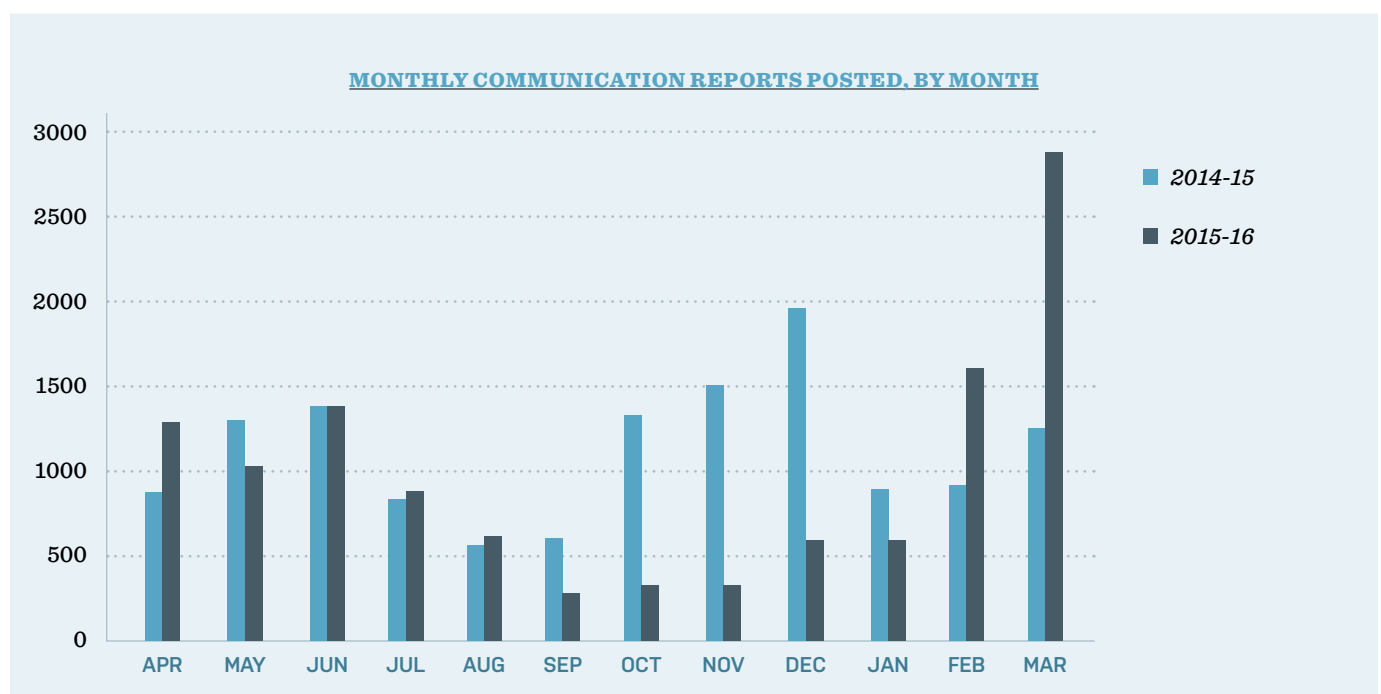


Figure 3 shows that the number of monthly communication reports filed by lobbyists tends to fluctuate on a seasonal basis. In 2014-15, there was a drop in activity through the summer months, and an increase in activity in the fall. There was a slowdown around the holiday season followed by a sharp rise in winter through the spring.

This year, the dissolution of Parliament in August 2015, the 72-day election campaign and

the subsequent change in government in October 2015 appeared to have an impact on the volume of communication reports. Compared to the previous year, there was a significant drop in the number of communication reports from June to December 2015. The usual high volume of activity during the fall and winter months did not materialize. A greater than anticipated increase took place in February and March

TABLE 1

Top 10 government institutions listed in monthly communication reports in 2015-16.

GOVERNMENT INSTITUTION	MENTIONS
House of Commons	4,589
Global Affairs Canada (formerly Foreign Affairs, Trade and Development Canada)	989
Innovation, Science and Economic Development Canada (formerly Industry Canada)	937
Finance Canada	633
Natural Resources Canada	529
Prime Minister's Office	475
Transport Canada	435
Agriculture and Agri-Food Canada	354
Health Canada	340
Environment and Climate Change Canada (formerly Environment Canada)	303

TABLE 2

Top 10 subject matters listed in monthly communication reports in 2015-16.

SUBJECT MATTER	MENTIONS
International Trade	1,987
Health	1,616
Industry	1,576
Agriculture	1,147
Environment	1,141
Infrastructure	1,021
Energy	1,001
Transportation	945
Employment and Training	941
Research and Development	903



2016. Almost 3,000 monthly communication reports were posted in March 2016. This is the largest number recorded since the introduction of monthly communication reports in 2008. The previous high was recorded in December 2014 when 1,929 monthly communication reports were posted.

As shown in Table 1, the government institution that appeared most often in monthly communication reports in 2015-16 is the House of Commons.

#### *Timeliness of monthly communication reports*

In 2014-15, a number of education measures were implemented to reinforce with registrants the importance of filing monthly communication reports in a timely manner. When a registrant files a late monthly communication report, the system now provides immediate feedback in the form of an email. Outreach materials were also developed to ensure that the requirements and timelines to report communications with designated public office holders are understood.

These measures continued to improve compliance, as timeliness further improved in 2015-16. A total of 11,627 communication reports were filed, of which 10,704 (92 percent) were filed on time. This is the highest proportion of monthly communication reports filed on time since 2008. Figure 4 shows the rate of timely monthly communication reports filed in each of the last four fiscal years.

Late reporting of communications with designated public office holders hinders transparency. I will therefore continue to monitor the situation and reach out to lobbyists to emphasize the importance of filing their monthly communication reports on time.

#### **Registrations and registered lobbyists**

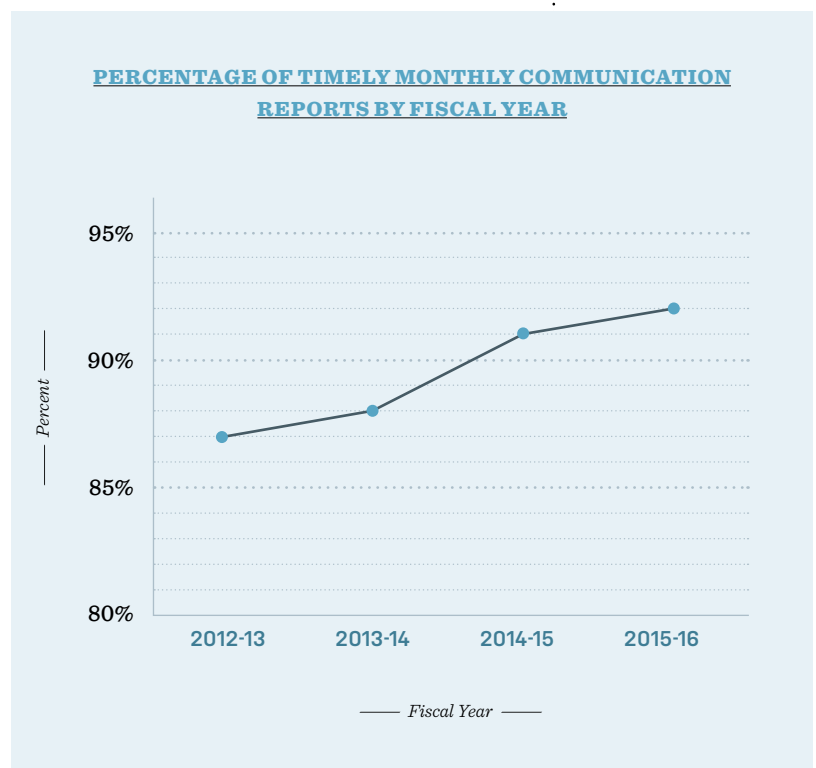
On March 31, 2016, there were 3,106 active registrations in the Registry: 2,322 for consultant lobbyists, 490 for organizations, and 294 for corporations. Since 2008, the number of active registrations at year end has remained stable at around 3,000.

The number of lobbyists in the Registry also tends to remain stable throughout the year. On March 31, 2016 there were 5,024 active lobbyists in the Registry: 807 consultant lobbyists, 2,618 in-house lobbyists for organizations, and 1,599 in-house lobbyists for corporations. Monthly snapshots show the number of lobbyists ranging from 4,912 on December 31, 2015 to 5,165 on January 31, 2015.

Consultant lobbyists account for the highest number of registrations. Consultant lobbyists must file a separate registration for each client. As a result, most of them have more than one registration to their name. On average, a consultant lobbyist had 2.7 active registrations in 2015-16.

**FIGURE 4**

Percentage of monthly communication reports filed on time, by fiscal year



Organizations and corporations that meet the requirement to register must file a single in-house registration listing the employees engaged in lobbying activities. The most senior paid officer of an organization or a corporation is responsible for filing the registration on behalf of the entity. Registrations for not-for-profit organizations are required to include every employee involved in lobbying activities. However, registrations filed by for-profit corporations must include two lists of lobbyists: all senior officers of the corporation who lobby, and all employees whose lobbying constitutes a significant part of their duties. In 2015-16, in-house registrations listed an average of 5.4 lobbyists for organizations and 5.5 lobbyists for corporations.

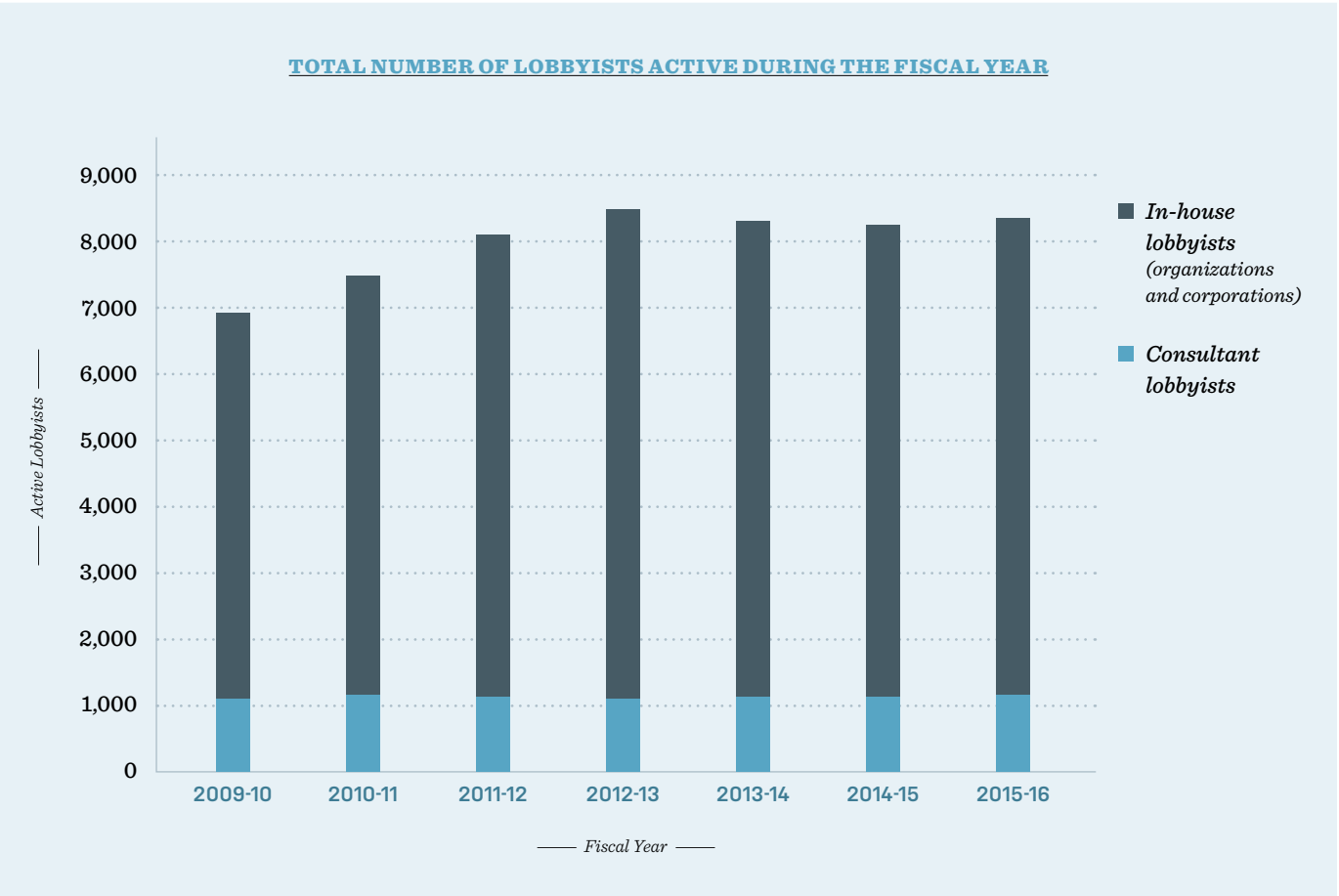
Consultant lobbyists are considered active if they had at least one active registration during the year. In-house lobbyists are considered

active if their name was listed in an active in-house registration during the year. Figure 5 shows the total number of active lobbyists per fiscal year.

The number of active lobbyists increased from about 6,900 in 2009-10 to about 8,500 in 2012-13, and has remained relatively stable since then. In 2015-16 there were 8,494 active lobbyists in total. As shown in figure 5, the number of consultant lobbyists has remained constant at around 1,100 over the years, while the number of in-house lobbyists has increased significantly since 2009-10.

In-house organization lobbyists comprised 54 percent of all active lobbyists in 2015-16, while in-house corporation lobbyists accounted for 34 percent. Consultant lobbyists made up 12 percent.

**FIGURE 5**  
Number of active lobbyists during the fiscal year



## Accessing the Registry

The Registry can be searched online. A complete dataset of the Registry can also be downloaded from either the OCL website or open.canada.ca.

Information in the Registry was accessed more than 739,000 times in 2015-16 through searches, reports, and open data downloads.

### Client service standards

The service standards that lobbyists, public office holders and other clients can expect when they interact with my Office are public.

In 2015-16, all registrations were processed within the established three-day service standard.

Registration advisors responded to 2,816 phone enquiries regarding the Registry of Lobbyists, the registration process, the application of the Act or the Code. More than 89 percent of the calls were answered within 30 seconds. Table 4 provides a breakdown of who called my Office and Table 5 shows the subject matters of telephone calls.

OCL staff also responded to simple email enquiries within a two-day service standard

SERVICE STANDARD	ACTIVITY
Immediate	<ul style="list-style-type: none"><li>• Answer telephone calls received during business hours within 30 seconds, 80 percent of the time</li></ul>
Within 24 hours	<ul style="list-style-type: none"><li>• Activate user accounts upon receipt of a completed Registrant User Agreement</li><li>• Respond to phone messages</li><li>• Acknowledge receipt of email enquiries</li></ul>
Within 2 business days	<ul style="list-style-type: none"><li>• Respond to less complex email enquiries</li></ul>
Within 3 business days	<ul style="list-style-type: none"><li>• Approve or provide feedback on registrations</li></ul>
Within 14 calendar days	<ul style="list-style-type: none"><li>• Respond to more complex questions</li></ul>

**TABLE 3**

OCL Service Standards.

CALLER TYPE	CALLS
Representative for a registered lobbyist	997
Lobbyist	980
Public	223
Potential lobbyist	239
Public office holder or designated public office holder (current or former)	201
Board member (consultant lobbyist)	20
Other	156
Total calls by caller type	2,816

**TABLE 4**

Number of telephone calls by caller type

and complex email enquiries within a 14-day service standard. Table 6 provides a breakdown of who emailed my Office with enquiries and Table 7 shows the subject matters of emails.

I would like to take this opportunity to express my gratitude to the staff of the OCL who worked diligently during the past year to continue to

meet our service standards. This is particularly noteworthy considering the high volume of activity during February and March 2016, following the federal election and the launch of the new *Lobbyists' Code of Conduct*, and unexpected vacancies within the team.

**TABLE 5**

Number of telephone calls by subject matter

PRIMARY SUBJECT MATTER OF CALL	CALLS
Registration support	1,490
Advice and interpretation of the Act and Code	794
Registry use	118
Outreach	48
Complaint or disclosure	10
Other	356
Total calls by subject matter	2,816

**TABLE 6**

Number of emails by correspondent type

CORRESPONDENT TYPE	EMAILS
Lobbyist	400
Representative for a registered lobbyist	290
Public office holder or designated public office holder (current or former)	106
Public	98
Potential lobbyist	45
Board member (consultant lobbyist)	1
Other	60
Total emails by correspondent type	1,000

**TABLE 7**

Number of emails by subject matter

PRIMARY SUBJECT MATTER OF EMAIL	EMAILS
Registration support	400
Advice and interpretation of the Act and Code	390
Registry use	84
Outreach	45
Complaint or disclosure	10
Other	71
Total emails by subject matter	1,000

# 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. My Office continues to deliver educational activities and products through a comprehensive outreach program.

## Outreach to stakeholders

In 2015-16, my staff and I met with 1,400 individuals, including lobbyists, public office holders, parliamentarians, and academics. This is approximately twice as many stakeholders as my Office reached last year.

A total of 171 advisory letters were sent in 2015-16, compared to 36 in 2014-15.

## Lobbyists

The onus is on lobbyists to comply with the Act and the *Lobbyists' Code of Conduct* (the Code). This year, I issued more advisory letters than in the previous year to lobbyists, potential lobbyists, and former designated public office holders who are subject to the five-year prohibition on lobbying. The purpose of these letters was to ensure they understood the requirements of the Act and the Code.

In conjunction with the coming into force of the new Code in December 2015, I organized a series of presentations and webinars, reaching 373 lobbyists to educate them about their obligations. I also sent advisory letters to 11 lobbyists regarding the new rules to

ensure they understood their obligations under the Code.

The volume of activity associated with the launch of the new Code added to the day-to-day workload of my staff responsible for outreach activities. Overall, my staff and I met with 830 lobbyists in 2015-16.

## Public office holders

Although the *Lobbying Act* puts the onus on lobbyists to comply, federal public office holders play an important role in ensuring lobbying is transparent. Understanding the requirements of the Act and Code means that federal public office holders are more likely to recognize lobbying activity and to contribute to compliance.

I regularly meet with senior federal officials and management teams in departments and agencies. My staff and I also offer educational sessions to public office holders across government. The October 2015 federal election brought in a large number of new members of Parliament (MPs). I participated in several information sessions for new and returning MPs. In 2015-16, my staff and I met with more than 230 public office holders, including parliamentarians.

The new *Lobbyists' Code of Conduct* outlines the behaviour that is expected of lobbyists. Two of the rules added to the Code affect public office holders specifically.

### **Rule 5**

*A lobbyist shall use and disclose information received from a public office holder only in the manner consistent with the purpose for which it was shared. If a lobbyist obtains a government document they should not have, they shall neither use nor disclose it.*

Public office holders are encouraged to assist lobbyists in complying by informing them when there are restrictions on the use of the information shared with them.

### **Rule 10**

*To avoid the creation of a sense of obligation, a lobbyist shall not provide or promise a gift, favour, or other benefit to a public office holder, whom they are lobbying or will lobby, which the public office holder is not allowed to accept.*

My guidance on Rule 10 advises lobbyists to check departmental websites and to verify with public office holders if they can accept gifts according to their own values and ethics rules. Generally speaking, gifts are only acceptable when they are expressions of courtesy, protocol or hospitality provided when a public office holder is carrying out job-related duties.

I sent letters to the Heads of federal departments and agencies to inform them about the new Code, suggesting that they inform their employees specifically about how these rules may affect them. I also encouraged them to make their departmental values and ethics codes available on their institutions' websites.

### **Former designated public office holders**

Under the *Lobbying Act*, designated public office holders are subject to a five-year prohibition on lobbying after they leave office. Specifically, former designated public office holders are prohibited for five years from lobbying the federal government as a consultant lobbyist or on behalf of an organization. They can, however, lobby on behalf of a corporation, if lobbying constitutes less than a significant part of their work, which I have interpreted as 20 percent.

Former or outgoing designated public office holders often seek advice and guidance from my Office to understand what activities are permitted. My staff and I are pleased to provide confidential advice.

For the second year, my Office sent advisory letters to former designated public office holders listed in registrations filed by corporations. The purpose of these letters is to ensure that former designated public office holders who are lobbying for corporations are adhering to the prohibition set out in the Act. Recipients are asked to confirm that they understand the limits placed on their lobbying activities and that they are in compliance with the Act. This is an ongoing activity to ensure that former designated public office holders who do engage in lobbying for corporations within the first five years after leaving office remain fully aware of the restrictions on their lobbying activities.

In 2015-16, three advisory letters were sent to former designated public office holders who were listed in active registrations filed by corporations.

As members of Parliament are subject to the five-year prohibition, I also sent 54 advisory letters to MPs who had publicly announced that they would not run for re-election in the 2015 election.

## Connecting with Counterparts

Across Canada and around the world, there is a growing community of regulators whose mandate is to ensure lobbying is conducted ethically and in a transparent manner. Interactions between lobbying regulators from Canada and other countries provide opportunities to discuss issues and share practices related to the administration of our respective lobbying regimes.

I participate in meetings of the Canadian Lobbyists Registrars and Commissioners Network, which are held twice annually. In Canada, the provinces of Alberta, British Columbia, Newfoundland and Labrador, Nova Scotia, Manitoba, Ontario, and Quebec have established lobbying registration regimes. Saskatchewan's registration system is expected to become operational later in 2016. New Brunswick has passed legislation which has yet to come into force.

At the municipal level, Ottawa, Toronto, Hamilton and Brampton have lobbying registries in place. Hamilton's registry was launched on August 1, 2015 and Brampton's on January 1, 2016. St. John's in Newfoundland and Labrador and municipalities in the province of Quebec are covered by their respective provincial legislation.

I continue to be active in the Council on Governmental Ethics Laws (COGEL), a professional organization for governmental agencies and other organizations working in the areas of ethics, elections, freedom of information, lobbying and campaign financing.

I am often consulted about lobbying regulation by representatives of other countries. This past year, representatives from Peru, Ireland, Scotland, and the European Parliament sought my expertise.





# ENSURING COMPLIANCE WITH THE ACT AND THE CODE

## Compliance and Enforcement

I believe that knowledge and understanding of the *Lobbying Act* (the Act) and the *Lobbyists' Code of Conduct* (the Code), supported by an effective education and outreach program, are key to fostering greater compliance. In order to be effective at deterring non-compliance with the requirements of the Act, my efforts to educate must also be complemented by a program of monitoring and enforcement. It is therefore important that there be consequences for those who are found to be in breach of either the Act or the Code.

My compliance and enforcement program is focused on three main types of activities:

- reviews and investigations into alleged breaches of the Act or the Code;
- compliance verifications; and
- reviews of applications for exemption from the five-year post-employment prohibition on lobbying for former designated public office holders.

## Alleged Breaches of the Act or the Code

When an alleged breach of the Act or the Code is brought to my attention, I first determine whether the subject matter falls within my mandate and jurisdiction. If so, the next step is to initiate an informal fact-finding exercise, referred to as an administrative review. In 2015-16, I completed 22 preliminary assessments and initiated 20 administrative reviews. In two cases, administrative reviews were not undertaken, as the allegations did not relate to registrable lobbying activities, or did not involve lobbying of federal public office holders.

When administrative reviews are completed, the facts and analysis are presented to me so that I may conclude whether or not the allegation is founded. If the allegation is founded I decide on a suitable means of ensuring compliance. In some cases, education and monitoring is the best course of action. In other instances, I conduct a formal investigation under the *Lobbying Act*. In 2015-16, I initiated two investigations, as I had reason to believe that was the appropriate action necessary to ensure compliance with the Act or Code.

TABLE 8

Outcome of administrative reviews closed in 2015-16.

Files Closed

Table 8 provides information about the administrative reviews I completed in 2015-16.

ADMINISTRATIVE REVIEWS BY OUTCOME	NUMBER CLOSED
Unfounded – no registrable communication / no meeting arranged	3
Unfounded – not a significant part of duties	2
Unfounded – accurate information provided	1
Unfounded – activity not performed for payment	1
Unfounded	7
Well-founded – Education and monitoring	7
Well-founded – Code of Conduct Investigation opened and suspended (referral to the RCMP for breach of the Act)	2
Well-Founded – Subtotal	9
Ceased	0
Total number of administrative reviews closed in 2015-16	16

The time required to complete an administrative review or an investigation varies depending on factors such as the complexity of the allegation, the availability of evidence, the number of people involved, and whether interviews are required.

The Act provides me with some degree of discretion in deciding whether to pursue or cease a review or investigation. For instance, I may choose to cease an administrative review if the subject under review enters into compliance. I consider a number of factors in making my decisions. The *Guiding principles and criteria for recommending compliance measures* explains the application of my discretion in this regard.

If I have reasonable grounds to believe that a person has committed an offence under the *Lobbying Act* or any other Act, I am required to suspend my investigation and refer the matter to the police. After a file is referred to the

Royal Canadian Mounted Police (RCMP), they must conduct their own investigation before deciding whether to recommend charges. If charges are laid, I must wait for the matter to be resolved by the courts before determining whether to impose additional sanctions under the Act. If the police decide not to pursue the matter, I determine if I have sufficient grounds to continue with an investigation under the Code. In either case, a referral to the RCMP will impact my timelines for completing an investigation. In 2015-16, I referred two files to the RCMP for investigation.

At the end of an investigation, the Act requires that I prepare a report to Parliament. These reports, submitted to both Houses, present my findings and conclusions, and the reasons for my conclusions.

## Compliance Verifications

In 2014-15, I established a Compliance Advisory Team within my Office. This team brings together employees from across the organization to review compliance-related issues and challenges, and recommend initiatives to improve compliance with the Act and the Code. The Team relies on a multi-disciplinary, collaborative approach to review existing compliance verification activities and determine how they can be made more effective or if new activities should be recommended. Events and other developments that may trigger or influence lobbying activity at the federal level are also analyzed to determine how to improve the effectiveness of monitoring and compliance verification activities.

There are five types of compliance verification activities performed by my Office.

### Monthly communication report verifications

My Office conducts verifications to confirm the accuracy of monthly communication reports submitted by lobbyists. Every month, a five percent sample of reports submitted during the previous month is selected. Designated public office holders identified in those reports are asked to validate the information. In addition to measuring the accuracy of communications reports, this process is effective in reminding designated public office holders that they are the object of reportable lobbying activities.

In 2015-16, my Office conducted 96 verifications with designated public office holders, covering 458 monthly communication reports. Those verifications confirmed that 95 percent of the sampled reports were accurate. Of those that were found to be inaccurate, two-thirds had only minor clerical errors.

## Compliance assessments

One year after a registrant has been advised of a breach, an assessment is conducted to determine if the registrant became compliant with the Act. The purpose is to determine whether there were repeated instances of the same type of non-compliance. Where additional kinds of non-compliance are uncovered, suitable measures are applied.

In 2015-16, my Office conducted 68 compliance assessments and found no instances of repeat non-compliance. However, two instances of minor non-compliance were uncovered that were different from the original one being monitored. Steps were taken to educate these individuals about the requirements of the Act. They were also informed that their lobbying activities continue to be monitored.

## Compliance analysis

My Office analyzes compliance by conducting research, reviewing and comparing lobbyists' information in the Registry. This analysis may focus on specific sectors of the economy or on particular issues of interest to uncover potential non-compliance. As a result, my Office identifies where knowledge of the Act may be improved and where outreach and compliance efforts may be targeted to foster compliance. This year, my staff conducted five compliance analyses and sent 88 advisory letters to ensure individuals are aware of the requirements of the Act.

## Compliance audits

The integrity of the Registry requires that the information it contains is complete, accurate and up to date. This is important to assure Canadians that lobbying is being done in a transparent manner.

Compliance audits of registrations are undertaken to validate the information submitted by registrants and ensure it is accurate and up to date. A compliance audit of registrations that had not been updated in several years was completed in 2015-16. As a result, several registrants whose registrations were found to contain inaccurate or outdated information took the necessary steps to update their registrations.

### Media monitoring

My Office monitors media reports daily to identify individuals, corporations, and organizations that may be lobbying and verify their registration status.

When necessary, advisory letters are sent to those communicating with federal public office holders to make them aware of the requirements of the Act and the Code. In 2015-16, following media monitoring, 169 individuals, corporations and organizations were verified. As a result, a total of 83 advisory letters were sent to confirm compliance.

Media monitoring is an effective way to uncover potential non-compliance and may result in the initiation of an administrative review or an investigation.

### Compliance with the Five-year Prohibition

Under the *Lobbying Act*, former designated public office holders are subject to a five-year prohibition on lobbying. These individuals cannot:

- work as consultant lobbyists;
- work for an organization and carry out lobbying activities on behalf of that organization; or
- work for a corporation if lobbying constitutes a significant part of their work on behalf of the corporation.

The *Lobbying Act* gives me the authority to grant an exemption from the five-year prohibition if I determine that an exemption would not be contrary to the purposes of the Act.

In 2015-16, I received 22 applications for exemptions, far more than the average of seven received in previous years. My Office completed 15 exemption reviews. Based on the results of those reviews, I granted 11 exemptions and denied four. As required by the Act, exemptions, and the reasons for granting them, are published on the OCL's website. As of March 31, 2016, seven reviews were ongoing.

I believe that timely decisions about exemption requests lead to greater compliance with the five-year prohibition. This year, I issued all but one letter of intent within my 60-day service standard.

# ANNEX A

## FULL TEXT OF THE *LOBBYISTS' CODE OF CONDUCT*

### Introduction

The Commissioner has the authority, under the *Lobbying Act*, to develop and administer a *Lobbyists' Code of Conduct* (the Code). The first version of the Code came into effect on March 1, 1997. In 2015, the Commissioner of Lobbying amended the Code, following a public consultation. The Code was referred to the House of Commons Standing Committee on Access to Information, Privacy and Ethics in spring 2015, before being published in the *Canada Gazette*. This version of the Code came into force on December 1, 2015.

Canadians should expect that all who participate in the development and application of public policy, laws and regulations will act in a manner that demonstrates respect for Canada's democratic institutions.

The purpose of the Code is to assure the Canadian public that when lobbying of public office holders takes place, it is done ethically and with the highest standards with a view to enhancing public confidence and trust in the integrity of government decision-making. In this regard, the Code complements the registration requirements of the *Lobbying Act*, which came into force on July 2, 2008.

The term “public office holder” as defined in the *Lobbying Act* includes senators and members of the House of Commons and their staff, ministers and their staff, officers and employees of federal departments and agencies, Governor in Council appointees,

and members of the Canadian Armed Forces and the Royal Canadian Mounted Police.

The Code applies when a registration is required under the *Lobbying Act*, whether or not a registration has actually been filed. Specifically, the Code applies to individuals who are required to register or be listed in a registration under sections 5 or 7 of the *Lobbying Act*.

The preamble of the *Lobbyists' Code of Conduct* states its purposes and situates the Code in a broader context. The preamble is followed by a body of overarching principles and a set of specific rules. The principles set out the goals and objectives to be attained, while the accompanying rules provide more detailed requirements for behaviour related to the principles in applied situations. Lobbyists, when engaging in lobbying activities, shall meet the standards set out in the principles and rules of the Code.

Under the *Lobbying Act*, the Commissioner shall open an investigation when the Commissioner has reason to believe one is necessary to ensure compliance with the Act or the Code. The Commissioner of Lobbying has the authority to enforce the *Lobbyists' Code of Conduct* if there is an alleged breach of either a principle or a rule of the Code. The Code is a non-statutory instrument, and carries no fines or jail terms. Anyone suspecting non-compliance with the Code should forward information to the Commissioner. Investigations are conducted in accordance with the *Lobbying Act* and

Canadians should expect that all who participate in the development and application of public policy, laws and regulations will act in a manner that demonstrates respect for Canada's democratic institutions.

respecting the principles of natural justice. At the end of an investigation, the Commissioner shall table a Report in both Houses of Parliament, detailing the findings and conclusions and reasons for these conclusions.

## Preamble

The *Lobbying Act* is based on four principles:

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

The *Lobbying Act* provides the Commissioner with the authority to develop and administer a code of conduct for lobbyists. The Commissioner has done so, with these four principles in mind. The *Lobbyists' Code of Conduct* is an important instrument for promoting public trust in the integrity of government decision-making. The trust that Canadians place in public office holders to make decisions in the public interest is vital to a free and democratic society.

Public office holders, when they deal with the public and with lobbyists, are required to adhere to the standards set out for them in their own codes of conduct. For their part, lobbyists communicating with public office holders must also abide by standards of conduct, which are set out below.

These codes complement one another and together contribute to public confidence in the integrity of government decision-making.

## Principles

### Respect for Democratic Institutions

Lobbyists should act in a manner that demonstrates respect for democratic institutions, including the duty of public office holders to serve the public interest.

### Integrity and Honesty

Lobbyists should conduct with integrity and honesty all relations with public office holders.

### Openness

Lobbyists should be open and frank about their lobbying activities.

### Professionalism

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with the letter and the spirit of the *Lobbyists' Code of Conduct* as well as with all relevant laws, including the *Lobbying Act* and its regulations.

## Rules

### Transparency

#### *Identity and purpose*

1. A lobbyist shall, when communicating with a public office holder, disclose the identity of the person, organization or corporation on whose behalf the communication is made and the nature of their relationship with that person, organization or corporation, as well as the reasons for the approach.

#### *Accurate information*

2. A lobbyist shall avoid misleading public office holders by taking all reasonable measures to provide them with information that is accurate and factual.

#### *Duty to disclose*

3. A consultant lobbyist shall inform each client of their obligations as a lobbyist under the *Lobbying Act* and the *Lobbyists' Code of Conduct*.
4. The responsible officer (the most senior paid employee) of an organization or corporation shall ensure that employees who lobby on the organization's or corporation's behalf are informed of their obligations under the *Lobbying Act* and the *Lobbyists' Code of Conduct*.

### Use of information

5. A lobbyist shall use and disclose information received from a public office holder only in the manner consistent with the purpose for which it was shared. If a lobbyist obtains a government document they should not have, they shall neither use nor disclose it.

### Conflict of Interest

6. A lobbyist shall not propose or undertake any action that would place a public office holder in a real or apparent conflict of interest.

In particular:

#### *Preferential access*

7. A lobbyist shall not arrange for another person a meeting with a public office holder when the lobbyist and public office holder share a relationship that could reasonably be seen to create a sense of obligation.
8. A lobbyist shall not lobby a public office holder with whom they share a relationship that could reasonably be seen to create a sense of obligation.

#### *Political activities*

9. When a lobbyist undertakes political activities on behalf of a person which could reasonably be seen to create a sense of obligation, they may not lobby that person for a specified period if that person is or becomes a public office holder. If that person is an elected official, the lobbyist shall also not lobby staff in their Office(s).

#### *Gifts*

10. To avoid the creation of a sense of obligation, a lobbyist shall not provide or promise a gift, favour, or other benefit to a public office holder, whom they are lobbying or will lobby, which the public office holder is not allowed to accept.





# ANNEX B

## EXAMPLES REGARDING THE APPLICATION OF THE LOBBYISTS' CODE OF CONDUCT

The following examples reflect questions from lobbyists that the Office of the Commissioner of Lobbying has answered regarding the application of the *Lobbyists' Code of Conduct*.

### Example regarding the application of Rule 5 – Use of Information

*Question:*

I received a document from a public office holder by mistake. Under the Code, what are my responsibilities? Am I required to inform the public office holder that they sent me a document in error?

*Answer:*

Informing the person who mistakenly sent the document is a good practice, however Rule 5 does not obligate a lobbyist to do so. Destroying the document and not using or disclosing the information is an appropriate action which complies with the intent of Rule 5.

### Example regarding the application of Rules 7 and 8 – Preferential Access

*Question:*

My partner is the Chief of Staff to a minister. Given the role he plays, I am concerned about lobbying him or others in the minister's office. How can I best comply with the rules on preferential access?

*Answer:*

You should not lobby your partner during his tenure as Chief of Staff.

While lobbying other officials within the minister's office is not explicitly prohibited by the *Lobbyists' Code of Conduct*, our Office suggests that you exercise caution.

As per the Commissioner's guidance, you should ask yourself "Will any access granted to me by this public office holder be viewed, by a reasonable person, as preferential, given my relationship to the Chief of Staff?" If the answer is yes, in order to avoid the creation of a conflict of interest, any related lobbying activities should not be undertaken.

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### Examples regarding the application of Rule 9 – Political Activities

*Question:*

Is it permissible for me to solicit donations for an electoral district association, a candidate, or a national party? How about soliciting donations for a party leadership candidate?

*Answer:*

In the Commissioner's view, soliciting donations at the local, national, or party leadership level creates a sense of obligation. If you fundraise, the following restrictions apply:

- At the local level you should not lobby the member of Parliament nor his or her staff.
- At the national level you should not lobby the party leader nor his or her staff.
- In a party leadership context you should not lobby the leadership candidate nor his or her staff.

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*Question:*

I attended a fundraiser for a federal candidate and she is now a member of Parliament. Can I lobby her?

*Answer:*

In the Commissioner's view, attending a fundraiser and donating within the limits allowed under the *Canada Elections Act* does not pose a risk of creating a sense of obligation on the part of the candidate. You may lobby her.

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### Examples regarding the application of Rule 10 – Gifts, including receptions

#### *Gifts – General*

*Question:*

Can I send a token gift to members of Parliament (MPs) along with our annual Christmas card?

*Answer:*

Yes. Generally speaking, trinkets or favours of token value would not reasonably be seen to create a sense of obligation on the part of a member of Parliament.

*Question:*

A government department is sponsoring our upcoming conference. The department has asked if they will be offered observer status at the conference free of charge. Doing so is in keeping with our policy of providing complimentary conference registration to all conference sponsors. Is this acceptable?

*Answer:*

Offering the same observer spots to departmental officials as you would to other sponsors is acceptable under the conflict of interest provisions of the *Lobbyists' Code of Conduct*. To further mitigate any possibility of placing public office holders in a conflict of interest, the Commissioner recommends that your organization send the conference invitations to the department's Deputy Minister so that they may determine which officials will attend in keeping with the department's *Values and Ethics Code*.

*Question:*

I am a consultant lobbyist. My client is not required to register, as they do not meet the significant part of duties registration threshold set out in the Act. On behalf of my client, I am inviting public office holders to a breakfast briefing. Is this acceptable?

*Answer:*

It is contrary to the spirit of the Code for a client to engage in activities that their consultant lobbyist cannot engage in, regardless of whether the client is required to register.

A meal should not be offered to any public office holder you or your client is lobbying, or will lobby in future, unless the public office holder has a role to play in the meeting. As stated in the Commissioner's guidance, the role should be an active one that goes beyond being briefed by your clients.

*Question:*

Can I give gifts to political staff?

*Answer:*

Political staff employed in the offices of ministers, members of Parliament, and Senators are considered public office holders under the *Lobbying Act*. The *Lobbyists' Code of Conduct* applies to those who are lobbying public office holders.

It is the Commissioner's view that in general the best way to avoid the creation of a conflict of interest is to avoid giving a gift to any public office holder you are lobbying. Gifts are anything of value that are given without an obligation to repay.

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*Question:*

As a lobbyist, I am precluded from giving a gift to a public office holder I am lobbying or will lobby. How can I know who I will need to lobby in the future?

*Answer:*

As you cannot predict who you will be lobbying in the future, it is the Commissioner's view that the best way to avoid the creation of a conflict of interest tomorrow is to not give a gift today.

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*Question:*

I am a lobbyist for a performing arts organization. We receive funding from the federal government. We would like to give tickets to our performances to government officials. Is this acceptable?

*Answer:*

If your organization is lobbying or will lobby a public office holder, that public office holder should pay the cost of the ticket so that a sense of obligation is not created. Accepting a free ticket could place them in a real or apparent conflict of interest, should your organization lobby them. If the public office holder has a role to play at the event (speaking role, presentational role, etc.), then the provision of the ticket would fall under the exceptions described in the Commissioner's guidance.

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***Gifts – Receptions and Events***

*Question:*

Can my company host a private dinner for MPs to introduce them to our company and the industry?

*Answer:*

The Commissioner advises that you should not invite MPs you are lobbying, or will lobby, to private dinners. This will prevent the creation of a sense of obligation or the appearance of one. Dinner, in this instance, would be considered a gift. This is the best way to avoid placing MPs you are lobbying or may lobby in a conflict of interest.

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*Question:*

Is serving coffee, water, and/or a light snack at a meeting considered to be providing a gift that creates a sense of obligation?

*Answer:*

No. These are not viewed by the Commissioner as gifts that create a sense of obligation.

*Question:*

You have said that it is acceptable to provide tickets to an event to an MP when these events take place in their riding or region. What is meant by “region”? Is there a geographic boundary that you had in mind?

*Answer:*

Because ridings are specific geographic boundaries, the Commissioner wanted her guidance to reflect that an MP may be seen to have a representative role in a riding outside of their own. For example, a Gatineau MP and an MP from Orleans could both be seen to be National Capital Region MPs, so an invitation to community events in the National Capital Region would be acceptable for both.

*Question:*

If my organization hosts a breakfast or lunch for all MPs, are we precluded from lobbying them at a meeting later in the day?

*Answer:*

If you decide to host a meal for all MPs, keep the cost reasonable, and do not lobby them at that meeting, nothing prohibits your organization from lobbying them later in the day.

*Question:*

The Commissioner's advice to lobbyists regarding parliamentary receptions indicates that in order to mitigate the risk of creating a sense of obligation, no lobbying should take place at the event. What kinds of communications are allowable? Can I talk about a program my organization is running as long as I do not seek funding from the federal government?

*Answer:*

During the reception, you may speak about the program, such as scope, participants, need, benefits, etc. as this does not constitute registrable lobbying activity. You are advised to limit your lobbying communications (i.e. requests for federal support for a program your organization is running) to interactions outside of those that happen at the reception.

*Questions:*

Is it acceptable to invite a large group of MPs (e.g. 50 or so) to a reception? My association is only interested in inviting MPs with an industry presence in their ridings.

*Answer:*

Holding smaller group events and providing gifts increases the risk of creating a sense of obligation.

*OR*

My organization wishes to invite MPs and Senators who sit on parliamentary committees to a reception to launch a major component of our advocacy/lobbying platform for 2016. Is this acceptable?

It is the Commissioner's view that meeting conditions listed below will mitigate the risk of placing the members in a real or apparent conflict of interest:

- all members are invited;
- the total cost of any gifts provided or promised is reasonable (including food, beverages, and any other objects offered to the attendees); and
- the invitation is not accompanied by any information related to lobbying activity nor is there lobbying at the event.

*OR*

My company is based in one province. We would like to have a reception and invite only those MPs and Senators from that province, given our limited budgets.

*Question:*

Are organizations able to host events for MPs from individual political parties – meaning that they would host one event for Party ‘A’, one event for Party ‘B’, and one event for Party ‘C’? Or, are organizations required to extend invitations for an event to all MPs?

*Answer:*

It is acceptable to split up MPs by caucus as long as they are all provided with the same gifts (food, drinks, etc.), and are all invited to a similar event (i.e. venue). Therefore, you can do this in multiple identical sessions that are held around the same time.

*Question:*

What should I do in the following scenario:

I have organized a breakfast meeting for parliamentarians, to educate them about the issues that are important to my industry. We have invited all MPs (only 39 attended), we provided a hot breakfast, and gave a presentation on the major issues. Our presentation did not contain information relating to any bills, legislative proposals, motions, policies, programs of the federal government.

After the presentation, an MP asked me if I thought that the private member’s bill she has introduced goes far enough to address the issues raised. I have an opinion. Can I answer the question?

*Answer:*

You have mitigated the risk of creating a sense of obligation by inviting all MPs, keeping the cost reasonable, and not lobbying during your presentation.

As the MP has asked you a question, you could suggest that you will arrange to meet them at their office.

If you feel you need to answer their question on the spot, then as the reception was arranged in advance, you are required to file a monthly communication report by the 15<sup>th</sup> of the following month.

**Commissariat  
au lobbying  
du Canada**



**Office of the  
Commissioner  
of Lobbying  
of Canada**