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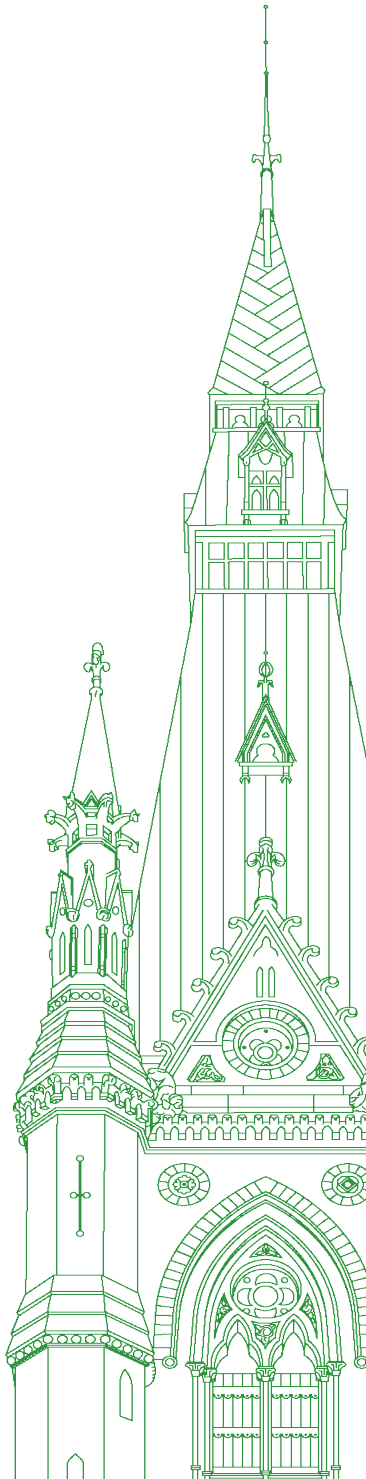

Chair: John Brassard

Standing Committee on Access to Information, Privacy and Ethics

Monday, June 8, 2026

● (1610)

[*English*]

The Chair (John Brassard (Barrie South—Innisfil, CPC)): I call the meeting to order.

Welcome to meeting number 46 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[*Translation*]

Pursuant to the order of reference of Thursday, February 12, 2026, section 14.1 of the Lobbying Act, and the motion adopted by the committee on Wednesday, September 17, 2025, the committee is resuming the statutory review of the Lobbying Act.

[*English*]

To our witnesses, I will remind you that members may ask questions in both English and French. Make sure you have the right interpretation on for what you need. If you do need interpretation, just allow the interpreters to finish the response or the question. Then you can respond as well.

I'd now like to welcome our witnesses for the first hour today. As an individual, we have Maxime Boucher, an affiliated researcher from the Centre on Governance at the University of Ottawa. From the Government Relations Institute of Canada, we have Muhammad Ali, vice-president and board member.

To both of you, I apologize for the late start. Obviously, we had votes, which delayed the start of the meeting.

[*Translation*]

Mr. Boucher, you have five minutes for your speech.

Maxime Boucher (Affiliated Researcher, Centre on Governance, University of Ottawa, As an Individual): Mr. Chair, members of the committee, thank you for inviting me. It is an honour to appear before you as part of the review of Canada's Lobbying Act. I am here today in my capacity as an academic researcher and as the founder of a research project called “Lobbying and governance in Canada”, which I established with a professor named Christopher Cooper from the University of Ottawa.

My remarks today are based on several years of empirical research on the federal government's registry of lobbyists, on Canadian political institutions and on the role of lobbying in contemporary democratic governance. I have three introductory points that I'd like to highlight very briefly.

The first is that lobbying is not an anomaly in a modern democracy. In a pluralistic society, it is normal for companies, associations, unions, organizations and other organized groups to seek to make their views known to public decision-makers.

The issue today is not the existence of lobbying as such, but rather the conditions under which it is carried out and the framework within which it is regulated in order to preserve the values of democracy, namely transparency, fairness, integrity and public trust in institutions.

The second point I'd like to emphasize is that lobbying is a multidimensional phenomenon. It's not just about expertise, nor is it solely about influence and privileged access to power. Our academic work as part of the research project shows that lobbying combines several dimensions at once. It involves the exchange of information and it also involves sector-specific expertise and to a certain extent, consultation. It also involves strategies for exerting influence and strategies for gaining access to power. All of this takes place within the context of the development of long-term relationships between political institutions and certain interest groups and civil society actors in Canada.

My third and final point is that, in the Canadian parliamentary system—as we have thoroughly documented in our research—lobbying strategies follow the actual distribution of power within our system. In other words, lobbyists specifically target the areas where decision-making influence is strongest. I am thinking, in particular, of the executive branch of government, government departments, but also certain parliamentary actors who hold strategic positions, such as parliamentary secretaries.

Finally, I would like to highlight a significant limitation of the current system. The federal system allows us to track communications, the parties involved, and the institutions targeted. We have information, but it's not perfect. On the other hand, it does not allow us to measure the amounts invested and spent on lobbying. I don't want to reduce influence to a matter of money, but for a researcher like me, this aspect of the information still tells us about the intensity of lobbying efforts, the means of mobilization and certain power imbalances that may exist among the interests exerting pressure on the government.

From this perspective, I would like to emphasize today that the lobbying commissioner's recommendation to improve the disclosure of certain sources of lobbying funding strikes me as very important, because it would allow us to shed more light on the resources that support lobbying efforts without significantly disrupting the overall structure of the act.

I would like to conclude by saying that, based on our research project, successful modernization of the legislation should aim for meaningful transparency that is proportionate and better adapted to the contemporary realities of power so that we can have more information.

To conclude, I repeat: The point is not to deny the existence of lobbying, but rather to ensure that it is carried out in a manner more consistent with the requirements of a modern democracy.

Thank you.

● (1615)

The Chair: Thank you for your remarks, Mr. Boucher. You spoke for less than five minutes.

[*English*]

Next we're going to Mr. Ali.

You have up to five minutes to address the committee. Go ahead, sir.

Muhammad Ali (Vice-President and Board Member, Government Relations Institute of Canada): Good afternoon, Chair and members of the committee. Thank you for the opportunity to appear today.

My name is Muhammad Ali. I'm the vice-president of the volunteer board of directors of the Government Relations Institute of Canada. GRIC is a national not-for-profit association representing government relations and public affairs professionals across all sectors of the Canadian economy. Our membership includes both consultant and in-house lobbyists.

Let me begin with one foundational point: Canada already operates one of the most transparent and rigorous lobbying regimes in the world. That is not to say the act cannot be improved, but any amendments should be grounded in clear evidence of a problem and must strike a careful balance between seemingly enhancing transparency and preserving Canadians' open access to government. Our recommendations are guided by that principle. GRIC has put forward six recommendations, but I'll focus on two today.

First, the Lobbying Act does not define the phrase “significant part of duties”, which determines when a corporation or organization must register for in-house lobbying. In the absence of a statutory definition, the threshold to meet a significant part of duties has been set through interpretation by the Office of the Commissioner of Lobbying, OCL. For over a decade, this threshold was interpreted as 32 hours over four weeks across employees. In July 2025, it was reinterpreted as just eight hours—a 75% decrease—without clear public evidence of widespread non-compliance nor robust consultation to justify such a change.

It is important for this committee to understand what this threshold includes. It captures not only time spent meeting with government officials and elected officials, but also the preparation time, internal strategic decisions and any written communications, as well. In other words, this is not just a measure of time spent lobbying in meetings; it is a measure of the total time connected to those interactions.

Consider a local, family-owned small business in your riding, like a restaurant or a farmer, or consider a food bank facing an urgent issue. Over a few days, staff meet internally, prepare materials to brief you, as their local MP, email your office, meet with you and then meet again internally to debrief on the meeting. Perhaps there is a follow-up meeting with you, as their MP, to present further information to help them. Their collective time spent could easily reach eight hours just before that one meeting. Now, they are required to register under the law. These are not professional lobbyists. They are Canadians engaging with their elected representatives to seek help.

Going even further by potentially expanding the regime to that of registration by default by getting rid of “significant part of duties” altogether from the act, as has been proposed by the OCL, would significantly broaden the scope of the act. This risks imposing even further unnecessary administrative burden and red tape on small organizations and could overwhelm the registry with low-value filings, which would ultimately reduce meaningful transparency.

Given how central this concept is to the act, GRIC believes that “significant part of duties” should be defined in the legislation and not left to OCL interpretations that could be changed without any industry consultation. We recommend restoring it to 32 hours over four weeks, ensuring the system remains focused on capturing sustained lobbying activity.

Second, GRIC recommends maintaining the current requirement that only oral communications that are arranged in advance and initiated by lobbyists be reportable, and that reporting continues to focus on senior civil servants along with other designated public office holders, including, as the OCL has suggested, staff of the office of the Leader of the Opposition. The OCL's proposal to expand reporting to all communications, whether they are written or unarranged, would significantly flood the registry with insignificant communications and add limited transparency value.

Such changes could also create unintended consequences. Public office holders could be associated with interactions they did not agree to, including unsolicited written communications, such as emails and letters.

Transparency is most effective when it captures deliberate, substantive engagement, not incidental or informal exchanges. Fundamentally, designated public office holders, such as yourselves, should continue to have the authority to decide who they meet with and when. Government decisions are not shaped simply by chance encounters at the airport, your local community event or a letter. Similarly, expanding reporting requirements to include all public servants present at meetings would dilute the registry's usefulness. The current focus on senior decision-makers reflects how government decisions are actually made.

Our other recommendations include defining “undertaking” in the act, reducing post-employment bans, improving clarity in the code of conduct and including paid board directors in organizations' registrations.

In conclusion, Canada's lobbying framework is the strongest in the OECD. We welcome changes that are evidence-based, proportionate and focused on improving transparency where it matters most without limiting Canadians' democratic ability to engage with their elected officials.

Thank you. I look forward to questions.

● (1620)

The Chair: Thank you, Mr. Ali.

We're going to start with our questions. We'll go to Mr. Cooper first for six minutes.

Go ahead, Mr. Cooper.

Michael Cooper (St. Albert—Sturgeon River, CPC): Thank you, Mr. Chair.

I'd like to move the following motion that I put on notice on Friday. The motion reads as follows:

> That,
>
> given that the Privacy Commissioner of Canada is a trusted and respected defender of the privacy rights of Canadians;
>
> and given that Liberal members on the Standing Committee on Public Safety and National Security denied the Commissioner an opportunity to protect those rights by appearing as a witness during clause-by-clause consideration of the Prime Minister's overreaching surveillance law, Bill C-22;
>
> the committee report to the House its concern that the Liberal government has silenced and sidelined the Privacy Commissioner during this critical stage of consideration of the Prime Minister's overreaching surveillance law, Bill C-22.

The Chair: Okay, Mr. Cooper. It's similar to the motion that you put on notice on Friday, I believe.

Michael Cooper: That's right.

The Chair: Okay. I'm going to deem the motion in order.

Go ahead, Mr. Cooper, if you have any comments.

Before you start, I have Mr. Lawton and Mr. Strauss on the list as well to speak to this.

I'm going to ask the guests to stay in place right now. I'm hoping that we can get back to you soon. We're going to deal with this matter.

Thank you.

Michael Cooper: Thank you very much, Mr. Chair.

Bill C-22, the Liberals' surveillance law bill, gives the government sweeping new surveillance powers to access the private digital communications and information of Canadians. This bill has serious privacy implications, to put it mildly. As the Privacy Commissioner himself observed, “the interception of communications and the search and seizure of information are among the most intrusive forms of power that the state can bring to bear.” The Privacy Commissioner was referencing the National Security and Intelligence Committee of Parliamentarians in their 2025 “Special Report on the Lawful Access to Communications by Security and Intelligence Organizations”.

The Privacy Commissioner went on to state, in a brief he submitted to the public safety committee, the following:

> This is so not only because of the reasonable expectation of privacy that we may have in such information as individuals, but also because of the impacts that its collection and use by state actors may have on our ability to exercise and enjoy other fundamental rights as members of a free and democratic society.

Consistent with the observations made by the Privacy Commissioner, I would note that constitutional jurisprudence has recognized that such things as metadata, Internet browsing activity and so on are highly sensitive personal information protected by section 8 of the charter, which states, “Everyone has the right to be secure against unreasonable search or seizure.”

Bill C-22 is arguably overly broad, interfering with the privacy rights and interests of Canadians. The bill would give sweeping powers to order electronic service providers to build into their systems interception and monitoring capabilities to collect and retain data about Canadians, data that includes everything, including the location of Canadians—talk about a surveillance state bill. Service providers are any “person who provides services to the public”, which is an extremely broad definition.

The Privacy Commissioner, in light of the privacy implications of Bill C-22 and the concerns that it is overly broad in scope, submitted a brief to the public safety committee, where Bill C-22, the Liberal surveillance bill, is being studied. In it, the Privacy Commissioner set out a number of concerns he had with the bill, including, as I noted, the broad definition of a service provider. The Privacy Commissioner observed that “the proposed production order for subscriber information”, which is information in which a high level of privacy is attached, based upon jurisprudence of the Supreme Court, “could be served on any 'person who provides services to the public'.” As the Privacy Commissioner notes, “Given the breadth of the definition, this means that...in some cases...healthcare providers, lawyers, financial institutions, certain apps and online services” and others “could be ordered to produce highly sensitive information about clients or subscribers based on a threshold of only reasonable suspicion.” That's a very low threshold to be made out.

Further to that, the Privacy Commissioner noted that “the production order provision stipulates that a person who receives such an order would have to produce 'all the subscriber information that relates to any information...that is specified in the order'.”

● (1625)

He also says, “As a result, service providers could be compelled to produce much more subscriber information than is necessary for the purposes of a given investigation.” Again, it's overly broad in its scope.

The Privacy Commissioner went on in his brief to cite concerns around the fact that "for greater certainty" with respect to production orders or warrants, it wouldn't be necessary to get one if the information were available to the public. In other words, law enforcement could do a runaround on the basis that the information was supposedly publicly available. I should note, as the Privacy Commissioner notes, that just because information is publicly available, it does not automatically follow that privacy interests and the right to privacy are not attached. That is not the case.

Also, what's missing from the bill is a provision for "necessity and proportionality" to ensure that regulations made under the legislation "are tailored to minimize privacy impacts."

These are just some of the concerns the Privacy Commissioner raised with regard to Bill C-22.

At the public safety committee last week, Conservatives asked, given the serious concerns the Privacy Commissioner raised, that the Privacy Commissioner be present as a witness to address questions about privacy as the committee goes through clause-by-clause, just as, for example, CSIS, the RCMP and departmental officials are there to answer questions. Conservatives thought it was appropriate that the Privacy Commissioner also be there, given that this bill deals with issues around public safety that need to be balanced against the privacy rights of Canadians.

What we saw last Thursday at the public safety committee was Liberals thwarting and blocking the Privacy Commissioner from coming to committee, the very commissioner who is charged with protecting and promoting the privacy rights of Canadians. Liberal MPs want the commissioner to be silenced, to not be heard, to not answer questions about clauses within the bill that go to the heart of the privacy rights of Canadians. The question is this: Why?

The answer one can reasonably infer is that the Liberals want to sidestep and ignore the very serious concerns that the commissioner has raised about the threats posed by Bill C-22 to the privacy rights of Canadians. These are the same Liberals, by the way, who are doing a do-over with Bill C-22 after they got caught sneaking, into what they called a "border bill", a surveillance bill in Bill C-2.

Given that, I would submit that it's imperative that we hear from the Privacy Commissioner and that we on this committee, who are charged with dealing with issues around the Privacy Act and privacy issues, report our concerns to the House and urge the Liberals to reverse course in order to stop putting a gag on the Privacy Commissioner and to allow the Privacy Commissioner to come before the public safety committee so that the committee can fully understand the privacy implications of Bill C-22.

Thank you very much.

● (1630)

The Chair: Thank you, Mr. Cooper.

I am working on a list. I have Mr. Lawton, Mr. Strauss, Mr. Hardy and Ms. Chagger.

Mr. Lawton, go ahead.

Andrew Lawton (Elgin—St. Thomas—London South, CPC): Thank you very much, Mr. Chair. It's good to be back on the committee that is tasked with looking at ethics, information and privacy. These three things, I note, are in very short supply with this Liberal government, especially with Bill C-22.

When we look at the way this process has proceeded before the public safety committee, it is shocking that a bill this complicated and lengthy, with as many good-faith concerns that have been raised from actors on the left and the right, from civil society groups and from civil liberties groups, was met by the Liberals with a desire to have an incredibly abbreviated study of the bill.

I note that my Conservative colleagues had to fight a Liberal government that was kicking and screaming to allow for even a modest expansion of witness testimony. In the course of that, we heard precisely how many issues were embedded in the bill that would compromise the privacy and security of Canadians.

We have big-tech companies. I have a great deal of skepticism about how big-tech companies operate when it comes to privacy. When they are sounding the alarm, and they are saying that they will not be able to safeguard user privacy if Bill C-22 passes, we should listen. These are the people who have infinite resources and can read the bill and see that Bill C-22 will compel them to build back doors into their own systems, systems that all of us as members of Parliament use. It will allow the government, not even Parliament but a minister, to circumvent this process. We are to believe that the government will just naturally, in good faith, constrain its own power that it's granting itself with Bill C-22.

I'll note the powers and authorities that law enforcement officials were asking for. I canvassed police chiefs in my riding. I spoke to other law enforcement officials and police associations across the country. The powers they wanted are in part 1 of Bill C-22. The powers the government is trying to seek in part 2 of the bill were not what the vast majority of law enforcement officials were seeking in this country. That's exactly where the concerns have come from these privacy groups and from the Privacy Commissioner.

When a commissioner, who ultimately serves at the pleasure of the federal government, wants to weigh in on this, the fact that the government, which claims there are no privacy concerns in the bill, is seeking to deny him the right to testify is, in and of itself, incredibly concerning. It doesn't want to hear what he has to say, because it knows he's right.

It was interesting. If you watch the public safety committee meetings from last week, there were actually government witnesses who questioned the motives. They didn't impugn the motives, but questioned the motives of the Privacy Commissioner. The response by the government was to not allow the Privacy Commissioner the opportunity to come and answer for himself, answer for his own motivations, and speak to amendments that he put forward on ways to improve the bill and ways to minimize and mitigate the harms.

On the one hand, we had the Public Safety Minister coming out and saying the government was open to amendments, but on the other hand, refusing to commit to any substantive amendments that would actually deal with the requirement to build back doors into electronic systems, that would deal with the broad retention and definition of metadata, that would deal with the broad ministerial authority that the minister is trying to give himself, and that would deal with, and this is particularly insane, the encryption issue.

On the one hand, we had some government witnesses saying they actually did want to get into encryption while the government was trying to say encryption was not at issue. This is exactly why the privacy implications of Bill C-22 are so important. If we have a public servant, a Privacy Commissioner, whose job it is to look at bills like Bill C-22, the only conclusion we can draw from the Liberal government's attempts to deny him the opportunity to speak is because it is scared of what he will say about the problems he sees in the bill.

Mr. Cooper's motion is basically reporting to the House of Commons, because this is a full parliamentary issue that needs to be raised here. The fact that the Liberal government has silenced and sidelined the Privacy Commissioner is incredibly important. I will be enthusiastically supporting this motion. I hope my Liberal colleagues will see the error in their approach in denying him the opportunity to testify and will also support this motion.

● (1635)

The Chair: Thank you, Mr. Lawton.

We're going to go to Mr. Strauss next.

This is just a reminder that we're not debating the merits and the value of Bill C-22. The motion here is that the committee report to the House its concern that the Liberal government has silenced and sidelined the Privacy Commissioner during this critical stage of consideration. That's what we're debating here.

Go ahead, Mr. Strauss.

Matt Strauss (Kitchener South—Hespeler, CPC): Thank you, Chair. It's an honour and a privilege to join this committee today.

I think this may be perhaps the most important thing I've done here personally as a member of Parliament so far in my time here. I am more concerned about this bill than I have been by any bill that has come forward in my time as a member of Parliament.

Through you, Chair, I'm here, really, to implore the Liberal members to take this motion seriously and to consider what is at stake here. I am not speaking to the particulars of Bill C-22 as my colleague, Mr. Lawton, already has.

I want to talk about the function of the Privacy Commissioner and the history of his office. Anyone can shout it out if they know, but does anyone know which prime minister instituted the Office of the Privacy Commissioner of Canada? I won't wait too long for the answer: It was Pierre Trudeau. Which prime minister appointed the current Privacy Commissioner? It was his son, Justin Trudeau.

This is an office instituted by Liberals. The current holder of the office was nominated by Liberals, and his office has a $40-million budget every year that is paid for by the Liberal government to do important work, such as investigate, consider and advise the committee about Bill C-22.

It is shocking, then, and this committee ought to take very seriously the fact that the public safety committee has prevented him from testifying and has not allowed him to depose his amendments to the committee for their consideration. This is a rush job, and that's very peculiar.

One other thing I wanted to say about the history of the Privacy Commissioner's office is that I was looking at the commissioners who have been in this office in the past. One name that was familiar to me was that of George Radwanski, and he was known to me because he had an expense scandal.

What I didn't know was that he was a speech writer for Jean Chrétien before he took the office, so he was very much from the Liberal PMO. He was very much perhaps tied to this expense scandal thing that he had, but he is credited—if you look at his Wikipedia article—with stopping in 2023 the ability for law enforcement to read letter mail.

This lawful access business has been a going concern for 25 years. Liberals, with then justice minister Anne McLellan, tried to get it through. There was a public outcry. There was criticism from the Privacy Commissioner, and it did not go through. Conservatives, under then justice minister Vic Toews, tried to do it in 2013. There was a public outcry. There was criticism from experts. It did not go through.

We're repeating the same thing now. What I'm trying to show to the members opposite, many of whom I've come to know, like and respect during my time here—and Ms. Chagger, of course, whom I've known for longer than that because she's my parents' MP—is that this issue of privacy rights in Canada has required both parties to defend against the other party over the last 25 years. It's so critical that we have to ask the question: Why would the public safety committee try to prevent the Privacy Commissioner from coming to testify?

If asked, I think the Liberals on those committees would say that it's a rush job and that we've got to get it done in the next two weeks. That's just not true, Chair. As I said, it's been going on for 25 years. Every time it comes up, the public rises up to stop it. There's nothing about this that should go forward. It won't go forward.

I will say that when I watched what unfolded in 2013 when Vic Toews tried to get this through, I was scandalized. I'm very happy that I met the woman who became Stephen Harper's director of policy in 2013 and whose very first act in Harper's office was to withdraw legislation very similar to this. Conservatives can oppose it when their government is doing the wrong thing. The Liberals across from us can oppose it when their government is doing the wrong thing. I implore them to do that.

I would not be sitting here today as a Conservative member of Parliament if the Conservatives had not withdrawn that bill back in 2013. Whether this goes through or not, whether the Privacy Commissioner is invited or not and whether this committee raises it with the other committee or not, they should think about the sort of legacy that this can leave 10 years later.

Those are my comments.

I really urge them to vote for this motion.

Thank you, Chair.

● (1640)

The Chair: Thank you, Mr. Strauss.

I'm going to ask for more patience from our witnesses here and go to Mr. Hardy, followed by Ms. Chagger.

Go ahead, Mr. Hardy.

[*Translation*]

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you, Mr. Chair.

Again, it's not just happening here. It is happening in other parliamentary committees as well. The Liberals don't seem to be very transparent after all.

It is not even us, the Conservatives, who are opposing this, refusing to work or blocking the debates. It is a completely independent commissioner. This is someone who is urging caution because he has identified a problem with what is happening and would like to be able to testify.

That is essentially what Mr. Cooper's motion is saying. Here is what happened: The Liberals refused to allow this person to testify even though this person is an independent official whose specific job is to protect citizens' personal information. He is Canada's Privacy Commissioner. That is his job. He warned to be careful because the Liberals were moving too fast.

Once again, it's not that we don't want to work with our colleagues, which is what they seem to say all the time. However, we must follow the proper procedures. The processes must be followed. That's important. They must be followed to protect Canadians, our constituents, the people who vote. We must follow the processes. That's why all of this exists here—a Parliament, a structure—specifically to provide mechanisms that prevent things from moving too fast and prevent us from making mistakes.

There is an independent commissioner who has asked to testify, who says that this is an important issue, that it is 100 per cent his job, and that he spends his whole day ensuring that personal information is protected, yet the Liberals are not only refusing to call him to testify, but they are also trying to rush the passage of a bill as quickly as possible.

I understand that not much has been adopted in the past year. That's understandable. The Liberals were able to cobble together a majority behind the scenes. However, just because they have that majority today doesn't mean it's any less important to follow proper procedures. They have the majority; I know that. Every time they come in here, they're grinning from ear to ear. Suddenly, they're the kings of the world. I believe, however, that we must respect not only the processes but also the work of every member of Parliament. Moreover, this work is done for the citizens. It's done to ensure that we don't make mistakes and that, in the end, we achieve the best possible outcome for them.

To be perfectly clear, Bill C-22, which the Liberals are trying to rush through without even respecting the commissioners, will force telecommunications companies to retain all metadata on every Canadian for one year. This is no small matter. Not only is maintaining this entire database a massive undertaking for the companies, but it will also make it possible to track where we were, what device we were using, who we were communicating with, and our phone numbers. We're facing a situation that is neither simple nor trivial.

I don't understand why this kind of access to information has been treated so lightly. Furthermore, I don't see how it's very ethical for the Liberals to do this just to score political points. Ultimately, the point is that they've managed to pass laws, despite a track record that hasn't been very good over the past year, but rushing through this won't improve their track record.

I think it is extremely important for us to address this issue, examine it and allow the right witnesses to come forward and testify to help us draft sound legislation so that, on the one hand, we can truly help our police officers do their jobs, but on the other hand, we do not open the door so wide that our citizens would feel genuinely threatened when it comes to access to information and the protection of their data. They will lose even more trust in our institutions.

My colleagues are already tarnishing the reputation of our democracy. I'd really like to see that stop as soon as possible.

● (1645)

The Chair: Thank you, Mr. Hardy.

[*English*]

Ms. Chagger, go ahead, please, on the motion.

Hon. Bardish Chagger (Waterloo, Lib.): Thank you, Mr. Chair.

I don't know what to say, but I keep saying that I'm a new member of this committee, and I really do find that the work this committee does is valuable and important. I know, based on what's taking place in my inbox in the riding of Waterloo and so forth, that my constituents would be disappointed to know what's happening at committee today.

What's even more interesting is that, as we were sitting here and I was getting to watch the show, I was writing to my colleagues at SECU to ask what took place and what's going on. I asked them if they could give me some insights because of what Conservative members are here suggesting on a motion. I asked them just to remind me who is on that committee. It turns out that the member for Elgin—St. Thomas—London South does not sit on that committee. The member of Parliament for Kitchener South—Hespeler is not on that committee, which is really disappointing to me because he comes from a very intelligent region. They have come to take time from our committee where we are advancing a conversation that's really important to Canadians. Every member says it.

What my colleague sent to me said that the Privacy Commissioner has appeared as a witness during the study of the bill and provided a brief to that committee. That brief is publicly available for anyone who would like to see it. They noted that we had committee business at the ethics committee, and we do it in public, unlike most committees, so they were able to confirm that we could have discussed this motion last week, but no. Conservative members wanted to wait until we had witnesses lined up to appear at our committee on a study that's important. Two witnesses, who are gainfully employed taxpayers, are now getting to watch this show at ethics committee, because Conservatives cannot understand that their motion was voted down at another committee.

I would just state for the record that it's not up to this committee or any committee to tell another committee what to do, nor is it normal practice for commissioners to be appearing during clause-by-clause consideration. I would hope that we would think that our commissioners have important work to do. When it comes to scrutinizing legislation clause-by-clause, that's our job as elected officials. That's why we go to committee, and that's why legislation travels through its process.

I should just also note on the record that it's of note that, when the Privacy Commissioner was in front of committee, the Conservative members used that time to talk about how much time they didn't have rather than asking thoughtful questions. I would encourage Canadians, because I'm sure that there are many watching, to go and check out the testimony at that committee. Watch what happens at this committee.

That's just the approach. Conservative members have demonstrated time and time again that, when Canadians are hurting, they love it. It's sad, but they do. Whenever things are doing all right in our economy and people.... If you look at the job numbers, they're not great, but they're better than they've been in a long time. Conservatives have a really hard time with that.

At the end of the day, we're not in a campaign. We have been elected. We have work to do. Conservatives need to start understanding that Canadians need us to do that work. During a campaign, they can be their political stripe first, no problem. That's part of what it is but, between campaigns, we should be Canadians first. We should be fighting for our country first. We should hurt when people are hurting, but we should also be able to applaud and celebrate when things are going well.

Mr. Hardy is a member of this committee. Mr. Hardy talks about how processes should be respected.

Yes, Mr. Hardy, I agree. We should respect processes, and SECU committee members voted. We should respect those votes. Canadians voted. More and more, Canadians are understanding why once again they sent a Liberal government, because it's the only party right now.... I'll give a shout-out to other parties in the House, just not the official opposition. It's the official opposition that refuses to get to work. It's the official opposition that does not respect our witnesses who are here.

I know the next panellists have also appeared so, with that, I will speak amongst Liberal members.

I think Bloc members want to hear from witnesses, too. I'm going to assume that, and I'm confident because that's usually how they are.

To respect our witnesses, I will move to adjourn this debate.

● (1650)

The Chair: Thank you, Ms. Chagger.

It's a dilatory motion. No debate is required. The motion is to adjourn debate.

(Motion agreed to: yeas 6; nays 3)

The Chair: We are now returning to the witnesses.

Thank you for your patience, Mr. Ali.

[*Translation*]

Thank you, Mr. Boucher.

Ms. Lapointe, you have six minutes.

Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you very much.

We will be able to ask you some questions, Mr. Ali.

You mentioned earlier that you had two main recommendations for reducing the administrative burden. One of them concerns the 32-hour threshold, which has been lowered to eight hours. I'd like to hear your arguments on this issue again.

● (1655)

[*English*]

Muhammad Ali: Our recommendation to return it to the status quo, essentially, of 32 hours is partly to ensure that small organizations like small businesses that need to go to elected officials to talk about specific issues aren't captured as lawbreakers in that situation. They aren't professional lobbyists.

Professional lobbyists like me are abiding by the law. This is our day-to-day job. Our recommendation is to make sure the system targets the people who are actively lobbying, not those seeking help from local officials who don't have the resources to track everything and who are simply asking for help. They are not looking to fundamentally change government policy.

[*Translation*]

Linda Lapointe: Thank you.

There has been a lot of discussion at committee about recording meetings. You mentioned that all scheduled meetings are documented. However, what do you propose if a chance encounter takes place, for example, at the airport or while walking outside? Could you elaborate a bit more on that?

[*English*]

Muhammad Ali: Our recommendation is that meetings be arranged.

When we say, “oral” and “arranged”.... It's a request for a meeting. A location and time are set aside. Even at an airport, you could say, “Well, can we meet on that side of the hallway?” That's an arranged meeting.

Our purpose is this: You, as elected government officials, should have the right to determine when you meet with someone. To say that an email, a letter or a chance encounter constitute lobbying is simply not accurate because that's not how decisions are made. You should be afforded the opportunity to find an actual time.

Our recommendation is to not flood the system with communication reports that don't demonstrate lobbying took place. You, the elected officials, should be in a position to say, “Yes, I wanted to hear what you had to say, whether I agree or not. I want to have the right to choose.” Without that right to choose, you may disagree with, or never want to meet with, an organization that can claim they've lobbied you hundreds of times because they sent you 100 letters. You may not want to respond to that.

Giving you that opportunity and right to choose is part of why we recommend that “oral and arranged” be the barometer for filing a communication report.

[*Translation*]

Linda Lapointe: Thank you.

I have another question to explore this topic a little further: Do you think Canada should adopt a default enrolment model? Please explain your answer.

[*English*]

Muhammad Ali: I'm sorry, but can you repeat the beginning part?

[*Translation*]

Linda Lapointe: Do you think the committee should recommend adopting a default registration model for lobbyists here in Canada?

[*English*]

Muhammad Ali: We don't recommend a registration by default because there are situations, as I explained earlier, with certain organizations that may simply want to have a request to meet to seek help from an elected official. That is not a sustained lobbying effort.

What should be captured are sustained lobbying efforts because they demonstrate an actual effort by an organization to change government policy or at least advocate for it.

[*Translation*]

Linda Lapointe: I have another question regarding the distinction between salaried lobbyists and consulting lobbyists. Do you think there should be a distinction between the two?

[*English*]

Muhammad Ali: Yes, as the distinction exists currently, consultant lobbyists should be treated differently because they are paid to lobby on behalf of someone else. They should be required to register, no matter what. In-house lobbyists are what we recommend to maintain that threshold of significant part of duties.

[*Translation*]

Linda Lapointe: You wrote a briefing note that your organization submitted to the committee. It reads as follows: “From the outset, it is important to recognize that Canada already operates one of the most rigorous, transparent, and enforceable federal lobbying regimes in the world.” In fact, you referred to this earlier in your remarks.

Could you tell us more about this, give us some specific examples, and explain why this is the case?

[*English*]

Muhammad Ali: Certainly. If you look at the last 10 years, the number of issues that emerged were very small. When they did emerge as an issue, they were rightfully investigated by the commissioner and addressed appropriately, so the system is working.

Are tweaks needed? For sure. Tweaks can be made. However, our system, in comparison to other OECD...including even the G7, if you want to be more specific.... We do have one of the most rigorous systems in the world.

What are we trying to accomplish? Let's do things that achieve transparency but achieve the value of determining what lobbying is. Is this a sustained lobbying effort? The federal system is, by far, one of the most rigorous in the world.

● (1700)

[*Translation*]

Linda Lapointe: Thank you very much.

[*English*]

The Chair: Thank you, Mr. Ali.

[*Translation*]

Thank you, Ms. Lapointe.

Mr. Barsalou-Duval, you have six minutes.

Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ): Thank you very much, Mr. Chair.

Thank you to the members of the Standing Committee on Access to Information, Privacy and Ethics for having me here today.

I usually sit on the Standing Committee on Transport, Infrastructure and Communities, but for exceptional reasons, I'm here with you today. It must be said that the Standing Committee on Transport, Infrastructure and Communities has been at a complete standstill for the past month and a half, since the Liberal government forced an in camera meeting, which means that we can no longer move absolutely any of our work forward.

One of the things we were working on was the whole issue of the discount drivers, Drivers Inc., and in the course of the study we carried out and the work I did, I found all sorts of things that were very concerning and shocking. That is why I would like to move the following motion today:

> Whereas, in the context of the study on the "Drivers Inc." model conducted by the Standing Committee on Transport, Infrastructure and Communities (TRAN), the Canada Truck Operators Association (CTOA) is the only organization to have expressed explicit support for this model;
>
> Whereas the CTOA is the only organization to have refused to provide its membership list to the TRAN committee as part of the study;
>
> Whereas numerous Liberal elected officials and ministers have repeatedly appeared with members of the CTOA at public events or lobbying activities, including the organization's founding gala in 2023;
>
> Whereas the Chair of the TRAN committee attended a CTOA event where he was featured as one of the two headliners;
>
> Whereas Tejpreet Dulat, the CTOA's spokesperson, has been involved with the Liberal Party of Canada since 2015 and played a direct role in electing Mark Carney as Member of Parliament for Nepean and as Prime Minister;
>
> And whereas about 10 active members of the CTOA have contributed to the LPC's election fund by providing over $100,000 to the party since 2015;
>
> That the Standing Committee on Access to Information, Privacy and Ethics undertake a study on the links between the LPC and the CTOA.

The Chair: Thank you, Mr. Barsalou-Duval.

I just want to clarify one thing. You can't move a motion, but you can put it on notice. When you started, you said you wanted to move a motion, but you actually wanted to put it on notice. Do you understand?

Xavier Barsalou-Duval: My intention was to put it on notice. Is it necessary for me to read it again to officially put it on notice?

The Chair: No, that's fine.

Xavier Barsalou-Duval: The motion has been sent to the clerk, and it should be received—

The Chair: That was my next question: Has the clerk also received the motion?

Xavier Barsalou-Duval: The motion has been sent to the clerk, Mr. Chair.

The Chair: Okay. You have given notice of your motion. Thank you.

I will ask the clerk to send it to all members of the committee.

Xavier Barsalou-Duval: Thank you, Mr. Chair. I would like—

The Chair: You have the floor for two minutes and 45 seconds.

Xavier Barsalou-Duval: Thank you, Mr. Chair. Actually, I'm going to let my colleague Rhéal Fortin ask the witnesses questions.

The Chair: Okay.

Mr. Fortin, the floor is yours for two minutes and 35 seconds.

Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Thank you, Mr. Chair.

Good afternoon, Mr. Ali.

One of the proposals was to consider board members as well as partners or sole proprietors as employees, which would require them to register as lobbyists for the company they represent.

I'd like to hear your opinion. Are there distinctions to be made? Do you agree with this? If there are nuances, please share them with us.

● (1705)

[*English*]

Muhammad Ali: Our recommendation is that, to help create clarity and consistency in the registry, paid board directors should be filed as employees in a company. Currently, they have to be registered as consultant lobbyists, which is completely separate. If you were to look online to, say, X, Y, Z company, but then there's a board director who's separate, you would have to go and find that to know what you're looking for. In order to ensure consistency and clarity, and to connect them, they should be listed as paid directors because they also benefit from the changes they're asking for.

[*Translation*]

Rhéal Éloi Fortin: Is there a distinction to be made between paid and unpaid board members? Similarly, if there is a distinction to be made, does that pay necessarily have to take the form of a cash payment, or could the payment of points or other benefits be considered remuneration under the Lobbying Act?

[*English*]

Muhammad Ali: As to the distinction between paid and unpaid, for the unpaid there may be some basic stipends that are provided for travel, but as long as they're not paid they are not benefiting financially from a decision from the group, so they should not be required to register, whereas the paid ones, who are paid to be on the board, are financially benefiting from the decision. Our recommendation is that separation should be based on whether you financially benefit or not, so those who are not paid to be on the board should remain not required to register, while the ones who are paid to be on the board should be required to.

[*Translation*]

Rhéal Éloi Fortin: Thank you.

The Chair: Thank you, Mr. Fortin.

[*English*]

Mr. Cooper, go ahead, you have five minutes, and then we're going to go to Mr. Chang after that.

We're getting to close to where we should be for the first hour, so I'm going to go with Mr. Cooper, and then Mr. Chang. I'm going to also invite Mr. Boucher and Mr. Ali to stick around if they want to for part of the second hour, as we switch over. Maybe there are some additional questions. If you're capable of doing that, then I'll invite you to do that as well, but we'll see where we get here.

Okay, Mr. Cooper, go ahead.

Michael Cooper: Thank you.

Mr. Ali, you stated in your opening statement that Canada has one of the most transparent lobbying registration regimes in the world. I think that's probably true, but it's not to say that it is fully transparent or is at where it should be at. I would note that in the case of what is reportable in terms of lobbying activities, it applies only to oral communications arranged in advance and initiated by a lobbyist. What is transparent about that?

Muhammad Ali: The reason that we recommend not to have everything filed—for example, letters and emails—is that you, as the elected official, or a government official in the minister's office, should have the right to ask, "Do I want to meet with this person or not?" I say that because, if you were to file, send letters or emails, as in one example—

Michael Cooper: I understand what you're saying, but it's very narrow. It's only oral communications, not written or other communications. It's only when it's initiated by the lobbyist—not someone else—and only when it is, of course, to a designated public office holder.

In other words, what is allowed is secret lobbying. If the lobbying occurs on a street corner, as opposed to in the member of Parliament's office, and if it was initiated by no one, then it's not reportable, and therefore it's secret.

Muhammad Ali: For that example of the street, technically the office...the location is simply a question of saying, "We would like to meet, and we can meet here at this moment. Let's chat." That is an arranged meeting.

Our point is that you are choosing to arrange this meeting. You could still, if someone bumps into you, say, "Actually I don't want to talk to you," and then move away. You should have the authority to say, "I don't want to engage and meet with you as a lobbyist."

Whether it's in the office, on the street, at the airport or wherever, as long as you said, "Yep, let's meet. Let's chat," you've acknowledged that this is an arranged meeting that you are going to have. You could have it at that moment, or you can have it three days later or at some other time.

● (1710)

Michael Cooper: Your recommendation is just to leave it as is, and what I'm putting to you is that this leaves a lot of room for a lot of lobbying that goes on under the radar. I would submit that this is a problem.

Similarly, with respect to registration by default, which is the recommendation of the Lobbying Commissioner, you stated that this would create a burden, particularly for small businesses that engage in a small number of lobbying activities.

There's a very simple solution, and that is to create an exemption. Why not provide a general rule of registration by default with a narrow carve-out, just as is the case in the British Columbia legislation?

Muhammad Ali: That's a great question. I would say that we are open to having a discussion. I think consultation is important to industry.

What makes sense to achieve an effective area that creates those exemptions? Organizations, like small businesses, that simply want to talk to their local MP for some basic help on an issue related to the CRA, or whatever it may be, should be allowed to speak to them without being captured by that registry.

Is there a world in which we find that exceptions can be created? We currently believe that, from an hours perspective, this can help determine sustained lobbying. The hours that are allocated include the preparation for it, requesting the meeting, the meeting itself and even a post-meeting debrief. That all fits within the hours allocation.

Any exemption should have some clarity about what that structure of meetings is, which is why we've recommended a return to the status quo, and then we're open to having discussions if the committee recommends changes.

The Chair: Thank you.

Mr. Chang, you have five minutes. Go ahead.

Wade Chang (Burnaby Central, Lib.): Thank you, Mr. Chair.

Mr. Ali, your submission includes recommendations regarding post-employment including a cooling-off period for former designated public office holders.

Could you outline the changes you're proposing and the rationale behind them?

Muhammad Ali: Our recommendation is that, at the very minimum, we should reduce the hours to fit the parliamentary election cycle of four years. That would bring it closer to international and provincial standards. Most of those cases are actually between six months and two years. We are still at a very high standard.

Part of it is also that the ban itself can be a detriment for experienced private sector individuals to working in government or in the offices of MPs, which could then be captured at some point by the ban. Part of it is also to better align...so that there's clarity with the election cycle. That would also reduce the challenges on the post-employment side.

Wade Chang: Based on your review of other jurisdictions, how do they deal with the cooling-off period for former public office holders?

Muhammad Ali: Some use two years. I believe the U.K. operates on a two-year cycle in which you cannot meet with ministers or the Prime Minister's office.

There are some provincial examples where the department in which you worked and the Premier's office are restricted. This is because you actually worked with them; you know the policy; and you know the department officials, so achieving that cooling-off period is important. There are different examples in Canada and internationally.

Wade Chang: Thank you.

In your submission, you recommend that the proposed amendment to subsections 7(3) and 7(6) of the Lobbying Act apply to paid in-house lobbyists, but not to individuals serving on boards in a volunteer capacity.

Could you elaborate on this distinction?

Muhammad Ali: Yes.

Paid board directors are currently required to file as consultant lobbyists, so it's a separate registry entirely. Our recommendation is, for simplicity and transparency, for everyone to be in one registry. If you work for company XYZ, and you're a director who's paid to be on the board, you should be registered as if you're an employee because your advocacy directly benefits that company.

Anyone who's looking at the registry would have to seek a board member to find out whether that board member has registered, so it provides a bit more synergy by incorporating it into one registry.

● (1715)

Wade Chang: From your perspective, how can Parliament ensure that the act promotes transparency and accountability while avoiding unintended consequences that could discourage volunteer participation?

Muhammad Ali: I think an important part is to talk to industry. We're happy to collaborate and identify ways to improve it.

I think the Lobbying Act itself has some of our recommendations to help tighten things up so that less has to be left to interpretation by the commissioner, and it can be more black and white within the law, where it should be.

Examples include having a clear definition for “significant part of duties” and “undertaking”—what happens when you need to register for lobbying? There are recommendations that we think could tighten up with some changes by Parliament.

Wade Chang: In your submission, you recommend maintaining the current requirements set forth in sections 6 and 9, and sections 7 and 10 of the Lobbyists Registration Regulations.

Could you explain the rationale for preserving those provisions in their current form?

Muhammad Ali: Are you referring to the registrations by default?

Wade Chang: Yes.

Muhammad Ali: In terms of the registrations by default, as I was sharing earlier, our view is that there should still be some threshold for organizations that don't fall within the sustained Lobbying Act; they're simply reaching out for help.

The time allocations are for preparation, securing the meeting, debriefing and the meeting itself. Most meetings typically are about 30 minutes, so most of the time, what's allocated is not just being in meetings; it is the preparation that goes into it.

Currently, the interpretation is for eight hours. One meeting could be about eight hours with a combination of preparation, the meeting, a debrief and maybe a follow-up because you say, “Hey, I actually need more information. Come back to me.” In that scenario, you've already achieved over eight hours, so that's unfair to small organizations.

Wade Chang: Thank you very much.

The Chair: Thank you, Mr. Chang.

[*Translation*]

Mr. Fortin, you have the floor for two and a half minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Mr. Boucher, thank you for being here today.

I'd like to get your opinion on something we haven't really talked about yet.

In its definition of lobbying activities, the Organisation for Economic Co-operation and Development proposes to include all attempts to influence public opinion. Among other things, I can see that this includes grassroots communications, which involve asking the public to write to MPs to influence them on such and such a decision or bill. I would like to know what you think about grassroots communications like that.

Should we pay particular attention to that kind of activity in the definition of lobbying activities?

Maxime Boucher: Thank you very much for your question, which is important and complex.

We're talking about direct and indirect lobbying. Of course, when the lobbying isn't with public servants or elected officials, it's indirect lobbying, because it goes through grassroots communication, for example.

From my perspective as a researcher, I believe it can be good to know that election campaigns go beyond political institutions and are conducted externally in society.

It can also be good for the registration records to have information, for example, on the strategies deployed and on the fact that appeals have been made to the public. However, that's still very limited if there isn't any information on the money or efforts that have been invested in those strategies. The same goes for the number of communications.

Certainly, if people know the number of communications that are informal or very formal—organized, as we talked about—but they don't know how much money was invested in them, it's hard to know the impact and the extent to which the company contributed to those strategies and did so seriously. I would say that, yes, it's important to have that information, but that's only one part of it.

● (1720)

Rhéal Éloi Fortin: How could all the information be obtained? Are there conditions or a mechanism that have to be put in place?

Maxime Boucher: Yes, for sure.

In the recommendation on sources of funding, I indicated that priority should be given to disclosing those sources in political activities. This is found in a host of other laws, such as in the United States, where companies have to provide information on the thresholds of their budgets for lobbying activities. That way, it's known to what extent they contributed.

Yes, in a system that offers registration by default, you could perhaps find thousands of communications, but at least you would also know how much money was spent on them and whether a company really put a lot of effort into them—

Rhéal Éloi Fortin: Mr. Boucher, our time is up. Could you send us your recommendations in writing, whether they be in the form of a brief, letters or something else?

Maxime Boucher: I had sent my speaking notes, but yes, absolutely, I'll send you that.

The Chair: Thank you, Mr. Fortin.

[*English*]

I'm going to invite the witnesses to submit any further briefs that they may have to the committee. We are going to move on to the next panel after we suspend.

[*Translation*]

Mr. Ali and Mr. Boucher, thank you for your testimony today.

[*English*]

I apologize, as well, for the delay that happened, both in the vote and in the motion that was moved, but that is part of our business. We sometimes have to deal with that with witnesses.

I appreciate both of you being here. I'm going to suspend for a couple minutes until we move on to the next panel, thank you.

● (1720)

_____(Pause)_____

● (1725)

The Chair: Welcome back, everyone.

Before I introduce our witnesses, I will remind the witnesses that committee members may ask questions in either French or English. If you need interpretation, take a moment to prepare the earpiece and select the listening channel that you need. I'd also encourage you to listen to the end of the interpretation to make sure you have either a full question or a response.

Our witnesses for the second hour are, as an individual, W. Scott Thurlow, founder of Thurlow Law; and, from Democracy Watch, Duff Conacher, who is the co-founder.

Mr. Thurlow, you have up to five minutes to address the committee. Welcome back to committee, sir.

W. Scott Thurlow (Founder, Thurlow Law, As an Individual): Thank you very much, Mr. Chairman.

My name is Scott Thurlow. It is an honour to be here to share my thoughts and experience with the committee as it reviews the Lobbying Act. My experience with the act is not academic. It's practical.

My clients believe in a culture of compliance. It is my view that the government relations industry, writ large, is one that aspires to comply and to be transparent. They are collectively responsible for their actions and believe in clear and transparent rules that govern lobbyist registration. Any implication otherwise is pure fiction and contributes to a litany of negative stereotypes.

I want to be as clear as possible. The Lobbying Act is designed to be a disclosure act. It places an obligation on individuals to disclose their activities for conspicuous public scrutiny through the registry, which is ably managed by the lobbying commissioner and her team. The registry itself is extremely easy to navigate. It is searchable, and anyone can quickly figure out who is being lobbied and on what issue. The commissioner's team deserves top marks for this excellent tool. Any changes to the Lobbying Act that this committee recommends should be viewed through the prism of increasing transparency and improving access to the information the registry provides.

My testimony today may sound very different from what you have heard from other practitioners. I am not here to quibble about the technical aspects of some of the more controversial recommendations. I have views on all of them, but the minutiae of the rules are not nearly as important as ensuring that the system can instill confidence in the general public that they can access the information they need to hold their elected officials to account.

There are two broader principles that I would like to delve into.

First, former Prime Minister Harper's government introduced the Federal Accountability Act, and with it came a five-year ban on registerable activities for a small group of individuals serving in the highest offices. I verily believe the current blanket prohibition on registrations for former designated public office holders is ruinously unfair to hundreds of public servants who, in many cases, are at the very beginning of their careers. The fact that the Prime Minister is treated the same way as a 20-something who has worked in a minister's office for a year is beyond absurd, so I agree with the lobbying commissioner when she recommends expanding the class of designated public office holders, provided that it comes with the concordant ability to reduce the current five-year limitation period on registrations and registerable communications. A five-year ban was draconian in 2006, and it remains so today.

A second topic worth flagging with this committee is the conflict of interest provisions found in the lobbyists' code of conduct. I have many opinions. I can assure you that there are a significant number of registrants who feel their constitutional freedoms have been imperilled by the most recent changes to the code of conduct. We have a bright-line test that was established by Mr. Conacher's good work at the Federal Court of Appeal, and that standard of preventing a fundraiser from lobbying the beneficiary of their work is appropriate and balanced. Campaigns are staffed by volunteers. That volunteer activity is essential to protecting our democracy. To say someone who is engaged in free speech, free assembly and protecting their democratic rights should be barred from registration afterwards is an affront to our charter values.

In its Figueroa decision, the Supreme Court of Canada held that we must look beyond the words of the charter as it relates to our democratic rights. Section 3 must be interpreted to ensure the right of each citizen to meaningfully participate in the democratic process. This will mean different things to different people. In the case of Figueroa, it was to ensure that voters had access to information and to ensure an informed choice at the polls. I have seen many instances of registrants forgoing engaging in the democratic process because they thought it could limit their professional work. They wanted to campaign. They wanted to volunteer. They felt they couldn't. That doesn't sound like meaningful participation to me. The *post facto* prohibitions placed on lobbying in the code of conduct do not minimally impair our section 3 rights. In fact, they maximally impair them.

We can have reasonable limits on the constitutional rights of Canadians. I think it should be Parliament that does that, after careful consideration. It should not flow from guidance issued by an officer of Parliament. In the same vein, I think it's Parliament that should define what the significant part of duties test is, what the threshold for registration is and what that represents. That's what Ontario did in its statute with the 50-hour test. I think it's up to Parliament to set the limits on gifts and hospitality. I think you may see a trend here.

I have provided the committee with a series of recommendations in writing, and I would be pleased to expand on any of the thoughts laid out there in the questions from the members.

Thank you very much for your time.

● (1730)

The Chair: Thank you, Mr. Thurlow.

Mr. Conacher, I have your brief in my hand. It will likely go over five minutes. I really want to get the rounds of questions from the members in.

Go ahead. You have five minutes.

Duff Conacher (Co-founder, Democracy Watch): Thank you, Chair and committee members, for this invitation to speak on one of Canada's most important democratic government laws, the Lobbying Act, and the lobbyists' code. This is the fifth or sixth time I've been here.

I will be presenting in English.

[*Translation*]

I practise my French a lot, but my speech includes a lot of technical terms.

[*English*]

I will very soon be filing with the committee a detailed brief of much-needed changes to the act and the code that I'm summarizing today to close the huge loopholes that allow for secret, unethical lobbying, and to make enforcement independent, timely, transparent, effective and accountable. The Commissioner of Lobbying's recommendations call for only half of the key loopholes to be closed. The commissioner ignores some of the biggest loopholes. Also, these loopholes make enforcement very ineffective.

I've read all of the written submissions filed with the committee. Many of the submissions argued for keeping loopholes open or requested that a new loophole be opened. The committee should disregard all of these requests.

Secret, unethical lobbying is a recipe for corruption, a recipe for a waste of the public's money and a recipe for other decisions that protect private interests and violate the public interest. It also facilitates foreign interference.

Canada's law allows for more secret, unethical lobbying than the U.S.' laws and several other countries' laws, as the OECD representatives noted in their testimony.

Overall, Canada's Lobbying Act and the lobbyists' code are loophole-filled, and the enforcement system is negligently bad. Combined with the federal political donation system, with its much too-high donation limits, it means that Canada still has a secret, corrupt favour-trading system that essentially legalizes bribery, with Commissioner of Lobbying Nancy Bélanger and the RCMP covering up almost every violation.

Since January 2018, according to her annual reports, Commissioner Bélanger has let off, in secret, almost 20,000 violations of the act and the code involving an unknown number of lobbyists. She has not identified or penalized any of these law-breaking lobbyists, even though, despite what she has claimed before this committee, she could have found them all in violation of the code and named and shamed all of them, as a past commissioner did in one case. Overall, the commissioner and the RCMP have let off 99.9% of the lobbyists they have caught violating the act or the code. Only a few lobbyists have been investigated and only two have been charged—and one of those two was let off by the RCMP.

The commissioner and the RCMP are also illegally hiding their investigation records, and the Information Commissioner is investigating them both for violating the federal Access to Information Act.

A national survey in January 2025 found that more than 80% of Canadian voters want to know the details of all lobbying, and want lobbyists prohibited from fundraising, campaigning or doing other favours for politicians they lobby or will lobby.

To summarize briefly, the loopholes that need to be closed—almost all of which hide the extent of lobbying by big businesses—are as follows.

Unpaid lobbying is not required to be registered. The commissioner told this committee this is the biggest loophole in the act. However, bizarrely, she did not recommend closing this loophole. Toronto and Ottawa require disclosure of volunteer lobbying.

Up to eight hours a month of secret lobbying is allowed by each executive and employee at a business. While the commissioner's lowering the threshold from 32 hours down to eight hours was a long-overdue change, eight hours is still a lot of lobbying. A government lawyer told the RCMP some years ago that violations of any lobbying time threshold, like the current eight hours, will never be prosecuted.

Secret lobbying about the enforcement of a law or regulation, or for a tax credit, is allowed. Secret lobbying by business employees and executives for a government contract is allowed. Secret lobbying of political party officials is allowed, even though they can easily pass on the lobbyist's demand to the party leader.

Only oral, pre-arranged communications that lobbyists initiate are required to be disclosed, but who is actually doing the communicating is allowed to be kept secret. B.C. requires disclosure of all communications.

The amount spent on lobbying efforts is not required to be disclosed, unlike in the U.S. and other countries.

Lobbyists are allowed to secretly fundraise, campaign and do other favours for politicians they are lobbying.

The so-called five-year ban in the act on lobbying after leaving a public office position applies only to registered lobbyists. No one lobbying in ways that exploit the loopholes I just listed is required to register and disclose their lobbying. As a result, there is no five-year ban. Federal politicians and officials are allowed to leave office and start lobbying the next day, in secret and unregistered.

If someone can exploit a loophole so that they are not required to register their lobbying, then the few weak ethics rules in the lobbyists' code also don't apply to them, and they can do corrupting favours for the politicians they are lobbying or will lobby.

To stop unethical lobbying, the committee must call for the closing of the huge unethical lobbying loopholes that the committee, together with the commissioner, very unfortunately added to the lobbyists' code three years ago. These loopholes allow lobbyists to secretly fundraise and campaign for party leaders, politicians and parties and assist them in other ways, while lobbying them at the same time or soon afterwards. The loopholes essentially legalize bribery.

● (1735)

Finally—

The Chair: I'm going to have to stop you there, because we are over five minutes.

If you need to address any of the other points in the questions that members are asking, Mr. Conacher, you can certainly do that. All committee members have your brief, and it's available to them to look at.

[*Translation*]

Mr. Hardy, we'll start with you. You have six minutes.

[*English*]

Again, witnesses, if you need the earbuds in, put them in.

[*Translation*]

Gabriel Hardy: Thank you very much.

Thank you to the witnesses for being here today.

Mr. Conacher, the Privacy Commissioner of Canada has previously said before this committee that if a company takes steps to secure a contract, that's not lobbying. Lobbying is only when a company wants access to grants. The act already had a gap in that regard.

Today, let us take the example of a company executive who knows a minister or someone important and influential. The executive phones them up to inform them that they aren't within the eight-hour lobbying period and that they aren't a paid lobbyist. Would it be logical or acceptable for that call to not be considered lobbying?

[*English*]

Duff Conacher: No, simply applying through the procurement process in which all submissions are recorded and shared with everyone who's bidding is not lobbying.

If you make any communications outside of that, you should be required to register. Only consultant lobbyists are currently required to register for lobbying for contracts. It should be extended to all organizations. It is one of the biggest loopholes in the act.

[*Translation*]

Gabriel Hardy: Indeed, it opens the door to quite a broad range of things. We heard a number of witnesses say—and this didn't really shock me, but I found it a bit illogical—that if an MP goes for a coffee with someone who starts talking to them about their reality, the MP would have to register that activity as lobbying. However, in my opinion, that person would only be informing the MP about the reality of a citizen. One of the suggestions that witnesses have made was that any act of lobbying should be registered.

When a citizen tells us about their reality, do you think that's lobbying, or is it just an activity that involves informing an MP of what's going on in their riding?

[*English*]

Duff Conacher: If someone is communicating with you with regard to your decisions, then that's lobbying, and it should be registered.

The only exception should be if someone signs a petition or a letter-writing campaign through a website of an interest group. Then the interest group should have to register. The fact that the person just signed on to that letter-writing campaign or petition should not require them to be registered.

Otherwise, if you leave any loophole open for unpaid lobbying, like this issue of allowing business board members to be considered employees.... GRIC wants that. They also want, then, those people to be allowed to lobby for 32 hours without having to register. Lots of big businesses put former ministers on their boards, and then that minister spends 31 hours of the month on the phone lobbying, and they don't have to register. It never shows up. That's why GRIC wants that.

I wouldn't listen to anything that GRIC suggested. It was all self-interested and to keep things like this hidden.

[*Translation*]

Gabriel Hardy: I'm just trying to make a comparison, because I really want us to stick to lobbying activities. Lobbying exists, and it's important for us, the MPs, to know what's happening on the ground.

That said, I want to distinguish between a discussion with a coffee shop owner who is explaining their reality to me—which we are told should absolutely be registered, even if it adds to that owner's paperwork—and a discussion between a minister and the owner of a large company who is lobbying outside the eight-hour period.

I just want to be sure. It's clear in my mind, but I think allowing this discussion to take place would have a much more negative impact on society as a whole than asking every person who wants to have this kind of discussion to register, even if they're volunteers, working for free and trying to influence the government. I think that if we force every Canadian to record every discussion they have with an MP, they're clearly the ones who will suffer the most inconvenience.

● (1740)

[*English*]

Duff Conacher: If you want to have that carved out, which B.C. has—small organizations, unless they are dedicated to advocacy, do not have to register—there's one thing I think you have to add to it.

What we're trying to track is favour trading. If that small business owner is discussing with you their situation, and they've donated to you, fundraised for you, campaigned for you, volunteered and helped you get elected, they should be required to register. We need to track that conflict of interest. Are you helping them more than other constituents? Are you giving them more access than other constituents?

[*Translation*]

Gabriel Hardy: It's transparency.

[*English*]

Duff Conacher: Even though that's a small business, that needs to be tracked.

It's not just about government decisions; it's about what you do in your job and what you spend your time doing as an individual MP.

[*Translation*]

Gabriel Hardy: In fact, we want transparency.

Mr. Thurlow, I would like you to tell me something. If someone is caught lobbying when they shouldn't, because they crossed the threshold or for some other reason, what happens?

[*English*]

W. Scott Thurlow: It's going to be fact-dependent.

Just very quickly, I think your example is why we shouldn't have the automatic threshold for registration, because there are some small businesses.... Anyone who's interested in that can cross-reference their activities in the election cycle. They make a contribution that very conspicuously shows up in your own record. I think there are other tools there.

I've absolutely been involved with situations where, oops, you didn't quite register in time and enter into some kind of a compliance agreement. The goal should be to get the information into the registry as quickly as possible. The goal should not be to go after the made-up number of people who have transgressed the act in some way, shape or form. It should be to make sure that the information gets into the public domain as quickly as possible.

That would lead very nicely into the discussion about AMPs—the ticketing type of offences—and maybe that will help to allay some of the concerns that Mr. Conacher has in that regard. I'm not sure that they will work. I'm happy to have a more elaborate discussion about that enforcement mechanism.

Ultimately, the people I work with come with hat in hand. They say that they want to get their information into the registry as quickly as they possibly can and want help with compliance.

[*Translation*]

The Chair: Thank you, Mr. Hardy.

[*English*]

Thank you, Mr. Thurlow.

Is that a Habs lapel pin on your jacket?

W. Scott Thurlow: It is.

The Chair: I like you even more now.

W. Scott Thurlow: Thank you.

The Chair: I was once promised a Habs lapel pin, but I never received it.

W. Scott Thurlow: If it wasn't this committee, I would gladly give it you, but I don't want anyone to get the wrong idea.

The Chair: It's not under $200. I can't accept it.

Madame Lapointe, go ahead.

[*Translation*]

Linda Lapointe: Thank you very much, Mr. Chair. Maybe next year you'll be eligible for the Canadiens pin. This year, how can I say it, you were no longer eligible at a certain point. It's a long story, the Canadiens pin.

Thank you to the witnesses for being here.

Mr. Thurlow, you said earlier that you were here as someone with practical lobbying experience. For the benefit of the committee, could you share your experience and explain why you would be considered an expert witness for the review of the Lobbying Act?

[*English*]

W. Scott Thurlow: In addition to representing registrants and giving them advice on the Lobbying Act, I am also a registrant. They say that someone who gives themselves legal advice has a fool for a client.

I've been working on this act since the introduction of the Federal Accountability Act in 2006. I've been working on this with many people in the profession, including charities, small businesses and the individuals seeking non-financial changes in public policy because they believe it's the right thing to do, and it's the moral thing to do.

I have had the opportunity to engage directly with both the lobbying commissioner's office and the conflict of interest commissioner's office to ensure compliance with both of those acts. I've been doing that in the private practice of law since 2006.

● (1745)

[*Translation*]

Linda Lapointe: Thank you very much.

I assume you have looked at the recommendations. You're confirming that for me, okay.

Regarding recommendation 1, do you think it's necessary to move to a method of registration by default?

[*English*]

W. Scott Thurlow: I am not going to opine as to whether Parliament should do that or not. I think it creates a lot of problems, and it creates some of the problems Mr. Hardy referred to.

The current threshold is a strong one. We can have a debate about whether Ontario's system is better than Manitoba's system, which is better than Alberta's system. They all have slightly different thresholds. The new federal threshold is low. It's not horribly low, but it is creating a strain on small business. You have seen representatives from the Canadian Federation of Independent Business who have been here and have said that some of these requirements—the paper burden—are significant. That's something you need to be mindful of.

My recommendation isn't that the lobbying commissioner be allowed to pick some number and work from there. I think it should be Parliament that picks that number. You, through the democratic process, can build it into the act. You, through a recommendation of the committee, can give guidance. It shouldn't be only an officer of Parliament. It should have that parliamentary stamp of approval.

[*Translation*]

Linda Lapointe: Thank you very much.

You referenced SMEs. How could we strengthen the transparency of lobbying without discouraging legitimate citizen engagement? We talked earlier about everything related to the public, but also SMEs and non-profit organizations.

[*English*]

W. Scott Thurlow: There are a lot of different questions in there.

In working to promote the lobbying registration system, the commissioner has done an able job of communicating to registrants, but the people who don't register may not register because they don't necessarily know they have an obligation to do so. That is a target for the lobbying commissioner. She has, herself, admitted at this committee that she struggles to engage with those who don't gravitate towards the registration model. That type of compliance information is essential to the functioning work of the act.

The work of this committee is also something that can be shared through constituents. I would love to see some data on who uses the registry of lobbyists. I suspect it's mostly people who are within one square mile of this building. The lobbying commissioner could probably adduce that data quite quickly. You should ask her the next time she's here, because I think that metadata would be really interesting to look at in order to see whether or not your constituents in Mississauga Centre or the province of Quebec—outside Hull-Gatineau, which is within one mile of here, of course—are using the registry themselves. It would make for a very interesting conversation about its utility.

I think it's an excellent tool, but I have very different interests from most of your constituents.

[*Translation*]

Linda Lapointe: It's very interesting to hear that. Yes, there could be data broken down by the origin. The retail sector does this.

Based on your experience, are there many people who share the same point of view as Mr. Conacher?

[*English*]

W. Scott Thurlow: I'm not in a position to say how many people share Mr. Conacher's views. I'm sure there are a lot. His website has a lot of followers. I have contributed to Democracy Watch myself, mostly to get the newsletters. There are certainly lots of people who share those views.

Whether or not those views are the most important issue your constituents are facing on a day-to-day basis is, I think, an aspect for debate. If you go campaigning door to door, it might not rise up to that level. If you knock on Mr. Conacher's door, it would absolutely be the issue he talks about.

I think that's a better question for him.

[*Translation*]

Linda Lapointe: Thank you very much, Mr. Thurlow.

The Chair: Thank you, Ms. Lapointe.

Mr. Fortin, you have the floor for six minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Thank you to the witnesses for being here today.

Mr. Conacher, we have heard in committee that the Commissioner of Lobbying does not have immunity from prosecution, be it civil or criminal. That's a bit surprising since we thought that, in theory, all officers of Parliament had that immunity. Maybe it's just an oversight. I don't know.

I'd like to hear your thoughts on. What do you think? Should we grant that immunity to the Commissioner of Lobbying?

● (1750)

[*English*]

Duff Conacher: Sure. That's no problem.

[*Translation*]

Rhéal Éloi Fortin: That's a pretty short comment. I was expecting more.

You agree with that. However, do you know why the act doesn't already provide for it?

[*English*]

Duff Conacher: No, it's not a problem. She's never been sued.

A bigger problem is the fact that, since 2018, she has let almost 20,000 lobbyists off the hook after violating the law.

[*Translation*]

Rhéal Éloi Fortin: Yes.

[*English*]

Duff Conacher: Read her annual reports and you'll see. It's all in there. It's not made up. That's one of the most insulting things I've ever heard someone say to me.

W. Scott Thurlow: I wasn't trying to be insulting.

Duff Conacher: You said, “made-up”. It's not made up. It's in her annual reports. If you read her annual reports, you'll see. She's let off 99.9% of lobbyists she's caught violating the law—almost 20,000 people since 2018.

[*Translation*]

Rhéal Éloi Fortin: Mr. Thurlow, you agree that the commissioner should have immunity, right? Yes. Okay.

Mr. Conacher, the commissioner also says that she should have some power to impose penalties, if only administrative penalties, such as training, licence suspension and perhaps monetary penalties. What do you think? Would it, in fact, be a good idea to grant her more powers to impose penalties?

[*English*]

Duff Conacher: Yes. All officers of Parliament should have those powers, but she needs not only to have the power but also to actually be mandated to impose a penalty for every violation.

She could have found those almost 20,000 lobbyists guilty of violating the Lobbyists' Code of Conduct and issued a public ruling that would have identified them and named and shamed them, and she didn't in any of those almost 20,000 cases of violations. If you give her the power to levy administrative monetary penalties, from her record she won't use it 99.9% of the time, so she should be required to issue a penalty in every single case of a violation.

[*Translation*]

Rhéal Éloi Fortin: Why do you think she won't do it if she doesn't have to?

[*English*]

Duff Conacher: Why does she need to be required to do that, in order to penalize violations?

That's how you'll get more lobbyists registering on time and registering accurately: Have a penalty for not doing so. Right now, there's zero penalty.

Again, she could have named and shamed all of these. It's actually 19,822 lobbyists, according to her own annual report, who have violated the law since 2018. She could have named and shamed all of them, and she didn't name or shame any of them.

Give her the power to fine, but from her record, she's going to let 99.9% of them off without a fine. That's why she needs to be required. The penalties need to be mandatory.

[*Translation*]

Rhéal Éloi Fortin: Mr. Thurlow, I'll ask you the same question. Do you think she should be required to impose penalties or simply have the power to do so?

[*English*]

W. Scott Thurlow: That's not how prosecutorial discretion works. Prosecutorial discretion exists to both preserve the resources of the investigator and ensure that they're not putting too much of a burden on the investigatee.

I am not going to offer an opinion as to whether or not they should have the authority to issue AMPs. I will say that I'm not sure AMPs work. I still get parking tickets. I know that I could get a parking ticket. I still get them. I really try to avoid them, but from time to time, it happens.

I think we also need to have an understanding of how the triage of priorities works. If it is one day late, is that different from two days late? Is that different from three days late? Yes, yes and yes.

With the meagre resources that the office of the commissioner has—

[*Translation*]

Rhéal Éloi Fortin: I apologize for interrupting you, but I only have about a minute of my time left.

I understand your analogy of getting a ticket and paying it, but thinking that there will still be more in the future. However, we're talking about lobbying, and you're a lobbyist. You're the head of a lobbying firm. If the Commissioner of Lobbying told you that she was imposing a penalty, regardless of the penalty, wouldn't that have a greater impact on you than getting a ticket because you parked your car in the wrong place?

[*English*]

W. Scott Thurlow: I would like to think that would never happen because I treat this very seriously—

Rhéal Éloi Fortin: What if it happens?

W. Scott Thurlow: If it happened, of course I would pay it. Of course, I would be reminded of it, but again, we don't design the act for Scott. That would be great if we did design the act for Scott, but we design it for the entire population.

● (1755)

[*Translation*]

Rhéal Éloi Fortin: I'd like to hear your thoughts on another aspect.

We're tightening the criteria for lobbying. Actually, we're not tightening them—we're expanding them to include more activities.

In every riding, people often seek out their member of Parliament. People call me at my office every week. Business owners, chambers of commerce and citizens ask what they should do if they haven't received their immigration documents or their employment insurance benefits. Some businesses want to hire more temporary foreign workers. These are just a few examples.

Should this be considered lobbying? How should we handle these situations?

[*English*]

The Chair: I need a very quick response.

W. Scott Thurlow: That's the impossible choice that Parliament has in defining what is or is not lobbying.

I think that doing the work of your constituents should not be lobbying. I think that's doing your job and representing the voices of your community. There is a very clear test in the act of what isn't lobbying. You can have a very good conversation about that as well.

The Chair: Thank you.

[*Translation*]

Thank you, Mr. Fortin.

[*English*]

Mr. Barrett, you have five minutes. Go ahead, please.

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): Mr. Conacher, if I give you 60 seconds—my time is limited—can you share with us your methodology for the 19,822 offences that you pulled from the commissioner's annual report, sir?

Duff Conacher: Yes. It's very easy.

She has been doing audits of communications and the accuracy of communications, and she finds that certain numbers of those are inaccurate. She also tracks whether registrations are accurate or late. The numbers are in her annual report for each of those since 2018. You just add them up.

Michael Barrett: It's inaccurate filings and late filings as listed by the commissioner in her annual reports since 2018.

Duff Conacher: That's right. Some of them are short time periods, as Mr. Thurlow said. You have a sliding scale of penalties. One day late is a very small penalty, but many of them are six months, five months or three months late, and inaccurate again and again after they try to correct them.

Michael Barrett: Thank you.

How do we and how should we distinguish between a volunteer board member or representative from a local non-profit, a staff member at a local municipal agency, a business owner for an independent business and the vice-president of government relations for a large multinational when they're dealing with their member of Parliament?

The question is for both of you, starting with Mr. Conacher. Take a minute or less, if you could.

Duff Conacher: If you want to have a carve-out, I think B.C. does it right. Small organizations that are not there to advocate have a certain time threshold. If they are under that, then they're just dealing with problems. But I would add one thing that B.C. doesn't have, which I mentioned in response to Mr. Hardy's question. If they fundraised for you, campaigned for you or assisted you in some way, then they should be required to register. We need to track those conflicts of interest created by the favours they've done for you.

That's what this whole system is about. It's not just about transparency. It's about government integrity. Otherwise, all of those others, because it's organized lobbying, should be required to register. They're not just a volunteer or an individual.

Michael Barrett: Thank you.

Mr. Thurlow.

W. Scott Thurlow: I don't believe there's such a thing as a volunteer lobbyist. I believe in free speech. I believe in free assembly. I think having the nexus to "paid" is something that I can prove. If I were working for the RCMP and I talked to the café owner that Mr. Hardy mentioned, I wouldn't be able to tell if he was lobbying or not or if he was just complaining that there was a dog on his lawn. If he was being paid to do the work, that's something I could actually adduce as evidence in a court of law to allow for the offence to be established.

Should we differentiate on size? I think we do differentiate on size. The reason I think this is that as part of the commissioner's test, it's not one person, one man or woman; it's the collective of all those employees to the equivalent of one full-time employee. I think that is an aspect there.

Personally, I think as long as Parliament defines what that time is, the community will respond to it and recognize it for what it is.

Michael Barrett: The differentiation, from your response, is between paid and unpaid.

W. Scott Thurlow: Yes.

Michael Barrett: Okay.

I have 90 seconds left here, so I'll give you each 45 seconds. If Parliament were to adopt only one change to the act, what would it be? Do you have evidence that supports that it would be a substantive improvement?

Mr. Thurlow.

● (1800)

W. Scott Thurlow: I would change the designated public office holder provisions. I have met hundreds of people who have found it very difficult to find employment after working in government. I don't think we should have that type of barrier to public service. Very few cabinet ministers can't find some work to do. It's a little more challenging for 26- or 27-year-olds.

I think a sliding scale is appropriate. The sliding scale could go down as far as one year. That's what the test was a long time ago.

Michael Barrett: Mr. Conacher.

Duff Conacher: It would be the biggest loophole that the commissioner said—the unpaid lobbying and these time thresholds. You just have to eliminate them. They're huge loopholes that are mostly exploited by big businesses to hide their lobbying.

Michael Barrett: Again, that's going to paid lobbyists.

Duff Conacher: Unpaid lobbying should be covered. On just having the line of paid, the commissioner said it's one of the biggest loopholes. I don't know why she didn't recommend closing it.

Michael Barrett: All right.

Thank you both.

The Chair: Thank you, Mr. Barrett.

Mr. Al Soud, you have five minutes. Go ahead.

Fares Al Soud (Mississauga Centre, Lib.): Thank you, Chair.

Mr. Thurlow and Mr. Conacher, thank you both for taking the time to be with us today.

Mr. Thurlow, it's clear to me that you've been following the work we've been doing all along here in committee, so my next line certainly won't surprise you. I've been fairly vocal in saying that Mississauga Centre is home to one of the most vibrant small business scenes in the country. They're fundamental to our economy, but they're not always heard, because they're busy doing the work. They're busy feeding their families. It's coffee shops. It's Shawarma Stops. It's clothing boutiques. It's important to me that they always feel they can speak to me freely. I think it's great that people feel they can come up to me and say, "Hey, I own a little boutique just down the street, and here's my biggest challenge right now." People don't always feel as though their priority is worth writing in on, but when they see you around, just walking about, or when you walk in to ask for a cup of coffee, they're happy to explain to you what their biggest challenge is.

What impact could default registration have on businesses that occasionally communicate with federal officials but don't maintain a dedicated government relations staff?

W. Scott Thurlow: It's administrative burden. One of the edicts that all parliamentarians have heard come from the Prime Minister is that this government should be interested in reducing red tape, not creating it.

My personal view is that the smallest of businesses are busy doing other things. If they have a really big problem, they go to their chamber of commerce. They go to their larger trade associations. Those are the individuals who have more expertise with the registration process.

I would use this opportunity, though, to say that if any of these small business people are paid board members for the Retail Council or whatever, the Retail Council should be able to handle their registrations. This is another one of those areas where it just makes sense that the experts who are dealing with this type of administrative work be able to include them.

I don't see it as nefariously as Mr. Conacher does. I see it as these are not experts in government paperwork. These are people who don't want to have another registration. You can lower the limit for the registration if you want, but they should be allowed to have the fiduciary responsibility that they have reflected in the registration for that organization.

Fares Al Soud: Thank you.

Based on your practical experience advising clients, which aspects of the current Lobbying Act are working effectively and should be preserved during this review, and which aspects perhaps aren't and should be revisited?

It's a big question, forgive me.

W. Scott Thurlow: In my opinion, I think we have a very clear definition of what registerable communication is.

I just want to go back to the last panel, because there was a little bit of a miscommunication about who has to register and who has to report. If you're being paid to do the work, you have a registration obligation based on the threshold. It's not a communications obligation. The communications obligation is triggered once you're registered. If you are registered and then you have that spontaneous conversation, if it's oral and arranged in advance, it would be captured. Under the commissioner's recommendations, it would be all of those spontaneous communications about registerable activity.

I think that's going to cause way more problems for the people at this table than it's going to cause for the lobbying community, because you are also going to have to track that information for verification of whether or not there has been a violation of the act...apparently 19,000, which I will take at face value.

As for what's not working so well, I would like to see the commissioner have further powers to exempt. I would like to see the commissioner have discretion to say, you've only worked in government for nine months, we're going to give you a little bit more leeway as it relates to how long your prohibition should be. I think it's a little weird that someone should be prohibited for longer than they actually worked in government, but again, there's a sliding scale there.

There are certain people in government who have a little more influence, and so they're going to be treated a little bit differently. However, if you're limited to one department, maybe you should be limited to that department for what you can or can't do. It shouldn't be all of government, for example.

I think that's something that you could take valuable committee time to look at. This is something that impacts people's professional lives, 100%, both at the beginning of a career and at the end of their career. They might say, “I'm going to retire at a certain time and I'd like to share that expertise in the private sector.” That sometimes gets in the way. Quite frankly, sometimes that's not what they signed up for.

Certainly, in 2005, before the Federal Accountability Act, there were people who had a different vision for what their retirement life was going to be, and then there was a five-year ban that was placed on them. It could be very difficult to do that type of planning with what I'm going to call a sliding scale, unless it's Parliament that establishes what that sliding scale is.

● (1805)

Fares Al Soud: In the 15 seconds I have left, what are your thoughts on recommendation number nine as it pertains to grassroots lobbying?

W. Scott Thurlow: I don't love it. I think grassroots lobbying is free speech.

If you choose to tweet towards your office in Mississauga Centre, that is pretty conspicuously in the public domain. It has its own accountability mechanism by the fact that it is, in fact, in the public domain.

Should people who organize those campaigns have a registration obligation? Absolutely. However, the people who engage in them, I think that's a little bit too close to regulating speech.

The Chair: Okay. Thank you, Mr. Thurlow.

Thank you, Mr. Al Soud.

[*Translation*]

Mr. Fortin, you have the floor for five minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Mr. Thurlow, I'd like to pick up where we left off a few moments ago regarding the work of MPs. As an MP, I experience this firsthand. I deal with it constantly. I often think about how this should all be structured.

For instance, say someone comes to see me to discuss an issue. It could be a cultural community, an advocacy group or whatever. They ask to meet with me, and we spend half an hour or an hour talking about whatever their organization's issue is. I don't feel I'm obligated to declare anything about it, but perhaps I should.

I'd like to hear your thoughts on this. You said that this is precisely what needs to be clarified. How do we clarify it, and where do we draw the line?

[*English*]

W. Scott Thurlow: The first thing you can do is just ask them. For 20 years, parliamentarians have been asking, “Are you a registered lobbyist, yes or no?” I would guess that most people would know if they should be a registered lobbyist. If their answer is, “No, I'm not being paid to do this”, that's the end of the conversation right now.

The second point that I would make in response to what you just asked is, Parliament did a really good job of articulating some of the things that require registration. The one that could benefit from a little bit more parliamentary decision is what a change in policy is. Depending on where you sit, a change in policy could be very broad. For a piece of legislation, I can figure out what that is. There's a website that lists all the statutes. If it's about advancing a new piece of legislation, I can figure that out very quickly, but a change in policy I think could have a little bit more definition lumped into it.

The other thing that could help Parliament is a preambular statement about what lobbying is or isn't. To specifically say that the work of a member of Parliament working with his constituents does not constitute lobbying or shouldn't constitute lobbying has no effect in law, I think, but does give guidance to the commissioner to say what the intent of Parliament is.

[*Translation*]

Rhéal Éloi Fortin: At the beginning of your presentation, you said that the first question should be: Are you being paid to be here today or not?

We often meet people who are full-time employees of organizations. This is probably the most typical form of lobbying we encounter. Are you saying we should consider these people lobbyists and report these meetings?

[*English*]

W. Scott Thurlow: Absolutely we should, if they meet the threshold, which I think Parliament should set. This is one of the reasons there shouldn't be the registration by default. If it's the one person who is having their first conversation with you because it's going to affect their livelihood, that's not eight hours and that's not 32 hours. That's not 50 hours, as in the case of Ontario.

It should be up to Parliament to define what that is, and I think it should be a little bit higher.

● (1810)

[*Translation*]

Rhéal Éloi Fortin: I'd like to talk about the compensation criterion. Aren't there situations where a person isn't compensated but still derives some benefit from their actions? In such cases, doesn't the compensation criterion somehow skew the assessment?

[*English*]

W. Scott Thurlow: I'm not being paid to be here, and I'm getting a lot of personal satisfaction out of it. Should I register the work that I'm doing to influence you? Probably not.

What I would say is that, ultimately, it's financial. Finance is not just money. It can also be the increase in property value. It can also be the increase in share value. Open your mind to what that benefit could be.

[*Translation*]

Rhéal Éloi Fortin: Mr. Conacher, do you have anything to add on that?

[*English*]

Duff Conacher: As I said, the unpaid lobbying loophole has to be closed. It allows all sorts of people to.... Retired business executives who have been the head of the business for a long time and are doing a favour because they got to know all the cabinet ministers and top government officials during that time now volunteer to continue lobbying for the business that's paying them a pension. They are not captured right now at all. It has to be closed.

If you want to draw a threshold, B.C. has it right. Although, add in that if the person is a former public office holder or is somebody who has done a favour for you as an MP—campaigning, fundraising or any kind of assistance—then they are required to register, so we can track that trading of favours.

[*Translation*]

Rhéal Éloi Fortin: Thank you. I think that's it.

The Chair: Thank you, Mr. Fortin.

[*English*]

We'll go to Mr. Cooper and then Mr. Chang.

Go ahead for five minutes, Mr. Cooper.

Michael Cooper: Mr. Conacher, would you agree that there is a significant transparency gap insofar as only oral communications that are arranged, advanced and initiated by a lobbyist are reportable?

Duff Conacher: Yes, it's one of the biggest gaps. It should be closed. B.C. requires all communications, as you heard from the registrar when he testified. That gap should be closed because essentially it is hiding mostly the extent of big business lobbying—how many people are involved, and how much contact and access they have to key decision-makers.

Michael Cooper: Would you agree that it facilitates secret lobbying?

Duff Conacher: Yes, it does very much so. If you don't have to register again because of the time threshold, then you're also allowed to do favours for all of those people—fundraise or campaign for them—so it also facilitates unethical lobbying.

Michael Cooper: Would it be fair to say that this secret lobbying is widespread as a result of this gap and this loophole?

Duff Conacher: We don't know how widespread it is. We have some indication from the threshold being lowered down from 32 hours to eight hours. The commissioner's annual report, which was just released, says that registrations went up by 17% as a result of that. Communications registrations went up as well because there are more people registered, and they're communicating. Obviously, if we closed the communications loopholes, we would see much more lobbying registered and disclosed.

Michael Cooper: We have heard testimony that somehow anything other than the status quo would be burdensome. It seems to me that we ought to be looking at the nature of the activity. Namely, is it lobbying, or is it not lobbying? If it is lobbying, then it should be reported.

Would you agree?

Duff Conacher: Yes, and if you're really concerned about this burden, something systemic could be done: Reverse the onus and just have all of you and all public office holders register in the registry people who communicate with you with regard to your decisions. That would take the burden off all lobbyists and put it onto the government. However, the commissioner has testified that there isn't really any burden.

I agree. I've done the registration. It doesn't take long. The updates don't take long. I have a lot of other things to do. Democracy Watch only has a couple of staff people. I have a ton of things to do, but it's something that takes almost no time at all to keep updated.

Michael Cooper: It just seems perfectly reasonable to me that if you're involved in a matter of policy and you take it upon yourself to lobby a public office holder—and you didn't initiate the meeting in advance but you stop the public office holder at the airport or at a reception—then it should be very easy to understand that that's lobbying and, therefore, should be reported.

● (1815)

Duff Conacher: Yes. Every loophole that allows for secret lobbying also, therefore, allows for unethical lobbying, because you don't have to comply with the code. As a result, that's all a recipe for corruption, for waste of the public's money, for private interests being protected and for public interests being violated.

Michael Cooper: You referenced British Columbia. How has it worked in British Columbia over the past few years? Has it been overly burdensome?

Duff Conacher: No. The registrar testified here and said that this measure with, again, the carve-out they have—which I would modify somewhat for the smallest of organizations that don't really do ongoing advocacy—is fine. It's just, really, the way it should be done. Again, if you want to take the burden off, then switch to the reporting of the communications being done by public office holders.

Michael Cooper: I'll give the balance of my time to Mr. Hardy.

[*Translation*]

Gabriel Hardy: Mr. Thurlow, earlier you said it was simple: if a mistake is made, it'll be obvious and we'll know about it. The person will be taken to court, arguments will be made, and it will be proven that unethical lobbying occurred.

Over the past 10 years, we've had SNC-Lavalin, WE Charity, and ArriveCAN. How many of them went to court and lost? How many times has the act been enforced? How many times has what you're saying actually been proven?

[*English*]

W. Scott Thurlow: I have no specific information on any of those examples.

[*Translation*]

Gabriel Hardy: You work in this industry. Over the past 10 years, you must have seen someone in the industry who clearly engaged in lobbying and went to prison or was fined. You're saying you know of no—

[*English*]

W. Scott Thurlow: There's one very conspicuous example where someone was charged. It was a prison sentence that was imposed in that particular example. I'm not going to name them here because I don't think that's appropriate. You can figure out all on your own who it was.

The system can work. I'm not going to pretend that there aren't ways that we can improve how the law is enforced. The commissioner herself has said that that's a challenge she has from a resources perspective. If that is what Parliament wants to do, it should be Parliament that says that it wants that.

[*Translation*]

Gabriel Hardy: Okay.

[*English*]

The Chair: Thank you.

[*Translation*]

Thank you, Mr. Hardy.

[*English*]

Mr. Chang, you have five minutes. Go ahead.

Wade Chang: Thank you, Mr. Chair.

Mr. Thurlow, I'm from B.C. In your brief, you raised concerns about expanding the commissioner's enforcement power, particularly with respect to administrative monetary penalties. Could you explain those concerns and what lessons, if any, our Parliament should take from the B.C. experience?

W. Scott Thurlow: I'm fascinated by British Columbia. First of all, you don't get as much snow in Vancouver, so that's good. Also, they have the AMPs authority, and it's used sporadically. If we assume the same issues and complications that happen under the federal rules happen in British Columbia, they should have way more AMPs issued. There aren't very many AMPs that have been issued. They have also temporarily suspended the use of AMPs, so that's another interesting question that you might want to ask the commissioner about.

The one thing, though, that I think this committee could recommend, from a saving money and saving resources perspective, is borrowing infrastructure. British Columbia has borrowed the infrastructure from the federal lobbying registration process. That can be exported to all of the other provinces and maybe some of the larger cities that have it as well. That kind of sharing could reduce burden and create expertise as opposed to all of the different systems.

Quebec is very difficult. Just by way of example, it's a very different system. Some are a little bit easier; some are a little more burdensome. That's something, from an infrastructure, intellectual property perspective, that could be shared with all of the provinces to have that kind of one-window approach. Certainly it works for our taxes, so why couldn't it work for this, too? I think, if you interviewed all the commissioners of lobbying, you'd find that they spend a lot of money maintaining their registries. Maybe that's something we could do to reduce costs.

Wade Chang: Thank you very much.

Do you agree with the statement that Canada's lobbying regime is full of loopholes or secret lobbying, or do you agree with many of our witnesses who stated that our lobbying regime is one of the most robust and most rigorous in the world, and why?

W. Scott Thurlow: I absolutely agree with the second statement more than I agree with the first one. There are differences everywhere around the world. To say that one is better than the other will depend on the prism through which you look at the performance of those systems.

I am not going to celebrate the U.S. system, which is administered by the Internal Revenue Service. That is the last person you want administering the lobbying registration rules in Canada, I think. I also think that there's quite a bit of skepticism about whether or not they have similar problems, if not worse problems, in the United States about the interplay between lobbyists and political actors. Part of that is because of their contribution rules, which are a problem that we don't have in the same way.

I believe that we have the best system that I have seen. Can it be improved? Absolutely, it can be improved, but I don't think we should be making some of the more fundamental changes that have been recommended.

● (1820)

Wade Chang: Thank you.

Why do you believe the Lobbyists' Code of Conduct should remain focused specifically on the activities of registrants as they communicate with public office holders?

W. Scott Thurlow: It's called the Lobbying Act; it's not called the democratic freedom act. I think that the lobbying code of conduct should be about what you are doing as you are communicating, as you are lobbying. The first version of the code of conduct had this: Please tell the truth, please don't share secret information and please ensure that you are communicating with your various different clients. Don't lobby for both apples and bananas. You can only lobby for one. You can't have interests that are different from one another, though I find both delicious.

The new approach to retroactively look at different activities, which then places limitations on what you can do as a lobbyist, I think is beyond the purview of the Lobbying Act. I think we should focus on the registration to ensure that it's transparent and focus on the activities on a going forward basis, not what I used to do a long time ago.

Wade Chang: I guess my final question for you is this. From an administrative law perspective, what principles should Parliament consider when assessing proposals to expand the powers of the Commissioner of Lobbying?

W. Scott Thurlow: The very first administrative law principle that we have to ensure is the duty of fairness. To have new obligations placed on someone without the ability to have them freely and fairly debated in the House of Parliament is going to be a little bit of a problem. I would also like to ensure that, if there is a violation, there is no judge, jury or executioner situation that happens, which is one of the main criticisms of AMPs. It's that the person who finds the violation can then issue the fine that's associated with it.

I think Mr. Conacher is right when he says that sometimes that hand-off to the enforcement agencies doesn't happen the way that it should. I can't explain why that is, but, by the exact same token, I can't explain why the RCMP, the law enforcement agency, doesn't choose to pursue some of these matters. I think part of the issue there is prosecutorial discretion, and they are determining what is or is not something that's worthy of their time.

The Chair: Thank you.

I want to thank both of our witnesses for being here today as part of this study on the review of the lobbying legislation. Like other witnesses, if you have some other information that you'd like to provide to the committee, please send it in.

I know, Mr. Conacher, you've already indicated that you will be supplying a brief to the committee, so we look forward to that. I made a mistake earlier. I said your opening statement was the brief; it is not. I understand that.

I have no other business for the committee.

On Thursday, we'll have the finance minister and the Ethics Commissioner here on the Alto situation.

This meeting is adjourned.