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### *Lobbying Act* Five Year Review

By Cyrus Reporter

On May 14, 2012, the Parliamentary Standing Committee on Access to Information, Privacy and Ethics tabled its report with respect to the Statutory Review of the *Lobbying Act*. Section 14.1 of the Act, which came into force June 20, 2005, states that a comprehensive review of the Act's provisions and operation must be undertaken every five years.

### Committee Hearings

As a result of this legislative requirement, the Committee met, both in public and in camera, between December 13, 2011 and May 1, 2012 for a total of thirteen meetings. During this time, the Committee studied various aspects of the Act. This included the History of the Act, its Scope and Application, the Mandate of the Commissioner of Lobbying, and a review of the Commissioner's suggested amendments to the Act. The Committee also reviewed Lobbying at the Provincial and Municipal levels where applicable in Canada. A total of seventeen organizations and individuals appeared to testify at public hearings which took place between December 13, 2011 and March 1, 2012. Further, a total of twelve organizations and individuals provided the Committee with briefs on these issues.

The Standing Committee is composed of twelve Members of Parliament (M.P.) from all political parties. Currently, its sitting membership includes seven Conservatives, four New Democrats, and one Liberal. Pierre-Luc Dusseault (M.P. for Sherbrooke, NDP) serves as its Chair. Vice Chairs are Scott Andrews (M.P. for Avalon, Liberal) and Patricia Davidson (M.P. for Sarnia-Lambton, Conservative).

## Standing Committee Recommendations

The Committee has concluded that “the overall tenor of the testimony suggested that the Act is generally working well in accordance with its objectives.”<sup>1</sup> In reviewing the recommendations issued by the Commissioner of Lobbying, entitled “Administering the *Lobbying Act* — Observations and Recommendations Based on the Experience of the Last Five Years,” the Committee adopted four of the Commissioner’s nine suggestions. These are featured as recommendations 2, 4, 5, and 11 of the Committee’s final report.

In completing its Statutory Review of the *Lobbying Act*, the Committee made a total of eleven recommendations in its final report. These are:

**Recommendation 1:** All public servants serving in a Director General’s position, or serving in a more senior position than Director General, should now be considered Designated Public Office Holders and held subject to all applicable laws governing this designation.

**Recommendation 2:** Remove the ‘significant part of duties’ threshold for in-house lobbyists.

**Recommendation 3:** Eliminate the distinction between in-house lobbyists (corporations) and in-house lobbyists (organizations).

**Recommendation 4:** Require in-house lobbyists to file a registration, along with the senior officer of the company or organization.

**Recommendation 5:** Ensure that monthly communications reports contain the names of all in-house lobbyists who attended oral pre-arranged meetings [in addition to the senior reporting officer].

**Recommendation 6:** Allow board members (corporation and association directors), partners

and sole proprietors to be included in an in-house lobbyist’s returns.

**Recommendation 7:** Impose an explicit ban on the receipt of gifts from lobbyists.

**Recommendation 8:** Prohibit an individual or entity from lobbying the government on a subject matter, if they have a contract to provide advice to a public office holder on the same subject matter.

**Recommendation 9:** The five-year ban should be retained, and post-employment restrictions on public office holders should be interpreted and administered by a single authority.

**Recommendation 10:** Enshrine the administrative review process in the Act.

**Recommendation 11:** Empower the Commissioner of Lobbying to impose administrative monetary penalties. Perhaps consider temporary bans for breaches of the law (as in the Newfoundland and Labrador and Quebec provincial legislation).

The New Democratic Party noted that while they endorsed the above recommendations, they believe the government failed to address key aspects of lobbying reform. As such, they made additional recommendations.

- The Lobbying Commissioner must be empowered to continue investigations that have been handed over to the Royal Canadian Mounted Police.
- Consultant lobbyists must report the ultimate client of their lobbying in their monthly communications reports, not the firm for which they work.
- Enshrine immunity provisions for the Commissioner of Lobbying and her delegates as found in Sections 18.1 and 2 of the *Auditor-General Act* and other Acts.
- The Commissioner of Lobbying must retain a formal mandate to educate lobbyists, public

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<sup>1</sup><http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5579611&Language=E&Mode=1&Parl=41&Ses=1>

office holders, and the public about the Canada's lobbying rules and regulations.

- A list of all Designated Public Office Holders must be maintained online by the Office of the Commissioner of Lobbying so as to avoid any confusion.

It should be underlined that the Committee's report contains recommendations only – changes to the Act would necessarily require legislation. However, on many points there is broad consensus on areas for future changes to the Act.

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