



Office of the Commissioner  
of Lobbying of Canada

Commissariat au lobbying  
du Canada

REPORT ON INVESTIGATIONS

# SPONSORED TRAVEL PROVIDED BY LOBBYISTS

APRIL 2019

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## **Preface**

This report is submitted to the Parliament of Canada pursuant to section 10.5 of the Lobbying Act (Act) R.S.C., 1985, c. 44 (4<sup>th</sup> Supp.).

After conducting an investigation, the Commissioner of Lobbying prepares a report that includes findings, conclusions and reasons for the conclusions.

The Commissioner is required to submit the report to the Speaker of the Senate and the Speaker of the House of Commons. Each Speaker tables the report in the House over which they preside.

The Lobbying Act ensures the transparency of federal lobbying. It requires paid lobbyists to publicly register their lobbying activities and to report their communications with designated public office holders. The Lobbyists' Code of Conduct establishes the principles and rules of ethical behaviour expected from lobbyists required to register their activities under the Lobbying Act.

For their part, public office holders, including members of the Senate and House of Commons, must follow the standards set out in their respective ethics regimes.

These instruments work together to enhance the integrity of government decision making.

THIS REPORT WAS TABLED BY:

**Nancy Bélanger**  
Commissioner of Lobbying of Canada

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## Executive summary

This report provides the results of parallel investigations conducted by the Office of the Commissioner of Lobbying involving 19 corporations and organizations (subject organizations) that provided sponsored travel to members of the House of Commons and the Senate (collectively parliamentarians) between 2009 and 2016.

The investigations sought to determine whether employees of 6 of the 19 subject organizations had contravened the Lobbying Act by engaging in unregistered lobbying. The Commissioner of Lobbying found that none of the individuals working or volunteering for these organizations were required to register on behalf of their respective organizations because the registration requirements of the Lobbying Act had not been met. As a consequence, none of these individuals were subject to the Lobbyists' Code of Conduct.

The investigations also sought to determine whether in-house lobbyists employed by the other 13 subject organizations had contravened the Lobbying Act by not reporting communications with parliamentarians to whom they had provided sponsored travel. The Commissioner found that none of the responsible officers for these 13 organizations contravened the Lobbying Act in this regard.

In addition, the investigations sought to determine whether any of these same in-house lobbyists had contravened the Lobbyists' Code of Conduct by providing sponsored travel to parliamentarians.

Rule 10 (Gifts) of the Lobbyists' Code of Conduct prohibits lobbyists from providing gifts to public office holders that they are not allowed to accept. Given that parliamentarians are expressly allowed to accept sponsored travel under both the Conflict of Interest Code for Members of the House of Commons and the Ethics and Conflict of Interest Code for Senators, the Commissioner found that none of the in-house lobbyists for these subject organizations contravened Rule 10 by providing sponsored travel to parliamentarians. In light of this finding, there was no further basis to assess whether any in-house lobbyists had contravened Rule 6 (Conflict of Interest) of the Lobbyists' Code of Conduct.

The Commissioner also found that none of these in-house lobbyists had contravened Rule 8 (Improper Influence) of the Lobbyists' Code of Conduct (1997) on the basis that they could not be understood to have "improperly" influenced parliamentarians by providing them sponsored travel that they are explicitly allowed to accept.

The Commissioner observed that lobbyists are not currently required to disclose that their lobbying occurred during sponsored travel or that they had previously provided sponsored travel to parliamentarians when they report subsequent lobbying in the Registry of Lobbyists.

Information to be disclosed in the Registry of Lobbyists is prescribed by the Lobbying Act and its regulations. Neither the Act nor the regulations confer authority upon the Commissioner of Lobbying to require the disclosure of additional information, including whether lobbying had occurred during sponsored travel or whether a lobbyist had previously provided sponsored travel to a parliamentarian.

As a result, this contextual information is not readily available to Canadians to the detriment of the overall transparency of the federal lobbying regime.

This gap in transparency could be addressed by amending the current disclosure requirements to include additional information that the Commissioner of Lobbying considers relevant to a full understanding of the context of lobbying activities. Such an amendment would ensure that sponsored travel is captured as part of the relevant context reported by lobbyists in relation to their communications with parliamentarians.

This amendment could be considered by Parliament during the next review of the Lobbying Act. It could also be addressed through a review and update of the Lobbyists Registration Regulations.



## **Introduction**

This report provides the results of parallel investigations conducted by the Office of the Commissioner of Lobbying (Office) involving 19 corporations and organizations (subject organizations) that provided sponsored travel to members of the House of Commons and the Senate (collectively parliamentarians) between 2009 and 2016. Given that these 19 investigations related to the same subject matter, I considered it appropriate and efficient to combine my findings into a single report.

This report sets out my findings, conclusions and reasons for my conclusions with respect to these investigations. It also provides a description of a transparency gap observed in relation to the Registry of Lobbyists (Registry) as well as an approach to close this gap.

# Investigations

## CONCERNS

In 2016, the Office received a letter alleging that, over a 7-year period, a number of organizations employing in-house lobbyists had breached the Lobbyists' Code of Conduct (Code) by providing sponsored travel to parliamentarians. The letter further alleged that other organizations that had also provided sponsored travel may have failed to register their lobbying activities in the Registry as required by the Lobbying Act (Act).

The Office conducted parallel investigations related to 19 subject organizations that provided 334 instances of sponsored travel to parliamentarians (representing a total of 103 trips, most of which involved more than one parliamentarian) between 2009 and 2016. These organizations are listed in Schedule 1.

These investigations sought to determine whether any of the responsible officers or employees of the subject organizations:

- failed to register their lobbying activities as required by subsection 7(1) of the Act;
- failed to disclose reportable communications as required by subsection 7(4) of the Act where such communications occurred during sponsored travel provided after September 2010, when parliamentarians became designated public office holders; or
- contravened the Code by providing sponsored travel to parliamentarians.

As part of these investigations, the Office:

- cross-referenced individual instances of sponsored travel reported in the public registries administered by the Office of the Conflict of Interest and Ethics Commissioner (OCIEC) and the Office of the Senate Ethics Officer (OSEO) with lobbying reported on behalf of the sponsoring organizations in the Registry;
- obtained statements from a senior representative of each of the subject organizations to confirm whether lobbying took place during sponsored travel and, if so, the details of such lobbying; and
- verified with current and former parliamentarians whether any lobbying took place in select instances of sponsored travel where no corresponding monthly communication reports were submitted.

## FINDINGS AND CONCLUSIONS

### Alleged unregistered organizations

Six (6) subject organizations that provided sponsored travel did not register any lobbying in the Registry.

For the reasons set out below, I found that the Act did not apply to any of these 6 subject organizations and therefore that none were required to register their activities. As a consequence, the Code did not apply to any individuals working for these organizations.

#### **Anatolian Heritage Federation**

#### **Iran Democratic Association**

#### **One Free World International**

These 3 subject organizations provided sponsored travel to encourage and facilitate intergovernmental relations between Canada and Turkey, to attend conferences on Iranian democratic issues, and to build bridges and raise awareness on humanitarian issues, respectively. Organizations are not required to register unless they employ individuals to communicate with public office holders in respect of reportable subjects and unless such communications constitute a significant part of the duties of the equivalent of one employee. As these organizations were all volunteer-based and therefore did not employ in-house lobbyists and, in any event, given that the communications with public office holders were not on reportable subjects, I found that the responsible officer for each of these organizations was not required to register under the Act.

#### **Friedrick Ebert Stiftung Foundation (FESF)**

This subject organization provided sponsored travel for parliamentarians to attend and speak at international relations conferences. FESF's representative in Canada stated that the trips were to further FESF's goal of fostering international dialogue on applying pluralism to foreign affairs. FESF's representative in Canada holds a part-time position and works an average of 20 hours per week, less than 4 hours of which involves communicating with public office holders to provide briefings on German politics when requested and to arrange logistics of travel as needed. Given that the FESF's communications with public office holders did not meet the significant part of duties threshold and, in any event, given that the representative did not communicate on reportable subjects, I found that that the responsible officer for FESF was not required to register under the Act.

### **Chinese International Economic Cooperation Association (CIECA) Taipei Economic & Cultural Office (TECO)**

These 2 subject organizations provided sponsored travel in order to familiarize parliamentarians with the political and economic situation in Taiwan. They each stated that they did not engage in lobbying requiring registration under the Act. Parliamentarians contacted by the Office confirmed that no reportable communications had occurred during sponsored travel provided to them by either of these organizations. As I found no evidence of communications on reportable subjects, neither of the responsible officers for these organizations was required to register under the Act.

### **Alleged unreported communications**

Thirteen (13) subject organizations that provided sponsored travel to parliamentarians had registered their lobbying in the Registry. The investigations sought to determine whether any of these organizations failed to report any communications they had with parliamentarians during the sponsored travel.

The Act requires registered lobbyists to report, on a monthly basis, any oral communication with a designated public office holder if the communication was arranged in advance and concerned one or more of the following subjects:

- the development of any legislative proposal;
- the introduction, passage, defeat or amendment of any bill or resolution;
- the making or amendment of any regulation;
- the development or amendment of any policy or program; or
- the awarding of any grant, contribution or financial benefit.

Any communications on any of the reportable subjects listed above that took place during a sponsored trip were considered to have been “arranged in advance.”

Parliamentarians became designated public office holders in September 2010 following an amendment to the Designated Public Office Holder Regulations. Accordingly, the responsible officers of these 13 subject organizations were only required to report communications on reportable subjects that they or their employees had with parliamentarians **after** this amendment took effect.

Based on the information collected during the course of the investigations – including information received from current and former parliamentarians who had accepted sponsored travel – and for the reasons set out below, I found that none of the 13 subject organizations had contravened the Act.

**Armenian National Committee of Canada**  
**Canadian Union of Public Employees**  
**Cenovus Energy**  
**Public Service Alliance of Canada**  
**Queen's University**  
**United Food and Commercial Workers International Union**  
**United Steelworkers of America**  
**WestJet**

These 8 subject organizations had provided either 1 or 2 trips during which each had sponsored at most 3 parliamentarians. The purposes of these trips, as explained by these organizations, included:

- observing the status of Syrian refugees and commemorating the Armenian Genocide (Armenian National Committee of Canada);
- facilitating speaking engagements by parliamentarians (Canadian Union of Public Employees, Public Service Alliance of Canada, United Food and Commercial Workers International Union and United Steelworkers of America);
- participating in academic conferences in England (Queen's University);
- participating in a charity hockey game (Cenovus); and
- participating in an inaugural flight to Ireland and viewing the expansion of regional operations (WestJet).

Parliamentarians contacted by the Office confirmed that no lobbying occurred during the trips that they accepted.

In light of the purpose of these trips, the history of compliance of these organizations and the confirmations provided by parliamentarians that no lobbying had occurred, I found that the responsible officers of these organizations were not required to file any communication reports in the Registry.

**Cameco Corporation**  
**Results Canada**  
**World Vision**

Responsible officers for these 3 subject organizations had filed monthly communication reports in the Registry corresponding to dates on which they provided sponsored travel to parliamentarians.

- Cameco Corporation provided 1 trip to 4 parliamentarians in 2009 to tour a uranium operation in McArthur River, Saskatchewan. Cameco confirmed that a communication that could possibly constitute lobbying took place during this trip with a parliamentarian who was a minister and therefore a designated public

office holder at the time. Out of an abundance of caution, Cameco filed a monthly communication report to account for this communication.

- Results Canada filed monthly communication reports corresponding to 10 of 13 trips provided to 23 parliamentarians.

Results Canada informed the Office that it had omitted reports for communications that had occurred during 3 trips (February 2010, February 2011 and August 2013). Results Canada stated that these omissions had been made with no intention of non-compliance during a period of transition in leadership and senior staff, which viewed these trips as “educational delegations” to raise awareness about the impact of Canada’s development efforts overseas. In accounting for these omissions, Results Canada stated that it may have been operating under the understanding that communications during these trips did not constitute lobbying under the Act.

Parliamentarians contacted by the Office confirmed that the 2011 and 2013 trips provided by Results Canada involved general discussions regarding the importance of continued support for global development initiatives. One parliamentarian added that Results Canada had not made any direct requests.

In light of the above, I accepted Results Canada's explanation as to why it had not submitted communication reports for 3 of 13 trips. Given Results Canada’s history of compliance, including that it had properly reported almost all of its communications corresponding to sponsored travel, I asked Results Canada to submit reports for the communications its in-house lobbyists had with parliamentarians in 2011 and 2013. Despite the passage of time since these trips were provided, I made this request in order to ensure transparency where lobbying may have occurred. Results Canada subsequently submitted monthly communication reports corresponding to these two trips.

Results Canada was not required to report any communications in relation to the trip in February 2010 as parliamentarians were not deemed to be designated public office holders under the Act until September 2010.

- World Vision provided 3 trips involving 11 parliamentarians to foster international development education. World Vision submitted communication reports corresponding to 2 of these trips and stated that no lobbying occurred during the other trip. Parliamentarians contacted by the Office confirmed that no lobbying occurred during the trip in respect of which no report had been submitted. I found that the responsible officer of this organization was not

required to file a communication report in the Registry corresponding to this trip.

In light of the above, I found that the responsible officers for these 3 organizations complied with the requirements of the Act.

**Centre for Israel and Jewish Affairs (CIJA)**  
**Engineers Without Borders Canada (EWBC)**

Responsible officers for these 2 subject organizations exceeded the reporting requirements of the Act by submitting communication reports even though no lobbying had occurred during sponsored travel provided to parliamentarians.

- CIJA provided 69 instances of sponsored travel relating to 13 trips. CIJA filed communication reports corresponding to 10 of these trips even though it had not lobbied any parliamentarians during the sponsored travel. CIJA explained that it takes measures to ensure that no lobbying ever takes place on these trips. CIJA stated that the trips were “parliamentary missions” to Israel and that these trips were educational in nature. CIJA further stated that communication reports were submitted to identify the general subject matter of the trips and in order to be transparent. Parliamentarians contacted by the Office confirmed that no lobbying occurred during the trip they accepted for which no communication report had been submitted.
- EWBC provided 5 instances of sponsored travel relating to 3 trips. EWBC submitted 8 communication reports (7 in relation to each day of 1 trip, 1 for a multiday trip, and none in relation to a trip that occurred before EWBC had registered). The organization stated that the trips were educational in nature, and that no lobbying occurred. EWBC also stated that communication reports were submitted to indicate that sponsored travel took place and in an effort to be transparent.

These organizations reported communications even when they had not engaged in lobbying during sponsored travel. Although they exceeded the reporting requirements of the Act in order to identify the general subject matter of the trips they sponsored and to be transparent, I informed them that I consider this practice to be problematic as such reports give the inaccurate impression that lobbying took place during sponsored travel. I further notified them that this practice should be ceased to ensure the accuracy of the information reported in the Registry.

In light of the above, I found that the responsible officers for these organizations had not contravened the Act.

## Alleged contraventions of the Code

The investigations also focused on whether any of the in-house lobbyists employed by the 13 subject organizations had contravened their obligations under the Code by providing sponsored travel to parliamentarians. In particular, the investigations sought to determine whether any of the in-house lobbyists employed by these organizations had contravened Rules 6 or 10 of the Code. Instances of sponsored travel that were provided before the current version of the Code came into effect in December 2015 were assessed in relation to Rule 8 of the previous version of the Code (1997).

The issue of whether any of the in-house lobbyists had contravened the current or previous versions of the Code by providing sponsored travel to parliamentarians was common to all 13 subject organizations. The analysis as to whether any in-house lobbyists had contravened Rules 6 or 10 of the current version of the Code (2015) or Rule 8 of the previous version of the Code (1997) is, therefore, common to the lobbyists for all 13 subject organizations.

### *Lobbyists' Code of Conduct (2015)*

Rules 6 through 10 of the Code (2015) relate to conflicts of interest. Rule 6 sets out a general prohibition that precludes lobbyists from proposing or undertaking any action that would place a public office holder in a real or apparent conflict of interest. Rules 7 through 10 of the Code are explicitly identified as more specific formulations of the general prohibition in Rule 6. These rules apply in specific contexts, namely in relation to preferential access (Rules 7 and 8), political activities (Rule 9) and gifts (Rule 10).

#### *Gifts (Rule 10)*

As the allegations under investigation engaged the specific context of Rule 10 of the Code, I began by analyzing whether the in-house lobbyists employed by the subject organizations had contravened this rule by providing sponsored travel to parliamentarians.

Rule 10 prohibits lobbyists from providing gifts, favours or other benefits to public office holders they either are lobbying or will lobby that the public office holders are **not allowed to accept**.

In providing sponsored travel to parliamentarians, the subject organizations paid for such things as the cost of their transportation to and from the destination of the travel and their accommodation during the trip. Paid transportation and accommodation were determined to constitute "gifts," which have been interpreted



to include anything of value that is given for free or at a reduced rate when there is no obligation to repay.

The analysis of Rule 10 therefore turned on the acceptability of the sponsored travel that the subject organizations had provided to parliamentarians and, more specifically, whether the sponsored travel constituted a gift that these public office holders “are not allowed to accept.”

Subsection 15(0.1) of the Conflict of Interest Code for Members of the House of Commons (Members’ Code) and subsection 18(1) of the Ethics and Conflict of Interest Code for Senators (Senators’ Code) specifically exclude sponsored travel from the operation of the gift prohibitions set out in each of these codes.<sup>1</sup> Under each of these regimes, parliamentarians are explicitly allowed to accept sponsored travel that arises from or relates to their position. Such travel is required to be disclosed in the public registries administered by the OCIEC and the OSEO.

Given that parliamentarians are explicitly allowed to accept sponsored travel, I concluded that the in-house lobbyists employed by these 13 organizations had not contravened Rule 10 of the Code.

### Conflict of interest (Rule 6)

In light of my conclusion with respect to Rule 10, I determined that there was no further basis to consider whether the in-house lobbyists for these organizations had contravened Rule 6, the general prohibition against placing public office holders in real or apparent conflicts of interest, by providing sponsored travel.

I reasoned that, where it is determined that lobbyists have not contravened a specific and directly applicable rule of conduct, in this case Rule 10 of the Code, there is no residual scope to assess whether such lobbyists had nonetheless contravened the more general prohibition set out in Rule 6. In other words, where a specific rule permits a given type of conduct, it would be inconsistent and unfair to rely on a related and more general rule to assess whether that same conduct is unacceptable.

This analysis is supported by the fact that Rule 10 is explicitly identified as deriving from and representing a more specific formulation of the general prohibition. It is also consistent with established principles of interpretation which provide that, where two conflicting rules apply to the same set of circumstances, the more specific and directly applicable rule takes precedence over the more general rule.<sup>2</sup>

In addition, an interpretation of Rule 6 that would preclude lobbyists from providing sponsored travel to parliamentarians even though parliamentarians are expressly

allowed to accept such travel would create inconsistencies between the Lobbyists' Code, which is deemed not to be a statutory instrument,<sup>3</sup> and both the Members' Code and Senators' Code, which are covered by parliamentary privilege.<sup>4</sup> Given that the Lobbyists' Code and the Members' and Senators' codes regulate related spheres of activity at the federal level, I have adopted an interpretation of the relationship between Rules 6 and 10 of the Lobbyists' Code that serves to avoid such inconsistencies.

### *Lobbyists' Code of Conduct (1997)*

#### *Improper influence (Rule 8)*

Instances of sponsored travel that were provided before December 2015 were assessed under Rule 8 of the Code (1997), which is no longer in effect. This rule prohibited lobbyists from placing public office holders in a conflict of interest by proposing or undertaking any action that would constitute an "improper" influence on a public office holder.

In interpreting Rule 8 in *Democracy Watch v. Campbell*, 2009 FCA 79, the Federal Court of Appeal stated (at paragraph 52):

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Improper influence has to be assessed in the context of conflict of interest, where the issue is divided loyalties. Since a public office holder has, by definition, a public duty, one can place a public officer holder in a conflict of interest by creating a competing private interest. That private interest, which claims or could claim the public officer holder's loyalty, is the improper influence to which the Rule refers.

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Given that parliamentarians are expressly allowed by their respective ethics regimes to accept sponsored travel that arises from or relates to their positions as parliamentarians, lobbyists do not, in my view, divide parliamentarians' loyalties by providing sponsored travel they are allowed to accept.

This view is reinforced when ordinary definitions of "improper" are taken into account. The *Canadian Oxford Dictionary*, 2<sup>nd</sup> ed. defines "improper" as "not in accordance with accepted rules of behaviour". Seen in this light, lobbyists do not depart from accepted standards of conduct by providing parliamentarians with sponsored travel that relates to their positions as parliamentarians.

Taken together, I find that the lobbyists employed by the subject organizations did

not contravene Rule 8 of the Code (1997) on the basis that they could not be understood to have “improperly” influenced parliamentarians by providing sponsored travel they are explicitly allowed to accept.

## **Observation – No requirement to disclose sponsored travel in the Registry of Lobbyists**

The federal lobbying regime does not currently require lobbyists to disclose that sponsored travel forms part of the relevant context within which their lobbying of parliamentarians takes place.

The Act and its regulations prescribe the information that lobbyists are required to disclose in the Registry. However, they do not confer authority upon the Commissioner of Lobbying to require the disclosure of any additional information beyond that which is explicitly prescribed.

As a result, lobbyists are not currently required to disclose that their lobbying occurred during sponsored travel or that they had previously provided sponsored travel to parliamentarians when they report subsequent lobbying in the Registry.

### **Lobbying during sponsored travel**

As noted in these investigations, where subject organizations disclosed lobbying in the Registry, there is no indication that the lobbying occurred during sponsored travel.

Further, as also noted, 2 of the subject organizations indicated that they had filed monthly communication reports corresponding to the time period in which the sponsored travel had taken place even though their organizations had not lobbied any parliamentarians during the travel. Despite the fact that they were not required to file monthly communication reports in respect of these instances of sponsored travel, these organizations had done so in a good faith effort to identify the general subject matter of the trips they sponsored and to be transparent.

Notwithstanding these good intentions, I consider this practice to be problematic as such reports give the inaccurate impression that lobbying actually took place and do not explicitly indicate that sponsored travel was provided or include any of the relevant details of such travel. That said, the fact that these organizations used monthly communication reports to account for the sponsored travel demonstrates that the existing reporting mechanisms in the federal lobbying regime are not adequate to capture this information.

### **Lobbying after sponsored travel**

In the absence of an appropriate reporting requirement, there is also no way for the public to know, simply by reviewing the reported communications in the Registry, if a lobbyist has previously provided sponsored travel to a parliamentarian. As a consequence, there is no readily accessible way for the public to know that the provision of sponsored travel may form part of the relevant context within which any subsequent lobbying takes place.

Although lobbying parliamentarians after providing them with sponsored travel was beyond the scope of these investigations, I recognize that lobbying in such circumstances could give rise to a perception that the sponsoring organizations stand to benefit from preferential access to or preferential treatment from such parliamentarians. The fact that lobbyists are not currently required to disclose any information about sponsored travel could contribute to this perception.

### **Effort to cross-reference hinders transparency**

At present, the only way for the public to be able to deduce that parliamentarians were lobbied during sponsored travel or that lobbyists had previously provided sponsored travel to parliamentarians when they report subsequent lobbying would be for them to:

- review the statements of sponsored travel filed on an ongoing basis by members of the House of Commons and Senators with the OCIEC and the OSEO, respectively,<sup>5</sup> and subsequently posted in the public registries administered by those offices; and
- cross-reference individual instances of sponsored travel with lobbying reported on behalf of the sponsoring organizations in the Registry of Lobbyists.

Beyond the significant level of effort required to undertake such an exercise, the relevance of such cross-referenced information would be limited by the amount of time elapsed between the sponsored travel itself, the reporting of the lobbying in the Registry<sup>6</sup> and the publication of the sponsored travel in the public registries administered by the OCIEC and the OSEO.

### **Addressing a gap in transparency**

In the absence of a requirement for lobbyists to report instances of sponsored travel in the Registry, there is currently no consistent, comprehensive or easily accessible way for the public to know:

- a) if lobbyists lobby parliamentarians during sponsored travel; and/or

- b) if lobbyists subsequently lobby parliamentarians after sponsored travel has been provided.

As a result, this important contextual information is not readily available to Canadians to the detriment of the overall transparency of the federal lobbying regime. The absence of this information could prevent the public from having a more complete understanding of the circumstances in which both public policy is formed and public decision-making takes place.

This gap in transparency could be addressed by amending the existing reporting requirements to include any additional information that the Commissioner of Lobbying considers relevant to a full understanding of the context in which lobbying occurred. Such additional information could include, for example, that lobbying occurred during sponsored travel or that a lobbyist had previously provided sponsored travel to a public office holder. Requiring this type of relevant contextual information to be reported in the Registry would serve to enhance the transparency of the federal lobbying regime and further the fundamental purposes of the Act.

Such a requirement would eliminate the need to cross-reference monthly communication reports with the instances of sponsored travel reported in the public registries administered by the OCIEC and the OSEO. As a result, it would heighten the accessibility, accuracy and timeliness of this information.

This amendment could be considered by Parliament during the next review of the Lobbying Act. It could also be addressed through a review and update of the Lobbyists Registration Regulations.

# Schedule 1 – Organizations subject to investigations

## ORGANIZATIONS NOT REQUIRED TO REGISTER

Anatolian Heritage Federation  
Chinese International Economic Cooperation Association  
Friedrick Ebert Stiftung Foundation  
Iran Democratic Association  
One Free World International  
Taipei Economic & Cultural Office

## REGISTERED ORGANIZATIONS

Armenian National Committee of Canada  
Cameco Corporation  
Canadian Union of Public Employees  
Cenovus Energy  
Centre for Israel and Jewish Affairs  
Engineers Without Borders Canada  
Public Service Alliance of Canada  
Queen's University  
Results Canada  
United Food and Commercial Workers International Union  
United Steelworkers of America  
WestJet  
World Vision

## Schedule 2 – Lobbying Act and Lobbyists Registration Regulations

The provisions of the Lobbying Act discussed in this report are quoted below.

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### **In-house Lobbyists (Corporations and Organizations)**

#### **Requirement to file return**

7(1) The officer responsible for filing returns for a corporation or organization shall file with the Commissioner, in the prescribed form and manner, a return setting out the information referred to in subsection (3) if

(a) the corporation or organization employs one or more individuals any part of whose duties is to communicate with public office holders on behalf of the employer or, if the employer is a corporation, on behalf of any subsidiary of the employer or any corporation of which the employer is a subsidiary, in respect of

(i) the development of any legislative proposal by the Government of Canada or by a member of the Senate or the House of Commons,

(ii) the introduction of any Bill or resolution in either House of Parliament or the passage, defeat or amendment of any Bill or resolution that is before either House of Parliament,

(iii) the making or amendment of any regulation as defined in subsection 2(1) of the Statutory Instruments Act,

(iv) the development or amendment of any policy or program of the Government of Canada, or

(v) the awarding of any grant, contribution or other financial benefit by or on behalf of Her Majesty in right of Canada; and

(b) those duties constitute a significant part of the duties of one employee or would constitute a significant part of the duties of one employee if they were performed by only one employee.



**Requirement to file monthly return**

**7(4)** The officer responsible for filing returns shall file a return, in the prescribed form and manner, not later than 15 days after the end of every month, beginning with the one in which the return is filed under subsection (1), that

(a) sets out, with respect to every communication referred to in paragraph (1)(a) that is of a prescribed type and that was made in that month involving a designated public office holder,

(i) the name of the designated public office holder who was the object of the communication,

(ii) the date of the communication,

(iii) particulars, including any prescribed particulars, to identify the subject-matter of the communication, and

(iv) any other information that is prescribed;

(b) if any information contained in the return filed under subsection (1) is no longer correct or additional information that the officer would have been required to provide under that subsection has come to the knowledge of the officer after the return was filed, provides the corrected or additional information; and

(c) if the employer no longer employs any employees whose duties are as described in paragraphs (1)(a) and (b), advises the Commissioner of that fact.

**Compliance with Code**

**10.3(1)** The following individuals shall comply with the Code:

(a) an individual who is required to file a return under subsection 5(1);  
and

(b) an employee who, in accordance with paragraph 7(3)(f) or (f.1), is named in a return filed under subsection 7(1).

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The full text of the Act can be found on the Justice Laws website.  
([laws-lois.justice.gc.ca](http://laws-lois.justice.gc.ca))

The provisions of the Lobbyists Registration Regulations discussed in this report are quoted below.

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### **Registration of In-house Lobbyists (Corporations and Organizations)**

#### **Monthly Return**

**9** For the purposes of subsection 7(4) of the Act, the following types of communication are prescribed if made orally and arranged in advance of the communication:

- (a) a communication referred to in any of subparagraphs 7(1)(a)(i) to (v) of the Act that is initiated by a person other than a public office holder; and
- (b) a communication referred to in subparagraph 7(1)(a)(v) of the Act that is initiated by a public office holder.

**10** The officer responsible for filing shall, with respect to a return filed under subsection 7(4) of the Act, include, in addition to the information required under paragraph 7(4)(a) of the Act, the following:

- (a) the position title of the designated public office holder; and
- (b) the name of the branch or unit and the name of the department or other governmental institution in which the designated public office holder is employed or serves at the time of the communication.

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The full text of the Regulations can be found on the Justice Laws website.  
([laws-lois.justice.gc.ca](http://laws-lois.justice.gc.ca))

## Schedule 3 – Lobbyists’ Code of Conduct

The provisions of the Lobbyists’ Code of Conduct discussed in this report are quoted below.

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### **Lobbyists’ Code of Conduct (1997) Rule 8 – Improper Influence**

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

### **Lobbyists’ Code of Conduct (2015) Rule 6**

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

### **Lobbyists’ Code of Conduct (2015) Rule 10 – Gifts**

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

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The full text of the Code (2015) can be found on the Office’s website.

[www.lobbycanada.gc.ca](http://www.lobbycanada.gc.ca)

## **Schedule 4 – Glossary**

### **consultant lobbyist**

A person paid to communicate with a public office holder on behalf of a client. This includes paid members of Boards of Directors and paid members of organizations who lobby on behalf of their corporation or organization.

### **consultant lobbying registration requirements**

A consultant lobbyist is required to register no later than 10 days after entering into an undertaking to lobby on behalf of a client. A separate registration is required for each client.

### **designated public office holder**

A sub-category of public office holder. This includes senior government decision makers such as the Prime Minister, ministers, ministers of state, ministerial staff, senior public servants with ranks equivalent to assistant deputy minister and higher, and positions listed in the Designated Public Office Holder Regulations, including members of House of Commons and Senators.

### **in-house lobbyist**

A person employed to communicate with public office holders on behalf of their employer. The employer can be a corporation or an organization, including non-profit organizations.

### **in-house lobbying registration requirements**

The responsible officer of a corporation or organization is required to register on behalf of their corporation or organization no later than two months after the lobbying activities the corporation or organization reach the significant part of duties threshold.

### **investigation**

The Commissioner of Lobbying is required to conduct an investigation if she has reason to believe that doing so is necessary to ensure compliance with the Lobbying Act or the Lobbyists' Code of Conduct.

### **lobbying**

For the purposes of the Lobbying Act, lobbying means being paid to communicate with a public office holder regarding one or more of the following:

- the development of legislation
- the introduction, passage, defeat or amendment of a Bill or resolution in either House of Parliament
- the making or amendment of a regulation of the Government of Canada
- the development or amendment of a policy or program of the Government of Canada

- the awarding of any federal grant, contribution or other financial benefit
- the awarding of any federal contract (only applies to consultant lobbyists)
- arranging a meeting between a public office holder and any other person (only applies to consultant lobbyists)

**monthly communication report**

Registered lobbyists must file a monthly communication report following an oral and arranged communication with a designated public office holder about a reportable subject. The report is due no later than 15 days after the end of the month in which the communication took place and must include:

- the date of the communication
- the subject matter of the communication
- the name, title or rank, and department of each designated public office holder with whom a lobbyist has communicated

**public office holder**

Any officer or employee of Her Majesty in right of Canada. This includes virtually all federal government employees, members of the Canadian Armed Forces and the Royal Canadian Mounted Police, staff of Senators and Members of Parliament, Governor in Council appointees, and all designated public office holders.

**reportable subject**

For the purposes of the Lobbying Act, a reportable subject is one of the following:

- for oral and arranged communications initiated by a person who is not a public office holder:
  - the development of legislation
  - the introduction, passage, defeat or amendment of a Bill or resolution in either House of Parliament
  - the making or amendment of a regulation of the Government of Canada
  - the development or amendment of a policy or program of the Government of Canada
- for all oral and arranged communications, regardless of who initiated them:
  - the awarding of any federal grant, contribution or other financial benefit
  - the awarding of any federal contract (only applies to consultant lobbyists)

**responsible officer**

The employee who holds the most senior office in a corporation or an organization and who is compensated for the performance of their duties.

**significant part of duties**

Corporations and organizations must be registered when the total lobbying activities of all employees reach the “significant part of duties” threshold. Significance can be determined either in terms of the importance of the lobbying or on a time basis.

The time basis for determining “significant part of duties” has been interpreted to mean 20% or more of a regular full-time employee’s work hours over a one-month period. This includes the time spent by all employees to prepare for lobbying (researching, drafting, planning, compiling, travelling, etc.) as well as the time spent actively communicating with public office holders.

**sponsored travel**

Travel paid by a third party and taken by members of the House of Commons or the Senate, and their guests, in relation to their parliamentary position:

- The Conflict of Interest Code for Members of the House of Commons requires the disclosure of travel if the travel costs exceed \$200 and are not wholly paid from the Consolidated Revenue Fund or by the Member personally, his or her political party or any parliamentary association recognized by the House.
- The Ethics and Conflict of Interest Code for Senators requires the disclosure of travel if the travel costs exceed \$500 and are not paid personally by the Senator or the guest and are not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada or the Senator’s political party.

# Endnotes

- 1 Section 15 of the Conflict of Interest Code for Members of the House of Commons provides:

**Sponsored travel.**

(0.1) Despite subsection 14(1), a Member may accept, for the Member and guests of the Member, sponsored travel that arises from or relates to his or her position.

**Statement: sponsored travel.**

(1) If travel costs exceed \$200 and those costs are not wholly paid from the Consolidated Revenue Fund or by the Member personally, his or her political party or any parliamentary association recognized by the House, the Member shall, within 60 days after the end of the trip, file a statement with the Commissioner disclosing the trip.

**Content of statement.**

(2) The statement shall disclose the name of the person or organization paying the travel costs, the name of any person accompanying the Member, the destination or destinations, the purpose and length of the trip, the nature of the benefits received and the value, including supporting documents for transportation and accommodation.

**Publication.**

(3) By March 31 of each year, the Commissioner shall prepare a list of all sponsored travel for the previous calendar year, including the details set out in subsection (2), and the Speaker shall lay the list upon the Table when the House next sits.

Section 18 of the Ethics and Conflict of Interest Code for Senators provides:

**Statement: sponsored travel**

(1) Notwithstanding subsection 17(1), a Senator may accept, for the Senator and guests of the Senator, sponsored travel that arises from or relates to the Senator's position. If the travel costs of a Senator or any guest exceed \$500 and are not paid personally by the Senator or the guest, and the travel is not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada or the Senator's political party, the Senator shall, within 30 days after the end of the trip, file a statement with the Senate Ethics Officer.

**Contents of statement**

(2) The statement shall disclose the name of the person or organization paying for the trip, the destination or destinations, the purpose and length of the trip, whether or not any guest was also sponsored, and the general nature of the benefits received.

**Duplication**

(3) Any disclosure made in relation to sponsored travel does not need to be disclosed as a gift or other benefit.

- 2 As explained in Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6th ed. (Markham: LexisNexis Canada Inc., 2014) at §11.58:

When two provisions are in conflict and one of them deals specifically with the matter in question while the other has a more general application, the conflict may be resolved by applying the specific provision to the exclusion of the more general one. The specific prevails over the general; it does not matter which was enacted first. [...]

- 3 Subsection 10.2(4) of the Lobbying Act provides:

The Code is not a statutory instrument for the purposes of the Statutory Instruments Act, but the Code shall be published in the Canada Gazette.

- 4 As set out in Marc Bosc & André Gagnon, eds., *House of Commons Procedure and Practice*, 3d ed. (Cowansville, QC: Éditions Yvon Blais, 2017) at 226, 267:

The establishment of the [MP Code] is a manifestation of the [House of Commons'] right to regulate its internal affairs and to discipline its Members for misconduct. The [MP Code] forms part of the Standing Orders of the House of Commons, and oversight responsibility of the [MP Code] has been delegated to the Standing Committee on Procedure and House Affairs.

[...]

Since the Standing Orders have as their primary purpose the regulation of the conduct of the business of the House of Commons and its Members, they are seen as an exercise of the parliamentary privilege of the House to regulate its own internal affairs.

Similarly, as described, in part, in the explanatory note to Directive 2015-02 issued by the Standing Committee on Ethics and Conflict of Interest for Senators:

The Senate of Canada and its members enjoy certain powers, privileges, rights and immunities without which they could not discharge their constitutional legislative and deliberative duties and functions. As part of its parliamentary privileges, the Senate has the right to govern its internal affairs without outside interference and has disciplinary authority over its members. The Ethics and Conflict of Interest Code for Senators, adopted by the Senate, is an expression of these privileges. [...]

- 5 Subsection 15(1) of the Members' Code requires Members of the House of Commons to file a statement of qualifying sponsored travel within 60 days after the end of the sponsored trip. Similarly, subsection 18(1) of the Senators' Code requires Senators to file a statement of sponsored travel within 30 days after the end of the sponsored trip.
- 6 Subsections 5(3) and 7(4) of the Lobbying Act require consultant and in-house lobbyists to report qualifying communications with designated public office holders, which include parliamentarians, not later than 15 days after the end of the month in which the communication took place.





