

Thank you for the opportunity to comment on the Revised Lobbyists' Code of Conduct Background Paper. I have no objections to many of the proposed changes but I do have some misgivings with the following:

1. New Principle about Respect for Democratic Institutions

"Lobbyists should respect democratic institutions. They should act in a manner that does not diminish public confidence and trust in government."

Naturally I support the principle of respecting democratic institutions, but this principle is actually about the public's perception of democratic institutions. On principle, lobbyists, or no one for that matter, cannot be held accountable for anyone's perceptions of anything. Confidence and trust in government are fluid concepts that can change in relation to perceptions of other governments, and can be broken down by perceptions of various ministries, departments and functions of government. There are far too many variables that shape aggregated perceptions, or reputation, to have any confidence that one or many lobbyists can be accountable for any public perception.

In fact, those perceptions could also be misguided, such that perhaps the actions of a lobbyist provoke a breach in trust with government (assuming this were measurable) yet a court rules the lobbyist acted in a manner consistent with the Lobbyist Code of Conduct. Being fully accountable without being fully responsible for public perceptions is an onerous and unfair burden to place on lobbyists.

I would also reconsider having principles where the conduct of lobbyists cannot be measured in relation to the principle. Measuring public confidence in government, in many ways, is like nailing down smoke and attributing such perceptions to lobbyists is even more elusive.

Finally, I believe this principle is already covered off by the existing principles of acting with integrity, honesty, openness and professionalism.

2. Preferential Access

"A consultant lobbyist shall not arrange for another person a meeting with a public office holder who is a relative or friend of the lobbyist or has financial or business dealings with the lobbyist."

"A lobbyist shall not lobby a public office holder who is a relative or friend of the lobbyist or has financial or business dealings with the lobbyist. A lobbyist shall also not lobby other public office holders who work within that public office holder's area of responsibility."

I believe placing restrictions on the arrangement of meetings or the act of lobbying with friends is an unreasonable Charter Rights limitation and an action that would degrade the lobbying environment in Canada. An important role of lobbying is cultivating and managing relationships with public office holders. One might consider lobbying a function of public relations, defined in Canada as, "the strategic management of relationships between an organization and its diverse publics, through the use of communication, to achieve mutual understanding, realize organizational goals and serve the public interest" (Flynn, Gregory & Valin, 2008).

In the process of managing such relationships, friendships will form, especially if the relationship is based on mutuality, the concept of looking out for the interests of the other party (i.e. the interests of government or the public interest). Such relationship should be encouraged

because they foster an environment conducive "respect for democratic institutions" and respect for the public interest. Such relationships are guided by the Lobbyist Code of Conduct - integrity, honesty, openness and professionalism.

When lobbyists build relationships by unethically conferring personal benefits to public office holders, their actions would be discouraged by the conflict of interest provision on gifts. Arguably such unethical actions form "business dealings", not friendships.

The proposed provision of Preferential Access actually discourages relationships that give rise to friendships, which might foster a lobbying environment characterized by more competitive and confrontational-based relationships. This would undermine the role of lobbying to provide useful information for the purpose of developing good public policy.

Another challenge would be to define what is a friend. There is greater clarity over defining "business dealings" and perhaps a relative (although how far down the line are distant cousins still relatives for the purpose of the Code of Conduct).

My recommendation is to amend the Preferential Access provision to exclude the word friend and perhaps give clarity around the term relative.

Thank you very much for considering these changes.

Victor Vrsnik APR MCM(c)