



December 16, 2014

Ms. Karen E. Shepherd  
Commissioner of Lobbying  
255 Albert Street  
10<sup>th</sup> Floor  
Ottawa, Ontario K1A 0R5

Dear Ms. Shepherd:

We are pleased to provide feedback on the proposed changes to the Lobbyists' Code of Conduct. Established in 1894, CLHIA represents life and health insurers accounting for 99% of the business in Canada. The Lobbying Act and the Code of Conduct established thereunder are important in that they frame legitimate lobbying activities, promoting transparency and the highest ethical standards in the interaction between lobbyists and public officials.

We support the modernization of the Code to reflect changes to the Act along with relevant judicial interpretations. For instance, we agree that the Code should mirror the scope of the Act, and apply to the relationship between public officials and lobbyists, not to the relationship between lobbyists and their clients. We also support the introduction of a new principle that would call on lobbyists to respect democratic institutions while representing the interests of their clients or employers.

While we understand the desire to try to remove any suggestion of undue influence or conflict of interest, we are concerned that some of the proposed changes are overly vague and could put lobbyists at risk of unintended breaches of the Code.

The introduction of a rule that would prohibit a lobbyist from using or disclosing confidential information received from a public office holder would seem to be unobjectionable, but we are concerned about situations where the lobbyist (or even the public official) might not be aware that certain information is confidential. On the contrary, the fact that the information was disclosed by a public official would, putatively, suggest to the lobbyist that the information is public.

Our most pressing concern—and this has been echoed in the submissions that have been posted to your website—is the proposed prohibition on lobbying by friends of, relatives of, or persons with business dealings with, officials. While the latter two categories are less controversial (although (i) distant relatives or (ii) persons with small, or legacy business dealings could be caught), the bigger

Canadian Life and Health Insurance Association  
46 Elgin Street, Suite 400  
Ottawa, Ontario K1P 5K6  
613-230-0031 [www.clhia.ca](http://www.clhia.ca)

Association canadienne des compagnies d'assurances de personnes  
46, rue Elgin, bureau 400  
Ottawa (Ontario) K1P 5K6  
613-230-0031 [www.accap.ca](http://www.accap.ca)

concern is the vague and nebulous concept of a “friend”. Most former public officials will be acquaintances of their former colleagues. If they remain on good terms, does that constitute a “friendship”?

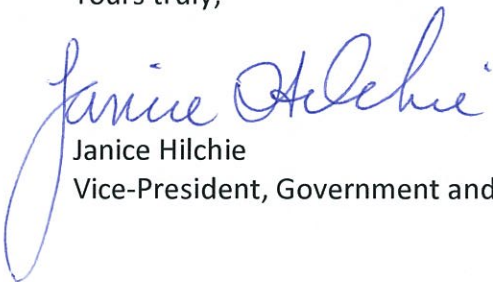
The Act already has certain protections that address this concern. The restriction on lobbying found in section 10.11 of the Act (prohibiting a person from lobbying for five years after they cease being a designated public office holder) would appear to be designed specifically to prevent a former official from using personal ties as part of their lobbying. Extending the prohibition beyond 5 years will create overlap and duplication, and it would represent an unreasonable limitation on a person’s ability to earn a living as a lobbyist.

A second concern with the drafting of the proposed prohibition is that it would forbid a lobbyist from lobbying other public office holders who work within a public office holder’s area of responsibility, where the latter is a relative, friend or has financial or business dealings with the lobbyist. Is this restriction limited to subordinates of the public official or to others with related responsibilities? The term “a public office holder’s area of responsibility” would benefit from greater clarity.

Even if the “area of responsibility” is clarified, we remain concerned that the ban on lobbying by “friends” could compromise the flow of information and, in turn, harm the development of quality public policy. Instead, the current Rule 8 prohibition on lobbying where there is a conflict of interest, coupled with the 5-year “cooling off” period should be sufficient to address any concerns and ensure that untoward contact between officials and others is avoided.

We thank you for the opportunity to provide you with feedback on the proposed changes to the Lobbyists’ Code of Conduct. Please do not hesitate to contact us if you have any questions.

Yours truly,



Janice Hilchie  
Vice-President, Government and International Relations