CANADIAN COUNCIL
of **CHIEF EXECUTIVES**

CONSEIL CANADIEN
des **CHEFS D'ENTREPRISE**

**The Honourable / L'honorable
John P. Manley, P.C., O.C. / C.P., O.C.**
President and Chief Executive Officer
Président et chef de la direction

December 17, 2014

Ms Karen Shepherd
Commissioner of Lobbying
255 Albert Street, 10th Floor
OTTAWA, Ontario
K1A 0R5

Dear Ms. Shepherd,

The Canadian Council of Chief Executives is pleased to offer its comments with respect to the proposed revision of the Lobbyists' Code of Conduct.

The Council believes lobbyists must always maintain a high level of transparency and ethical behaviour. As a guiding document, the Code should be updated from time to time to reflect the current state of best practice. Public confidence in the quality and integrity of government decision-making is essential to the functioning of our democratic system. Accordingly, we support the intention to amend the Code to make clear that lobbyists have an obligation to act in a manner that does not diminish public trust and confidence in government.

While we can support many of the proposed changes to the Code, we do have serious concerns with respect to the proposed revision to Rule 8 dealing with conflicts of interest. We appreciate that these changes are intended to implement the decision of the Federal Court of Appeal in the case of *Democracy Watch v. Barry Campbell*. We agree that it is the responsibility of the lobbyist to avoid creating a conflict of interest for a public office holder where he or she may feel an obligation to the lobbyist that conflicts with their public duty. However, the proposal to extend this interpretation to bar a lobbyist from having contact with any public office holder who may be a "friend" will add more confusion than clarity.

The very concept of "friend" does not lend itself to a precise, legal definition that could be enforced in terms of the Code of Conduct. On the contrary, "friend" is the most subjective of terms, carrying a somewhat different connotation

depending upon the individual and the social context. In an era of "Facebook friends", this has become even more the case. It also is worth noting that even in the most contentious legal proceedings, lawyers will often refer to opposing counsel as "my friend".

The reality is that individuals who are actively engaged in the practice of lobbying make the acquaintance of a large number of public office holders. Building trusting and congenial relationships with public office holders improves the quality of the lobbyist's work and the service they provide, both to clients and the government. It is also a reality that in a "government town" such as Ottawa, it is possible for lobbyists to become "friendly" with dozens of such officials over time, partly through professional relationships, but also as neighbours, members of the community and through social activities. Some may become more than just acquaintances, and any professional lobbyist will have to exercise care in ensuring that personal relationships do not create a conflict for the public office holder. But to bar lobbying activity on the basis of an undefined degree of "friendliness" strikes us as unworkable.

Furthermore, to extend the ban to include anyone in the same department or agency of the "friend" only compounds the difficulty. The proposed revisions suggest that a lobbyist should not lobby other public office holders who work within the "friend's" area of responsibility. But how exactly would one define "area of responsibility"? Is it confined to the particular branch or division of a government department where the "friend" may work? And if the "friend" is the Minister or Deputy Minister, is it fair to exclude any contact with any official in the relevant department or agency, the vast majority of whom likely have no or very little acquaintance with the lobbyist?

We would urge you to reconsider this proposed change to Rule 8 and to consult further with the government relations community to develop a clearer and more equitable set of rules relating to how lobbyists can avoid the risk of placing a public office holder in a conflict of interest.

Sincerely,