

Office of the President and
Chief Executive Officer

Cabinet du président
et chef de la direction

December 16, 2014

Ms. Karen Shepherd
Commissioner of Lobbying
255 Albert Street
Ottawa, Ontario
K1A 0R5

Dear Ms. Shepherd:

The Canadian Chamber of Commerce appreciates the opportunity to provide you with our perspectives on your proposed changes to the *Lobbyists' Code of Conduct*.

As Canada's most representative business association, with more than 450 member local chambers of commerce and boards of trade throughout Canada, as well as our association and corporate members, the foundation of our value to our members is our ability to effectively and credibly advocate on their behalf to the federal government. This is why adhering to the letter and spirit of *Lobbying Act* and the *Lobbying Code of Conduct* is taken extremely seriously by me and my staff. If we cannot advocate, we are of no use to our members, the communities in which they are located and the Canadians who depend upon them. We believe that our representations provide value to federal politicians and officials in the creation of – and deliberation upon – public policy.

We have reviewed the Background Paper that outlines the changes you propose to make to the *Code*, and – with three exceptions – have no issue with them. Two of the proposed changes with which we are concerned are contained in the proposed Rule 8, i.e.,

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.

420 – 360, rue Albert St.
Ottawa, Ontario
K1R 7X7

613.238.4000
613.238.7643

Chamber.ca
info@chamber.ca

We believe this proposed new rule is well-intentioned, i.e., to provide clarity in response to criticisms of the current Rule 8 to address preferential access and political activities. While the term “relative” is precise enough to be understood and to measure conduct against, the term “friend” is not. We would add that defining a “friend” is so subjective that it is an impossible measure against which to judge behaviour and, as a result, to enforce. It is a vague criterion that will lead to confusion and a steady stream of inquiries for clarification with your office. Business, government and society function on the basis of relationships and the difference between “friend” and “acquaintance” is subjective and – without a more precise definition – has the potential to become a red herring that will divert resources away from much more fundamental concerns regarding the relationship between lobbyists and government.

As the Conflict of Interest and Ethics Commissioner stated in her 2009 *Watson Report*, the term “friend” “...is used in different ways by different people and can be used to apply to a range of relationships from the closest of life-long companions to neighbours, colleagues, acquaintances or business associates that one sees only occasionally and where there is little emotional attachment.”¹ The Commissioner goes on to say that the prohibition against furthering the private interests of the public office holder, or those of his/her relatives or friends, “... does not include members of a broad social circle or business associates.”² If you decide to proceed with including this rule in the revised *Code*, we strongly recommend suggest that you attempt to clarify the term “friend” by adopting this above definition.

The “area of responsibility” reference in this proposed rule is also problematic. Again, this criterion is not defined and – depending up the office holder in question – could (in the case of the Prime Minister and/or Clerk of the Privy Council) apply to the entire federal government and Parliament. With the reporting of communications now required and without further clarity, it is impossible for us to see how this criterion could possibly improve the current *Code of Conduct*. In fact, it has the potential to cut the federal government and Parliamentarians off from valuable contributions to the public policy process.

¹ The Watson Report, Office of the Conflict of Interest and Ethics Commissioner, June 2009

² Ibid.

Lastly, I would like to make a suggestion regarding the proposed new requirement for “the most senior paid employee” of an organization or corporation to annually “ ... inform employees who lobby on the organization’s or corporation’s behalf of the responsible officer’s obligations under the *Lobbying Act* and the obligations of the employees under the *Lobbyists’ Code of Conduct*.” While this is not an onerous requirement for a small organization like ours, it could create an undue – and unproductive – burden on large companies whose most senior paid employee could be located outside of Canada. We suggest that the revised *Code* permit the “most senior paid employee” of an organization to delegate this responsibility to a named representative.

Once again, we appreciate the opportunity to provide you with our comments. We hope you find them helpful and would be pleased to discuss them with you.

Sincerely,

A handwritten signature in black ink that reads "Perrin Beatty". The signature is written in a cursive style with a large initial 'P' and a trailing flourish.

Perrin Beatty
President and Chief Executive Officer