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Mr. Michel Barsalou
Executive Vice President
The Canadian Chamber of Commerce
420 – 360 Albert Street
Ottawa, ON
K1R 7X7

Dear Mr Barsalou,

I am writing to follow-up on our meeting of March 20th and to respond to your various emails concerning the *Boards of Trade Act* (BOTA). As requested, we have provided a summary of the key points that were conveyed at the meeting. As you can appreciate we cannot provide input on all of the issues that your members have raised because we cannot provide legal advice. However, I trust that this summary will clarify some aspects of the application of the legislation.

- The BOTA is a registration statute, not an incorporation statute, as demonstrated by section 5 of the Act. It is the persons associating together as a board of trade that create the certificate of formation. According to section 7, the certificate is sent to the Minister of Industry who shall register it and certify it.
- Subsection 3(2) of the Act provides restrictions on the use of the expressions “board of trade” and “chamber of commerce” if a district has a board of trade registered under the BOTA. Subsection 3(3) provides that the enforcement of the restriction is a summary conviction criminal offence. To our knowledge there has never been such an action.

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- The BOTA provides for an exception that allows the expressions “board of trade” and “chamber of commerce” to be used in a corporate name for a body corporate incorporated under the BOTA, a special act of Parliament (e.g., a body corporate created by a private members bill), or a general act of Parliament (e.g., the *Canada Corporations Act* or the *Canada Not-for-profit Corporations Act*).
- In other words, the BOTA does not restrict the use of the expressions “board of trade” or “chamber of commerce” in corporate names related to other general acts of Parliament if the name and the corporation meet the requirements of those other statutes.
- Neither the *Canada Corporations Act* nor the *Canada Not-for-profit Corporations Act* prohibits the use of “board of trade” or “chamber of commerce” in a corporate name. There is no authority in these statutes to provide the Canadian Chamber of Commerce veto rights over the use of such expressions in a corporate name.
- An organization created under the BOTA is required to be connected to a specific district, as set out in the Act. An organization created under a federal not-for-profit statute (e.g., the *Canada Corporations Act* or the *Canada Not-for-profit Corporations Act*) does not have the same concept of a district. Instead, many are organizations based on affiliations with foreign countries or ethnicities. Under federal not-for-profit statutes, they may carry on activities throughout Canada.
- As for the possibility of organizations being created with the expressions “chamber of commerce” or “boards of trade” under a provincial statute, federal statutes cannot prevent it. Corporate law is an area where the federal and provincial governments have concurrent constitutional jurisdiction. This means that any group seeking to create a body corporate can choose federal or provincial law under which to incorporate. Generally, a body corporate is subject to the statutes that govern its creation and operation. The federal statutes cannot change or override provincial statutes.

- There are currently no plans to conduct a legislative review of the BOTA.
- The BOTA has no provisions for public access to the records or maps maintained by Corporations Canada on behalf of the Minister of Industry. In order to obtain a copy of any information maintained by Corporations Canada in relation to the BOTA, an application would have to be made under the *Access to Information Act*.

I trust that this information is helpful.

Yours sincerely,



Marcie Girouard
Director General
Corporations Canada