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Commissioner of Canada Elections
c/o Elections Canada
Attn: Audrey Nowack, Senior Counsel and Director
Compliance and Enforcement Legal Services
257 Slater Street
Ottawa, Ontario
K1A 0M6

August 27, 2012

RE: Your letter of August 23, 2012, File E11-1013

Dear Commissioner and Ms. Nowack:

Thank you for your letter of August 23, 2012 responding to Democracy Watch's letter of August 6, 2012.

The July 4, 2012 letter the Commissioner sent to the complainant stated that one reason the Commissioner was refusing to investigate was that the complainant did not provide evidence that a voter "was actually induced or affected in their voting behaviour due to the activity complained of."

As we made clear in our letter of August 6, 2012, this statement clearly raises the key question of what the Commissioner's interpretation is of the word "induce" in section 331 of the Canada Elections Act.

In Democracy Watch's opinion, the term "induce" should include trying to persuade someone to vote one way or another (or not to vote), especially given that the heading of section 331 reads "Non-Interference by Foreigners" and the sub-heading is "Prohibition - inducements by non-residents". "Interference" of course includes any act of interfering whether or not it is successful, and "inducement" is defined in the dictionary as: "the act of reasoning or pleading with someone to accept a belief or course of action (e.g. gave up smoking only after prolonged inducement by all the other family members)."

If the Commissioner agrees with this interpretation of "induce" in section 331, please answer the question of why the Commissioner would consider it at all important whether there was any evidence of a voter actually being induced or affected in their voting behaviour? That evidence would be irrelevant to any reasonable consideration of whether section 331 had been violated, given that (under Democracy Watch's interpretation), any "attempt to induce" would be a clear violation of section 331 of the Act.

As we also mentioned in our letter of August 6, 2012, the clarification of what the Commissioner's interpretation of "induce" is important not only for section 331, but also for the enforcement standard that is used for other situations, in particular cases involving alleged violations of section 5 of the Act (which prohibits actions to "induce" a person to vote who is not qualified to vote); sections 282 and 482 (which prohibit actions to "compel" voters through "intimidation" or "duress", or to "induce" voters "by any pretence or contrivance" to vote a certain way or not vote); subsection 549(4) (which prohibits actions to "induce" a person to falsely take an oath), and; subsection 281(h) of the Act (which prohibits actions that "willfully prevent or endeavour to prevent an elector from voting at an election").

So, as we requested in our letter of August 6, 2012, please clarify publicly what Elections Canada's definition of "to induce" (and related provisions) is for all these sections of the Act through a reply letter to Democracy Watch, and by placing the content of this reply letter in a new Information Sheet in the Resource Centre section of your website, under the Legislation subsection, at:

<http://www.elections.ca/content.aspx?section=res&dir=loi/inf&document=index&lang=e>)

I look forward to hearing back from you.

Sincerely,

Tyler Sommers, Coordinator of Democracy Watch
on behalf of the Board of Directors of Democracy Watch
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