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Submission to House of Commons Standing Committee on Access to Information, Privacy and Ethics re: Commissioner of Lobbying Nancy Bélanger's Testimony at the Committee on February 3, 2023

(February 6, 2023)

During her testimony last Friday, Commissioner Bélanger made the following statements:

1. Re: the proposed new Rule 6 on political activities and the proposed new cooling-off periods of no time, one and two years (depending on the activity), Commissioner Bélanger said:

"The updated rule was carefully crafted to achieve its objective of restricting lobbying where a sense of obligation could reasonably be seen to exist..."

Response: In fact, the proposed new Rule 6, along with the loophole-filled definition of "Political Work" in the Appendix of the proposed new *Code*, will allow a person to fundraise an unlimited amount of money and campaign in significant ways for a politician and/or party and lobby them at the same time or right afterwards, even though the politician will clearly have a sense of obligation to return the favours the lobbyist did for them.

Also in fact, the new rule will also allow a person to serve in a top position on a political campaign and then lobby 1-2 years later, before the next election. Any politician clearly has a sense of obligation to anyone who helps them win an election until at least after the next election, if not for the rest of their political career. It is simply ridiculous to imagine that the sense of obligation disappears after 1-2 years.

2. With regard to the proposed new *Code* and the process of developing it, Commissioner Bélanger said:

"It's all very good...I'm actually proud of the process. We've listened to people. We have looked at everything..."

Response: In fact, the Commissioner did not listen at all to 14 citizen groups with a total membership of more than one million Canadians who sent a letter to the Commissioner in June ([click here](#) to see the letter) that said very clearly that the Commissioner's proposed new Rule 6 and definition of "Political Work" will gut key ethical lobbying rules in the current *Code* that prohibit lobbying for 4 years after doing any significant campaigning for a politician, or after doing any fundraising.

The letter proposed a set of reasonable changes to allow for a bit of volunteering and campaigning without any lobbying prohibition afterwards, and a prohibition of five years after more significant political activities

(including any fundraising), and a prohibition of 10 years for the most significant activities.

Commissioner Bélanger did not listen to this proposal at all. She did not make any changes to proposed new Rule 6 in the final version of the proposed new *Code* made public in November, five months after the 14 groups sent the letter saying that the May version of the proposed new *Code* gutted key ethical lobbying rules in the current *Code*.

Commissioner Bélanger has clearly also not “looked at everything” as she has never explained why she thinks that a lobbyist should be prohibited from giving, directly or indirectly, more than \$80 in gifts or hospitality a year to a politician (because more that would cause a sense of obligation), but that no sense of obligation is created when a lobbyist raises an unlimited amount of money for a politician, does other significant political favours for them and/or supports them in other significant ways and therefore, according to the Commissioner, the lobbyist should be allowed to lobby the politician while doing those kind of political favours.

3. Commissioner Bélanger also said that she paid Goldblatt Partners to give her a legal opinion saying that the current 4-year prohibition on lobbying violates the *Charter*. Is the Committee going to ask her to make that opinion public? And/or is the Committee going to ask the lawyers from Goldblatt to testify and explain their opinion?

In other words, is the Committee really going to allow the Commissioner to gut key ethical lobbying rules in ways that will allow for corrupt favour-trading between lobbyists and politicians based on the secret opinion of one or a couple of lawyers from one law firm, whose credentials and expertise no one knows?

In fact, the 4-year prohibition on lobbying complies entirely with the *Charter*. The Supreme Court of Canada has made it very clear in several rulings that ensuring all political processes prevent even the appearance of a conflict of interest is essential and overrides any other constitutional rights. Doing significant favours for a politician or political party in order to buy influence (which only a small percentage of unethical lobbyists want to do), and then lobbying them afterwards, creates an appearance of a conflict of interest. The only reasonable way in a free and democratic society to prevent this apparent conflict of interest is to prohibit the lobbyist from lobbying until after the next election. It is the Commissioner’s proposed new Rule 6 that violates the *Charter* because it will allow a few lobbyists to corrupt policy-making processes that affect the *Charter* rights of more than 17 million voters.

4. Finally, Commissioner Bélanger made several other statements concerning the proposed new *Code* that were either inaccurate or were half-truths that omitted key information concerning the effects of the proposed new rules. Specifically, the Commissioner did not provide information or answer questions that answer questions #3 to #10 of the 10 key questions the Committee should be asking the Commissioner about the proposed new *Code* ([click here](#) to see the 10 key questions). Will the Committee ask the Commissioner to answer the 10 questions in a written, public submission or to testify again to answer the 10 questions?