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Ending Secret, Unethical Lobbying by Closing Huge Loopholes in the *Lobbying Act* and Ensuring Effective Enforcement

Submission to the Standing Committee of the House of Commons on Access to Information, Privacy and Ethics for its review of the *Lobbying Act*

(October 2026)

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NOTE: Democracy Watch files this submission to the Committee following up on the testimony of Duff Conacher, Co-founder of Democracy Watch, before the Committee on June 8, 2026, and after having reviewed all of the testimony of all witnesses at all hearings before the Committee from March 9, 2026 to October 26, 2026 listed here, and the Commissioner of Lobbying's testimony before the Committee on March 9, 2026, May 7, 2026 and October 26, 2026. Much more detail concerning the points made in this submission can be seen in Mr. Conacher's PhD thesis, especially chapters 4, 5 and 7, which can be seen by clicking here (in English only).

A. Summary: Long Overdue Changes That More than 80% of Canadians Want Are Needed to Close Loopholes and Strengthen Enforcement and Penalties to Make the *Lobbying Act* and *Lobbyists' Code* Effective at Stopping Secret, Unethical Lobbying

The federal *Lobbying Act* should be called the "*Some Lobbying Act*" because it is full of loopholes that allow for secret, unregistered and undisclosed lobbying (i.e. communications with regard to the decisions of public officials). Combined with negligently bad enforcement by the Commissioner of Lobbying, and by the RCMP, who together have let off 99.9% of violations since 2018 (and 85% of violations before 2018) it is essentially legal to fail to register lobbying activities by required deadlines, and accurately.

The *Act* also allows for secret, unethical lobbying because the loopholes allow for unregistered lobbying, and unregistered lobbyists are not required to comply with the ethics rules in the *Lobbyists' Code of Conduct*. Even worse, key ethics rules in the *Code* were gutted by the Commissioner and the Ethics Committee in 2023. Because of the loopholes in the *Act* and the *Code*, secretly doing significant favours for political party leaders, parties and politicians (like fundraising and campaigning for them) and lobbying them for favours at the same time or within one to two years later (including lobbying them secretly), are all legal activities.

In other words, the *Act* and the *Code* together now essentially legalize secret bribery as they allow lobbyists to secretly ask for favours from politicians in return for doing secret favours for them.

A national survey undertaken in January 2025 showed that more than 80% of voters from across Canada, in every region and province, want all lobbying disclosed, and don't want lobbyists giving gifts to, or doing favours for, politicians and public officials, and don't want lobbyists to be allowed to lobby politicians one to two years after they fundraise and campaign for them, and don't want secret exemptions given to lobbyists allowing them to lobby politicians and public officials after the lobbyist has given gifts to them or fundraised or campaigned for the politician.

The same questions were asked in a national survey undertaken in late September 2026, and again more than 80% of voters from across Canada, in every region and province, want all lobbying disclosed, and don't want favour-trading between lobbyists and politicians, and don't want secret exemptions that allow for favour-trading.

The Supreme Court of Canada in several rulings, and other Canadian courts, have consistently ruled for decades that integrity, and equality of opportunity for influence, and transparency in government and political processes must always be strictly and strongly protected in order to have democratic good government and in order for

Canada to be a democracy. Click here to see a webpage that summarizes these rulings (and click on "Français" on the webpage to see the summary en français).

In addition, the *Lobbying Act* and *Lobbyists' Code* do not meet OECD best-practice standards, are weaker than laws in some provinces, and are weaker than the U.S. federal law and the laws in most U.S. states.

As detailed below in Part II, all of the secret lobbying loopholes can be closed with simple amendments to the *Act*. As detailed below in Part III, all of the unethical lobbying loopholes can be closed with simple amendments to the *Act*. And as detailed below in Part IV, enforcement can be made independent, timely, transparent, effective and accountable also with simple amendments to the *Act*.

The arguments and proposals submitted to the Ethics Committee by the Commissioner of Lobbying and some lobbyists and lobby groups for leaving secret, unethical lobbying loopholes in the *Act* and the *Code* have no evidence to back them up, deny the public's constitutional right to know who is engaged in lobbying activities, go against what more than 80% of voters want and what the Supreme Court has ruled is needed to have democratic good government, and go against best-practice international standards. For example, Democracy Watch is a non-profit organization with very limited staff time and resources, and it has experienced no problems at all registering its lobbying communications under the *Act* (which only takes about 15 minutes of one person's staff time) and updating its registration (which only takes at most 15 minutes of one person's staff time every few months).

The only justifiable exemptions from the requirement to register and disclose lobbying communications that should be allowed under the *Act* are for:

(i) a casual conversation by a voter with their politician about their general concerns that does not involve a request for any specific favour or preferential treatment;
(ii) a voter signing on to a mass petition or letter-writing campaign undertaken by an individual, business or organization (the individual, business or organization should be required to register the campaign);
(iii) filling out applications for government approvals or funding etc. where no other communications (other than requests for information) with regard to the decision-making process for the approval or funding occur, and;
(iv) the current exemptions in the *Act* for requests for information, and for communications that are recorded and or documented and disclosed in other records that are easily accessible to the public.

All other lobbying can be, and should be, required to be registered and disclosed, whether it is done for free by volunteers or for payment or compensation.

If any secret, unethical loopholes are left open, past scandals show clearly that they will be exploited to have secret, undemocratic, unethical influence over politicians and public officials' decisions, especially by former politicians and officials who have inside access and relationships with current politicians and officials, and by people who have done favours for political party leaders, parties or politicians, when they lobby for businesses, organizations or their clients.

If either the Ethics Committee's consensus report, or a majority report and/or dissenting reports, support the *Act* and/or the *Code* in their current forms, and do not recommend closing all the secret, unethical lobbying loopholes, and requiring effective enforcement by the Commissioner and the RCMP, then whomever on the Committee supports those reports will essentially be saying that the support secret, unethical lobbying. Secret, unethical lobbying, as many past scandals across Canada show clearly, corrupts federal political and government decision-making processes in ways that lead to waste of the public's money, abuses of power and the protection of private interests, mainly the interests of big businesses, and violations of the public interest that harm the public, the environment, workers, consumers, communities and families across Canada.

As a result, MPs on the Ethics Committee have a simple choice: recommend all the changes needed to stop secret, unethical lobbying as more than 80% of voters want, and as Supreme Court rulings have said is needed to have democratic good government, or; make it clear that you don't care about what more than 80% of voters want, or about best-practice democratic good government standards established by the Supreme Court and international organizations, and that you support secret, unethical lobbying that all past evidence shows has a corrupting effect on federal political and government decision-making processes and harms Canadians and the country.

If the Committee reaches evidence-based, merit-based conclusions that reflect what more than 80% of voters want, and what the Supreme Court of Canada has ruled is constitutionally required, and what best-practice international standards set out, the Committee will recommend in its report that all parties work together to enact a bill that makes all of these changes to close the many loopholes in the *Act* and the *Code*, and to make the enforcement system independent, timely, transparent, effective and accountable.

If only opposition MPs support recommending all these changes, opposition parties should not allow the government to stall or fail to make changes, but instead should jointly sponsor and introduce a private member bill that makes all of these changes to force ruling party MPs to vote on it.

Ongoing government and parliamentary inaction has, for more than 15 years (since the *Lobbying Act* was last amended in 2010), ignored the well-known loopholes and lack of

enforcement of the *Act* and *Lobbyists' Code of Conduct* that allow for rampant secret, unethical lobbying. The government of the day failed to enact any of the amendments called for in the unanimous Ethics Committee report issued in 2012, and governments since then have been equally negligent. Parliament failed in 2017 and 2022 to undertake the every-five-year reviews of the *Act* that are legally required by the *Act* itself. And opposition parties failed, during the minority governments from 2019 to 2025, to work together and introduce and enacted a private member bill to amend the *Act* and *Code*.

In other words, all federal political parties have been cooperating, actually back to when the *Act* first came into force in 1989, to leave secret, unethical lobbying loopholes open so that their relationships and favour-trading with their favoured lobbyists remained hidden from the public.

Given all of the above, it would be clearly negligent, undemocratic and unethical for the Committee to fail to strongly recommend the changes needed to make the *Act* and *Code* into a law that actually prevents, prohibits and penalizes secret, unethical lobbying, and for the government to fail to introduce a bill that makes all the changes, and for opposition parties to fail to work together an introduce their own bill that makes the changes if the government fails to act.

B. The Dozen Secret Lobbying Loopholes in the *Lobbying Act*, and How to Close Them Effectively and Efficiently

Canada's federal *Lobbying Act* (section 5) requires registration by anyone paid as a consultant on contract by any entity to communicate with a public office holder in respect of their decisions concerning making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs; the awarding of federal grants, contributions or other financial benefits, and; for consultant lobbyists only, the awarding of a federal government contract and arranging meetings for others to lobby. Lobbying that only involves appealing to the public to contact an office holder (known as "grassroots appeals") is also required to be registered and disclosed (clauses 5(2)(j) and 7(3)(k)).

The requirement to register and disclose lobbying activities applies unless the communication is in an open forum that is publicly recorded with the identities of all the participants and details of the discussions publicly disclosed, such as testimony before a parliamentary committee or a public consultation meeting.

The law's requirements to register as a lobbyist for those kind of communications also covers (in section 7) what are known as "in-house" lobbyists, including:

- anyone paid as an employee of any type of organization (except a Crown or Departmental corporation or shared governance organization) who spends a significant amount of their work time lobbying;
- any officer of any organization who spends any of their time lobbying;
- any director on the board of a business or organization who is paid more than their expenses and lobbies, and;
- the senior officer of any business or organization whose employees collectively lobby more than 20 percent of total work time (section 10.3, and subsections 2(1) "organization" and "public office holder", and 4(2), 5(1), 5(6), 7(1) and 7(6)).

Given they are intergovernmental communications as opposed to lobbying as it is usually defined, the *Act* (subsection 4(1)) does not require registration or disclosure of communications by members of a provincial legislature, municipal council, *Indian Act* band council or indigenous people's government or their staff, or by provincial, municipal, band council or indigenous government employees, or by diplomatic representatives of foreign governments or United Nations agencies or other international organizations recognized by Parliament.

The definition of "public office holder" in subsection 2(1) of the *Lobbying Act* is fairly comprehensive as it includes all federal MPs and senators, their staff, Cabinet ministers and their staff and appointees, and all government employees. As well, the office of the Commissioner of Lobbying has concluded that the definition of public office holder includes employees of the caucus research bureaus for officially recognized parties in the House of Commons. In effect, staff of these bureaus are working for a party as Parliament defines and recognizes parties (i.e. only parties with 12 or more MPs are recognized and received funding for a research bureau).

However, as mentioned above in Part I, these general, overall rules in the federal *Lobbying Act* contain a dozen loopholes that allow for secret lobbying, and these and other loopholes in the federal *Lobbyists' Code of Conduct* also allow for unethical lobbying. Because of the secret lobbying loopholes in the *Act*, none of the significant lobbying activities listed further below are required to be registered and disclosed.

NOTE: The actual key solution to stopping secret lobbying is to reverse the system and, instead of requiring lobbyists to register their lobbying, require politicians, their staff, government appointees and employees, and political party officials to register in an online, searchable registry the identity of anyone who communicates with them in any way about any decision-making process they are involved in, including all the specific details about the communication.

The *Lobbying Act*, and the entire registration system, should have been set up this way originally, which would have: (i) been the most efficient and effective way to register and disclose lobbying communications; (ii) put the registration burden on politicians and public officials who have staff assistants and resources to document their interactions with people trying to influence their decisions,

and; (iii) who already regularly create records of these interactions, and have the general duty to document these interactions under the requirements in the *Access to Information Act*, and a general duty in law to uphold the public's trust. If this had been done, then the past almost 40 years of debating who is a lobbyist and what is a lobbying communication would have been avoided, and much time and resources would have been saved.

If this change is made, finally, the only exception should be that if a public official received an email from a voter (who was not a former public office holder) that is part of a mass email/petition/letter-writing campaign by an individual, business or organization, and then the politician, political staff person, appointee/employee or party official would only register the campaign by individual, business or organization in the registry (including how many letters or petitions were received, what changes they called for etc.).

If the Committee does not recommend changing the *Act* and lobbying registration system in this fundamental way, even though it would be the most effective, comprehensive and efficient way to register and disclose all lobbying communications and activities, then the Committee must recommend closing all the loopholes listed below or, again, it will make it clear that it is in favour of secret, unethical lobbying that has a corrupting effect on federal political and government decision-making processes.

The only justifiable exemptions from the requirement to register and disclose lobbying communications that should be allowed under the *Act* are for:

(i) a casual conversation by a voter with their politician about their general concerns that does not involve a request for any specific favour or preferential treatment;
(ii) a voter signing on to a mass petition or letter-writing campaign undertaken by an individual, business or organization (the individual, business or organization should be required to register the campaign);
(iii) filling out applications for government approvals or funding etc. where no other communications (other than requests for information) with regard to the decision-making process for the approval or funding etc. occur, and;
(iv) the current exemptions in the *Act* for requests for information, and for communications that are recorded and or documented and disclosed in other records that are easily accessible to the public.

Presentations and briefs submitted to the Ethics Committee during this review of the *Lobbying Act* by the Canadian Federation of Independent Business, Government Relations Institute of Canada, Imagine Canada, Ontario Nonprofit Network, Public Affairs Association of Canada, Universities Canada, lawyers from Gowlings (Jacques Shore et al.), Joe Jordan and Scott Thurlow (Click here to see them on the Committee's website) called for more extensive exemptions to the requirement to register and disclose lobbying communications. All of these presentations and briefs provided no evidence to back up their claims, denied the public's constitutional right to know who is

engaged in lobbying activities, and go against what more than 80% of voters want and what the Supreme Court has ruled is needed to have democratic good government. Scott Thurlow's presentation to the Committee on June 8, 2026 in particular was full of speculative claims and anecdotes not supported with any actual evidence, amateurish comments and statements that reveal a lack of knowledge of the basic facts concerning the rules in, and enforcement of, the *Act* and *Code* and the law and law enforcement best practices generally, and his testimony and the written submission from Thurlow Law should be disregarded by the Committee entirely.

In her initial submission to the Ethics Committee , Commissioner Bélanger only recommended closing half of the dozen secret lobbying loopholes listed below, and none of the unethical lobbying loopholes, and making only two of the 10 needed enforcement changes.

In Commissioner Bélanger's submission, Recommendations 1-3, 5-13 and 15 would close loopholes that allow for secret lobbying (and address, somewhat, the loopholes summarized below in points #4 and 7-9). However, the Commissioner's Recommendations do not even mention the biggest secret lobbying loopholes, let alone recommend closing them, and her Recommendation #4 would actually open up a new secret lobbying loophole.

The following are the loopholes in the *Lobbying Act* that allow for significant, secret lobbying that corrupts federal political and government decision-making processes, and how to close the loopholes effectively and efficiently:

1. **A person is only required to register as a lobbyist if they are paid for their lobbying**, as mentioned above. This loophole allows a lobbyist to arrange with a client to be paid for strategic advice, while lobbying for their client for free, unregistered. This loophole also allows retired executives of businesses, unions and other organizations, who may have extensive, good relations with government officials or other public office holders, and who may still be receiving a pension or other retirement benefits from their former employer, to lobby for their former employer without registering.

   Commissioner Bélanger has told the Ethics Committee several times that this is the biggest loophole in the *Act*, and "that should be changed" (October 6, 2025, p. 13 above and below 1220 mark) and is "something that we should be looking into" (March 9th, p. 5 of transcript above 1600 mark and also on pp. 6-7, 13-14). However, for some unknown reason, Commissioner Bélanger did not recommend closing this biggest loophole in her written submission to the Ethics Committee.

Anyone who lobbies, paid or unpaid, should be required to register and disclose their lobbying activities in the online Public Registry.

2. **Lobbying by any person or entity of an enforcement agency concerning the enforcement of a law** that applies to the person or entity is not required to be disclosed (under clause 4(2)(b) of the *Act*). This allows for secret lobbying by, for example, businesses concerning inspections, audits and other enforcement actions by regulatory agencies, which is a major area of business lobbying.

   Anyone or any entity that lobbies about the enforcement of a law, regulation etc. should be required to register and disclose their lobbying activities in the online Public Registry.

3. **Lobbying for a tax credit is not required to be disclosed.** Even though tax credits are a financial benefit, the Commissioner of Lobbying decided in 2009 to designate them as not a financial benefit and, as a result, another area of lobbying in which mostly businesses engage remains hidden from public view.

   Anyone or any entity that lobbies about a tax credit should be required to register and disclose their lobbying activities in the online Public Registry.

4. **Lobbying for a federal government contract by the officers or employees of a business or organization does not have to be disclosed** (only if the business or organization hires a consultant lobbyist on contract would the consultant be required to register and disclose the lobbying (clauses 5(1)(a)(vi) and 7(1)(a)).

   Anyone or any entity that lobbies about a government contract should be required to register and disclose their lobbying activities in the online Public Registry.

5. **Lobbying political party officials is not required to be disclosed** because political party officials are not covered by the definition of “public office holder”. This is significant because these party officials are in regular contact with senior politicians and staff in each party, and so they can easily and regularly pass on communications they have received from lobbyists.

   Anyone or any entity that lobbies political party officials should be required to register and disclose their lobbying activities in the online Public Registry.

6. **Only consultant lobbyists are required to register for time spent arranging meetings for others** to lobby an office holder (clause 5(1)(b). This allows employees at businesses and other organizations to secretly arrange meetings with politicians, political staff and government officlals (including with office holders they have worked with in the past) for others at the business or organization.

   Anyone spending any time at a business, union, organization or other entity arranging meetings with office holders should be required to be registered and disclosed in the online Public Registry.

7. **An employee who is lobbying for a business is not required to be listed in the Registry of Lobbyists if they lobby less than 8 hours of their work time during any 4-week period** (including time spent researching and preparing to lobby, but not time spent arranging meetings with office holders (clause 7(1)(b)). This is known as the "significant time of duties" provision, as Commissioner Bélanger has interpreted it and established the 8-hour threshold as the definition of "significant time".

   The business is required to register if the collective time spent lobbying by all its employees and officers would add up to 8 hours of work time (over a 4-week period) if they were one individual employee.

   For example, if a business had 4 employees who each spent 2.1 hours of their work time lobbying, then 4 x 2.1 = 8.4 hours, and so the business would be required to register. However, the only person required to be listed in the business' registration would be the senior officer, as none of the 4 employees spent more than 8 hours of their work time lobbying.

   As a result, there is no disclosure of key information about the extent and nature of the lobbying efforts of the business, nor can conflicts of interest with politicians or public officials be tracked that are caused by relationships they may have with any of the employees who lobbied for the business.

   In contrast, if the collective lobbying time over a 4-week period by all employees of citizen organizations like unions and non-profit advocacy groups crosses the 8-hour threshold, then all the employees who did any lobbying are required to be identified in the organization's registration (clause 7(3)(f)). In other words, much more full disclosure is required of the lobbying activities of often cash-strapped citizen groups than of the lobbying by the biggest, wealthiest businesses in Canada.

It is very important for the Committee to note that a federal Crown prosecutor told the RCMP sometime after January 2018 that this key "significant time of duties" lobbying registration provision in the *Act* is unenforceable and so no lobbyist will ever be prosecuted for violating that provision (Click here to see a webpage summary about this (and click on "Français" on the webpage to see the summary en français)). This, of course, raises the key questions of whether the RCMP told Commissioner Bélanger and the federal Cabinet that information and, if so, when did the RCMP tell her and the Cabinet, and what did they do with that information?

Anyone who spends any time lobbying for a business, union, organization or other entity should be required to be registered and disclose their lobbying activities in the online Public Registry.

8. **Not all lobbying details and communications are required to be disclosed in the Registry.** Lobbyists are only required to disclose each month in the Registry their communications with "designated public office holders" that are oral, pre-arranged and (with one exception for communications concerning financial benefits) initiated by the lobbyist (under subsections 5(3) to 5(4.3), and 7(4) to 7(4.4) and *Lobbyists Registration Regulations* (SOR/2008-116), sections 6-7 and 9-10). This means that almost all communications initiated by a public office holder do not have to be disclosed publicly (*Lobbyists Registration Regulations* (SOR/2008-116), sections 6 and 9).

   As well, for a business, industry association, union or other type of organization, only the senior officer registers and is listed in those monthly communications registrations, even if the senior officer does not even participate in the communication (under subsections 7(4) to 7(4.4) of the *Act*, and *Lobbyists Registration Regulations* (SOR/2008-116), sections 9-10).

   In addition, the regulations do not require disclosure of the details of communications, which makes it difficult to determine what the communications are about specifically.

   Also, unfortunately, the Commissioner of Lobbying continues to fail to require lobbyists to provide details about which bill, regulation, policy, spending program etc. that they are lobbying about in their overall lobbying registration (even though clauses 5(2)(h) and 7(2)(i) of the *Act* require those details to be disclosed). And lobbyists are also not required to disclose what changes they are lobbying for to any bill, regulation, policy etc.

   All specific details about all lobbying, and about all lobbying

communications, for each registered lobbying effort should be required to be registered and disclosed in the online Public Registry so that it easy to determine exactly who is involved in each lobbying activity and communication and exactly what each lobbying effort and communication is about in detail, including a summary list of the changes the lobbying effort wants to any bill, regulation, policy, spending program etc. And the Commissioner of Lobbying must be required to enforce these disclosure requirements and to include a section in the annual report on how they are being enforced.

9. **The amount of funding for lobbying that citizen groups have compared to the lobbying efforts of big businesses cannot be determined** because, unlike the requirements that require disclosure of third-party (individual and interest group) spending on advertising and other activities in federal pre-election and election periods, and unlike in the U.S. at the federal level and in most states (especially in 19 states), lobbyists are not required to disclose the amount they spend, including on fees for consultant lobbyists, on lobbying for or against any specific change to government decision-making.

   Each individual, business, union, organization or other entity should be required to disclose in the online Public Registry the amount spent on each of their registered lobbying efforts.

10. **As well, consultant lobbyists are not required to disclosed how much they make in fees for any lobbying effort, nor are businesses and other entities required to disclose pay for lobbying employees**, and so the public cannot determine how valuable lobbyists are perceived to be by their clients, especially lobbyists who are former ministers, top government officials or their staff.

    Each consultant lobbyist should be required to disclose in the online Public Registry how much they are paid, and each business and other entity should be required to disclose how much they pay their employees, in total for each of their registered lobbying efforts.

11. **Lobbyists are not required to disclose if they are fundraising or campaigning for** politicians, political parties, nomination contestants, election candidates or party leadership contestants, or assisting them in other ways or doing favours that cause a conflict of interest and a sense of obligation to return the favour.

The *Canada Elections Act*, and the *Lobbying Act*, should be changed to require disclosure in an online Public Registry of the identity of anyone who fundraises, campaigns or organizes events for, or does any other favour for, a party, contestant, candidate, politician or political staff, and disclosure of details about the fundraising, campaigning and/or other favour.

12. **As a result of the above loopholes, politicians, their staff and top government officials can leave their job and start lobbying right away.** The *Lobbying Act* contains a 5-year ban on being a registered lobbyist, not on lobbying, and no one is required to register as a lobbyist as long as they exploit the loopholes listed above.

    In addition, people who come to the federal government under the Build Canada Exchange program (formerly the Interchange Canada program) are exempt from the five-year ban on being a registered lobbyist when they return to their business after working in government.

    Either all politicians, political staff, government employees and political party officials must be required to disclose all their communications with anyone who communicates with them in any way about any of their decisions or actions (as proposed at the beginning of this list of loopholes), or all of the above loopholes must be closed (including the loophole that exempts people participating in the Build Canada Exchange program), so that the 5-year ban applies to everyone who lobbies.

    The current 5-year cooling-off period applies equally to Cabinet ministers, their staff, Cabinet appointees, the Leader of the Opposition and their staff, and MPs and Senators and their staff, which doesn't make sense given there are wide variations in the power, connections and influence they had in government, and that they have after they leave their position.

    The ban should be changed to a sliding scale from 1 to 5 years depending on the power the person had in their public position, and their ongoing relationships with politicians, staff and officials still in office. The actual cooling-off period for each public official should be determined after an by the Commissioner of Lobbying, with anyone allowed to provide evidence in the assessment process, and the results should be required to be disclosed publicly so that public officials, the media and the public can monitor the former public official to ensure compliance with their cooling-off period.

C. The Four Unethical Lobbying Loopholes in the *Lobbyists' Code*, and How to Close Them by Adding the *Code* to the *Act*

Only lobbyists who are required to register under the *Act* are required to comply with the ethical lobbying rules in the federal *Lobbyists' Code of Conduct*, and the *Code* also has huge loopholes in it that allow even registered lobbyists to essentially bribe politicians and public officials they are lobbying with favours and gifts.

These loopholes must be closed to prohibit unethical lobbying, and they can be closed with simple amendments to the *Code*.

The loopholes were added to the federal *Code* in July 2023 after a skewed and dishonest public consultation process by Commissioner of Lobbying Nancy Bélanger, with the approval of MPs from all parties on the House of Commons Access to Information, Privacy and Ethics Committee. In adding the loopholes, which essentially gut key ethics rules in the *Code*, Commissioner Bélanger relied solely on a secret legal opinion she commissioned and refused to disclose publicly, and ignored the fact that adding the loopholes to the *Code* was opposed by more than 20,000 voters, by 26 citizen groups with a total membership of 1.5 million Canadians, by 15 lawyers from 7 law firms (and also lawyers in private practice or other roles), and by 26 law, politics and ethics professors from 15 universities in 9 provinces (Click here to see a webpage summary of the Commissioner's secretive, undemocratic process of changing the *Code* (and click on "Français" on the webpage to see the summary en français)).

An additional important change is to amend the *Act* to add all the provisions in the *Code* to the *Act*. Lobbyists are required by the *Act* to comply with the Code, so there really is no reason to keep the *Code* separate from the *Act*. This will also prevent the Commissioner from arbitrarily changing the *Code* for completely invalid reasons, as was done in 2022-2023.

The following are the loopholes in the federal *Lobbyists' Code* that must be closed because they allow for unethical lobbying and essentially legalize bribery of federal politicians:

1. **A lobbyist is allowed to do secret favours for politicians they are lobbying or are allowed to lobby them soon after doing the favours**

   In the pre-July 2023 version of the *Lobbyists' Code*, Rules 6 and 9 and a guideline by the Commissioner prohibited lobbying for 4 years (i.e. until after the next election) after a person did any significant campaigning or event organizing, or any fundraising, for a politician or party.

   Under Rule 4.2 in the new *Code*, depending on the level of campaigning or fundraising a person does for a politician or party, lobbying is allowed at the same

time, or right afterwards, or at most only 1-2 years later (only at most 1 year later no matter how much money a lobbyist raises).

Rule 4.2 also gives the Commissioner of Lobbying the power to secretly reduce those lobbying prohibition periods.

When proposing the new loophole, Commissioner of Lobbying Bélanger made the very questionable claim that the *Code*'s previous 4-year cooling-off period violates the *Canadian Charter* right to freedom of expression, based on one opinion that the Commissioner paid law firm Goldblatt Partners for in a sole-source contract that was extended twice, increasing from $11,300 to $45,200 and then up to $90,400.

In fact, several Supreme Court of Canada and other Canadian court rulings have clearly stated that *Charter* rights must be restricted to protect government integrity, and as a result it is clear that the previous 4-year cooling-off period complies with the *Charter* while the new shorter or non-existent cooling-off periods violate the Charter.

The *Lobbyists' Code* should be changed to again prohibit, without any exemptions, anyone from lobbying any party leader and any MP, Senator or their staff in their party and any party official for at least 4 years after they have done significant campaigning, fundraising, event organizing or any other favour for the party leader or party, and to prohibit anyone from lobbying any individual MP, Senator or their staff after they have done significant campaigning, fundraising, event organizing or any other favour for the MP or Senator. **If the Commissioner is allowed to continue to have the power to grant exemptions, the Commissioner must also be required to publish each exemption as soon as it is granted in an online, searchable, public registry.**

2. **Gifts and hospitality are allowed to be given by lobbyists to politicians and public officials they lobby**

Under Rules 3.1 to 3.3 of the *Lobbyists' Code*, lobbyists are allowed to give a gift or hospitality (i.e. a meal or event) worth up to $40 each time, and up to $200 over any 12-month period.

While those dollar amounts are not exorbitantly high, and can be afforded by most lobbying organizations, and while these rules are stronger than in past versions of the *Code*, the rules open up gift-giving and wining and dining as a means of influence, and the limits are difficult to enforce because lobbyist's interactions with

public officials can't be monitored in any comprehensive, detailed way.

In addition, the Rules allow the Commissioner to secretly exempt lobbyists from the limits.

In addition, the Rules allow lobbyists to give gifts to political party officials (who can pass them on to politicians or political staff in their party), and the Rules also allow lobbyists to offer or give other benefits to politicians and public officials, such as a donation to their favourite charity, or a gift or benefit or job to a family member, or the promise of a job in the future after they leave their political or government position.

The *Lobbyists' Code* should be changed to prohibit lobbyists, without any exemptions, from offering or giving, directly or indirectly, any gift or any other type of benefit or advantage to any politician, political staff, political party official or public official or to any member of their family. This clear prohibition not only closes loopholes in the current *Code* rules, it is also a better system because clinical studies by psychologists in many countries show that even small gifts influence decisions.

3. **Lobbying for clients that have conflicting interests is allowed**

In a past, pre-2015 version of the *Lobbyists' Code*, lobbyists were prohibited from representing clients that had conflicting interests unless the clients consented. The current version of the *Code* allows lobbyists to representing clients with conflicting interests, which has led to some lobbying firms doing that. Click here to see details.

The *Lobbyists' Code* should be changed to again prohibit, without any exemptions, anyone from lobbying for a client whose interests conflict with another client unless all the clients consent in writing.

4. **Lobbyists are allowed to use secret information obtained from politicians and public officials**

In the pre-July 2023 version of the *Lobbyists' Code*, Rule 5 stated that "If a lobbyist obtains a government document they should not have, they shall neither use nor disclose it." Rule 2.2 of the new *Code* says a lobbyist can use or share information obtained from a public official in confidence if the lobbyist has the official's informed consent.

The *Lobbyists' Code* should be changed to again prohibit, without any exemptions, lobbyists from using or sharing secret information they have obtained from any politician, political staff or public official.

D. The 10 Flaws in the Enforcement System, and How to Ensure Independent, Timely, Transparent, Effective and Accountable Enforcement

The 10 changes listed below are needed to ensure the enforcement of the federal *Lobbying Act* and *Lobbyists' Code of Conduct* is independent, timely, transparent, effective and accountable, which it isn't currently and hasn't been at any time since the *Act* was enacted in 1988 and the *Code* was enacted in 1997.

In Commissioner Bélanger's initial submission to the House Ethics Committee, Recommendations #16-20 would strengthen the enforcement system. However, the Commissioner's recommendations do not even mention the biggest systemic flaws in the enforcement system.

The 10 changes listed below are also needed because Commissioner Bélanger has a negligently bad enforcement record and has failed to use the clear legal powers she has to enforce the *Act* since she was appointed in 2018. According to her own annual reports, Commissioner Bélanger, in secret without identifying any of the lobbyists or finding them guilty of violating the *Code*, has let off all the lobbyists who violated the *Act* a total of 31,803 times from 2018 up to the end of March 2026 by failing to register their lobbying on time and/or accurately as required by the *Act* (Click here to see a webpage summary of this information contained in the Commissioner's annual reports (and click on "Français" on the webpage to see the summary en français)).

Many of the 31,803 violations were minor infractions, but almost 3,800 of the violations involved a lobbyist failing to register their lobbying for more than one month to more than 6 months after the *Act*'s registration deadline, and another more than 1,250 violations involved a lobbyist repeatedly failing to register their lobbying accurately. As the Commissioner herself told the Ethics Committee on May 7th, "transparency delayed is no transparency at all" (p. 7 of transcript above 1610 mark). Commissioner Bélanger repeated this statement near the end of her appearance before the Committee on October 26th.

Commissioner Bélanger has made the completely false claim several times before the Committee, including a few times during her appearance on October 26th, that the only thing she can do is refer a violation to the RCMP for investigation, but that she doesn't do that for almost all of the thousands of violations that happen each year, and instead she just lets all these thousands of lobbyists off even though they have violated the law.

This raises the first question of why Commissioner Bélanger only referred to the RCMP, from 2018 through to the end of March 2026, 19 of the more than 5,000 violations that, according to her own testimony, were serious violations of the *Act*?

But it also raises a second key question, which is why Commissioner Bélanger has failed since 2018 to use her clear legal powers, that she clearly knows she has, to publicly identify and find all of the lobbyists involved in those more than 5,000 serious violations guilty of violating the *Lobbyists' Code*?

Why has she repeatedly made the false claim that she can't do this, and covered up more than 5,000 violations, including the 19 most serious violations that she referred to RCMP?

Commissioner Bélanger knows clearly that she could have issued a public ruling identifying and finding all the lobbyists involved in these more than 5,000 violations guilty of violating the Lobbyists' Code. Why does she clearly know this? Because former Commissioner Karen Shepherd issued a public ruling in 2007 identifying a lobbyist who violated the *Lobbying Act* by failing to register his lobbying, and found him guilty of violating the *Lobbyists' Code* (because the *Code* requires lobbyists to comply with the *Act*). The lobbyist, Neelam Makhija, challenged Commissioner Shepherd in court, claiming that the Commissioner did not have the power under the Act to do this. The Federal Courts issued the final ruling in February 2010 in the case of *Makhija v. Canada (Attorney General)*, 2010 FC 141 (CanLII) that the Commissioner has the clear legal power to conclude that a lobbyist is in violation of the *Act*, and then issue a public ruling identifying the lobbyist and finding them guilty of violating the *Code*.

Commissioner Bélanger, in her testimony before the Ethics Committee, has even contradicted her claim that the *Act* only allows her to refer violations to the RCMP. She has acknowledged in her testimony that she could have issued public rulings on the lobbyists she concluded had violated the *Act* on March 9th (p. 14 of transcript above 1650 mark) and on May 7th (pp. 3 and 5 of transcript). In this testimony, Commissioner Bélanger offer the completely invalid excuses that the RCMP's delay in investigating violations (which, from what is known, usually takes 2-3 years), and the fact that some of the lobbyists involved are not well-known to the public, are reasons why she has not issued these public rulings.

As noted above in Part C, another problem with the enforcement of the *Act* is that a federal Crown prosecutor told the RCMP sometime after January 2018 that the key "significant time of duties" lobbying registration provision in the *Lobbying Act* (which sets the threshold for registration of officers and employees lobbying

for a business or organization) is unenforceable and so no lobbyist will ever be prosecuted for violating that provision (Click here to see a webpage summary about this (and click on "Français" on the webpage to see the summary en français)). Again, this raises the key questions of whether the RCMP told Commissioner Bélanger and the federal Cabinet that information and, if so, when did the RCMP tell her and the Cabinet, and what did they do with that information?

Another problem with the enforcement of the Act is lack of transparency. The RCMP and the Commissioner are currently violating the *Access to Information Act* by hiding their investigation records in these cases, and the Information Commissioner is investigating their violations (Click here to see a webpage summary about this (and click on "Français" on the webpage to see the summary en français)).

Another problem with enforcement is that it lacks independence from the ruling party Cabinet which has the most interest in appointing enforcement officers who will hide violations of the *Act* involving lobbyists who mostly lobby Cabinet ministers. The Commissioner of Lobbying is handpicked by the ruling party Cabinet through a secret process involving little consultation with the opposition parties. In addition, the RCMP Commissioner, Deputy Commissioners, and the heads of every division of the RCMP are handpicked by, and serve at the pleasure of, the PM, so they can be fired by the PM at any time for any reason. As a result, the enforcement of the *Lobbying Act* and *Lobbyists' Code* clearly lacks the independence needed to ensure effective enforcement.

Finally, the Federal Courts have ruled that the Commissioner cannot be challenged in court even if the Commissioner ignores clear evidence of a violation of the *Act* or *Code* and lets the violating lobbyist off. This makes the Commissioner an unaccountable lapdog who can fail to enforce the *Act* and *Code* properly, and actually has the power to bury violations with secret rulings (as Commissioner Bélanger has done with almost 32,000 violations since 2018).

The Commissioner and the RCMP's negligently bad enforcement record, their lack of independence from the ruling party Prime Minister and Cabinet (whose ministers are lobbied the most), and their delayed, secretive and ineffective enforcement of the Lobbying Act and Lobbyists' Code, make it clear that the 10 changes listed below are needed to ensure the enforcement of the *Act* and *Code* is independent, timely, transparent, effective and accountable:

1. **Establish, by adding new provisions to the *Lobbying Act* (by completely changing section 4.1), a fully independent, fully non-partisan committee to conduct a public, merit-based search for short list (1-3) qualified candidates for the Commissioner of Lobbying**, and then have that committee make the final

choice and submit the choice to an all-party committee for appointment (with no possibility of re-appointment as that gives the enforcer an incentive to please office holders by letting them off when they violate the rules). This should also be the system for the appointment of all Officers of Parliament, the Commissioner and all other top officers of the RCMP, the head of FINTRAC, the new Foreign Interference Transparency Commissioner, and all judges, all of whom need to be fully independent in order to be perceived as being capable of impartially and effectively enforcing the key democratic good government and anti-corruption laws they enforce.

2. **Add a new section 10.6 that requires the Commissioner of Lobbying to ensure that all lobbyists are disclosing specific details in their lobbying registrations,** including "particulars to identify any relevant legislative proposal, Bill, resolution, regulation, policy, program, grant, contribution, financial benefit or contract" as required by clauses 5(2)(h) and 7(2)(i) of the federal *Lobbying Act*.

   And in that new section also require the Commissioner's annual report to include details concerning how many lobbyists, by type of lobbyist (consultant, in-house corporate, in-house organization) violated the *Act* by failing to include those required details in their lobbying registrations, and what the Commissioner did to enforce the requirement in each case of a violation. This is needed because the Commissioner continues to fail to enforce this requirement, which makes it very difficult to determine what lobbyists are lobbying for specifically.

   Also bad is that, because of a loophole in the *Act*, in their monthly communication reports lobbyists are not even required to disclose the bills, regulations etc. that were mentioned in their lobbying communications (though they can include this information voluntarily).

3. **Also in a new section 10.6, require the Commissioner of Lobbying to conduct regular, unannounced audits** of a randomly selected sample of lobbyists' communications and other activities, gifts and benefits and other matters and activities covered by the *Lobbying Act* and *Lobbyists' Code*.

4. **Also in a new section 10.6, require the Commissioner of Lobbying to publish online binding interpretations of every measure in the *Lobbying Act* and *Lobbyists' Code of Conduct* with examples of real situations**, and to publish online a summary of the Commissioner's advice or opinion each time advice or an opinion about a new situation is given to any person covered by the *Lobbying Act or Lobbyists' Code*, so everyone knows exactly what the law and code prohibit.

5. **Also in a new section 10.6, require the Commissioner of Lobbying to publish online a notice setting out all the details every time the Commissioner grants an exemption to any rule in the *Lobbyists' Code*.**

6. **Require in new subsections of sections 5 and 7 of the *Lobbying Act* that all lobbyists take a formal training course from the Commissioner of Lobbying when they first registering as a lobbyist, and annually.**

7. **Change subsection 10.4(1) the *Lobbying Act* to give members of the public, who employ and pay all office holders, a clear legal right to file a complaint** with the Commissioner of Lobbying.

8. **Delete clauses 10.4(1.1)(b) to (d) in the *Lobbying Act*, and change sections 4 and 10.5 to require the Commissioner of Lobbying to investigate and issue a public ruling on every complaint the Commissioner receives and every situation** the Commissioner becomes aware of that raises any questions about whether a lobbyist has complied with the *Lobbying Act* or *Lobbyists' Code*.

9. **Add a new subsection to section 10.5 that empowers and requires the Commissioner of Lobbying to impose a sliding scale of mandatory penalties** (specifically listed in the new subsection) depending on the seriousness of any and all violations of the *Lobbying Act* or the *Lobbyists' Code*, with a set mandatory fine and prohibition on lobbying for a specified time period imposed on every violator, and more significant fines and prohibitions for longer time periods as the mandatory penalties for more serious violations.

   In addition, change subsections 10.4(7) to (9) of the *Act* to specify that the Commissioner is only required to refer the most serious violations of the *Act* to the RCMP, and that the Commissioner is not required to suspend any investigation concerning a violation of the *Act* or *Code* even if the Commissioner refers a matter to the RCMP that involves a violation of another law.

   As well, subsection 10.4(4) of the *Lobbying Act* must be changed so that evidence gathered by the Commissioner can be used by police for a prosecution of a violation of the *Lobbying Act*.

10. **Add a new subsection to section 10.5 of the *Lobbying Act* giving any member of the public a clear right to apply in Federal Court** for a judicial review of any decision made by the Commissioner of Lobbying under the *Lobbying Act* or *Lobbyists' Code*.

E. Many Other Changes Needed to Prevent, Prohibit and Penalize Conflicts of Interest and to Ensure Democratic Good Government

The following changes are needed to other federal laws to prevent, prohibit and penalize conflicts of interest and to ensure democratic good government (and similar changes are needed in every province, territory and municipality across Canada):

- Closing all the loopholes in the *Conflict of Interest Act* that allow for secret, unethical activities by Cabinet ministers, their staff, Cabinet appointees and top government officials (Click here to see a webpage summary (and click on "Français" on the webpage to see the summary en français));
- Closing all the loopholes in the *Conflict of Interest Code for Members of the House of Commons* that allow for secret, unethical activities by MPs, and extend key rules in that code to apply to the staff of MPs (Click here to see a webpage summary (and click on "Français" on the webpage to see the summary en français));
- Closing all the loopholes in the *Ethics and Conflict of Interest Code for Senators* that allow for secret, unethical activities by Senators, and extend key rules in that code to apply to the staff of Senators (Click here to see a webpage summary (and click on "Français" on the webpage to see the summary en français));
- Decreasing the donation limit in the *Canada Elections Act* to $75 (as the current annual individual donation limit of $3,500 (which increases by $50 each year) is essentially legalized bribery for those who can afford to make a top donation) (Click here to see a webpage summary (and click on "Français" on the webpage to see the summary en français));
- Closing huge excessive secrecy loopholes in the federal *Access to Information Act* and strengthening enforcement (Click here to see a webpage summary (and click on "Français" on the webpage to see the summary en français));
- Preventing, prohibiting and penalizing foreign interference (Click here to see a policy paper on key needed measures (in English only));
- Strengthening the whistleblower protection law (Click here to see a webpage summary (and click on "Français" on the webpage to see the summary en français)).