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Research Paper**

**LOBBYIST REGISTRATION**

**Volume 2:  
Effectiveness and Best Practices**

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# ***Executive Summary***

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## **Part 1: Introduction**

This volume builds on the base of information and analysis presented in *Volume 1* – a comparative overview of lobbyist registries in Canadian and U.S. jurisdictions. Its overall focus is on assessing the effectiveness of lobbyist registries.

This volume draws on interviews with 29 individuals, including academics and other experts, lobbyists, lobbyist registry officials from a number of large U.S. municipalities, other provincial, federal, and municipal public servants, and associations representing Ontario municipal officials. Interviews have been supplemented by available secondary material – academic papers, monographs, articles, etc.

## **Part 2: Lobbyist Registry Outcomes**

In this section, we identify the various outcomes that are in place for lobbyist registries. For the purposes of this study, outcome is defined as *the impact, difference, change, or benefit to be obtained*.

The common thread is a real or perceived problem with respect to public confidence in government and a desire to restore, enhance, or forestall a decline in this confidence. However, lobbyist registries in their implementation (as opposed to in their original political/rhetorical inception) are often somewhat

muted in terms of outcomes and expectations, avoiding direct reference to enhancing public confidence. In setting up registries, most governments did not want to suggest that lobbying was a problem but only wanted to make sure that the public had access to information about who was lobbying.

Most lobbyist registries have multiple outcomes, including the following:

- Greater transparency.
- A better-informed and/or engaged public.
- Restored public confidence in government.
- Improved ethical behaviour.
- Moderating the extent of lobbying.
- Enhancing the legitimacy and/or professionalism of Lobbying.
- *Following the Money*, i.e. tracking financial contributions from special interests against decisions made by public office holders.

## **Part 3: Assessing Outcomes Effectiveness**

In this section, we assess the effectiveness of lobbyist registries against each of the outcomes identified in Part 2.

### **Transparency for its own sake**

In this section, we pose five key questions related to transparency, lobbying, accountability, and the public interest:

- Who is attempting to influence government decision-making?
- Which government decision makers are the subject of the influencing efforts?
- Which decisions are the subjects of the influence attempt?
- Was the attempt to influence successful?

- Was the decision in the public interest?

Lobbyist registries cannot be expected to answer all five questions but are of limited value if they do not provide the answer to at least the first three questions. Most registries do not go much beyond the first question: *who is attempting to influence government decision making?* The information on the subject matter of the lobbying is usually at such a high level as to be of little practical value.

### **A Better Informed/Engaged Public**

Most experts, practitioners, and advocates consistently express the view that the use of registries by individual citizens or citizens' groups is quite limited. Little or no information/analysis exists with respect to whether those relatively few members of the public who have accessed registries found the information to be useful/informative and for what purpose.

### **Restored Public Confidence**

Academics, observers, and registry officials note that rather than resulting in increased public confidence in public office holders and decision-making in government, lobbyist registries have actually had the opposite effect. This is at least in part a result of the public receiving most of its information about lobbying from the media, political campaigns, and external watchdog/advocacy groups. The messages are often in the form of suggestions of "shady dealings" with the simple fact of who is lobbying for whom often presented in a way that leaves the public with the impression of inappropriate or unethical activity.

### **Improved Ethical Behaviour**

Many if not most lobbyist registries maintain that their program was not intended to result in improved ethical behaviour, notwithstanding evidence that concerns

about ethical behaviour were behind the creation of most registries. Our research found that:

- Many governments did not feel that in establishing a registry they were making statements that ethical behaviour needed to be enhanced.
- Registry officials perceive that general awareness of what constitutes ethical behaviour was heightened as a result of the lobbyist registry.
- Other public servants noted that they did not see the registry as a relevant factor in public policy development or influencing behaviour. Public servants were already generally aware of who was behind major lobbying efforts and of the positions that were being advocated.

### **Moderating the Extent of Lobbying**

The research suggests that lobbyist registries have not (nor were they usually intended to) moderated the extent of lobbying. Rather, much of what they have captured was pre-existing and generally legitimate contact between outside interests (individual companies, industry associations, non-profit organizations, etc.) and governments. The number of active lobbyists in most jurisdictions continues to increase.

### **Enhancing the Legitimacy/Professionalism of Lobbying**

Lobbyist registration has been successful in elevating the industry, at least in the minds of public office holders if not the general public, with most registries making an up-front public statement that lobbying is a legitimate and, in some cases, valued activity. The government relations industry is one of the strongest advocates of registration. The industry generally feels that registration has been “good for business” in that potential clients no longer need to “feel embarrassed” about hiring a lobbyist.

**Following the Money**, *i.e. tracking financial contributions from special interests against decisions made by public office holders.*

This outcome would tend to apply in the U.S. rather than in Canada, given the comparatively different approaches to campaign financing and election expenses. The primary point of reports on *following the money* is less about the need for more lobbyist registration, and more about the perceived need for campaign financing reform. Recommendations tend to be for more financial disclosure as part of putting additional pressure on politicians to enact campaign financing reforms.

## **Part 4: Lobbyist Registry Best Practices**

The focus of this section is on how lobbyist registries might be made more effective.

Lobbyist registries tend to be positioned by government as part of a *suite* of ethics related policies and accountability mechanisms that historically have resulted in higher standards of ethical behaviour in government. However, there is no evidence to indicate that, as most commonly constituted, registries have been a critical part of achieving that result. The research suggests that other components of the *suite* are likely more important in terms of achieving positive outcomes.

The starting point for more effective registries lies in what the registry is expected to achieve. Two related and overarching outcomes are suggested:

- Enhancing public confidence in government decision making by giving citizens better tools to hold public office holders accountable for making



decisions in the public interest (from this research, this is clearly the “original intent” behind most if not all lobbyist registries).

- Assisting the public to better understand the nature of the public policy debate and the complexity of the issues, as part of their own determination of whether and how to become more engaged.

These outcomes involve an important shift in registry design:

- Beyond the current competitive/strategic utility for lobbyists themselves and beyond the media “gossip”, i.e. which organization has hired which lobbyist and the inevitable negative speculation about inappropriate influence.
- Towards the issues at stake in lobbying and promoting a more transparent and substantive debate of those issues.

### **Key Design Best Practice #1: Increased Disclosure of Subject Matter**

The purpose of increased disclosure of this nature is to shift the public attention from the identity of the lobbyists and their clients, towards the actual decisions that lobbyists are attempting to influence. The research indicates that subject matter disclosure for most registries is at a high level and does not give the public the information it would need to be able to correlate lobbying efforts to actual decisions by public office holders or to better enable them to become more directly engaged.

### **Key Design Best Practice #2: Disclosure of Public Office Holders**

The purpose of disclosing which public office holders are/will be/have been the subject of lobbying is intended to complement the greater disclosure requirements related to lobbying subject matter. The goal is to give the public more of the kind the information it would need to evaluate whether public office

holders have inappropriate relationships with/are being inappropriately influenced by lobbyists.

## **Other Best Practices**

### ***Analytical Capacity***

Registries should include the data and technology capacity for the public to search and analyze the on-line data at both the specific individual level and with regard to identifying meaningful aggregate trends.

### ***Enforceable Code of Conduct***

Lobbyist registry legislation should include an enforceable Code of Conduct for lobbyists similar to what is contained as part of the Government of Canada's *Lobbyist Registration Act*.

### ***Adequate Resources***

The research and interviews with public officials reinforce that the effectiveness of registries is very dependent on the level of human and technology resourcing that is available. Jurisdictions that are serious about making their registries effective and useful for the public need to allocate sufficient resources for these purposes.

### ***Education and Communication***

Best practices include advisory/interpretive bulletins, publishing complaints and the results of investigation/enforcement activities, mandatory training for lobbyists and public office holders, and public educational material

### ***Independent Oversight Body***

Independent oversight bodies responsible for lobbyist registries should have the mandate and resources to monitor and review registrations, investigate

complaints and take enforcement actions, conduct training and education for staff and lobbyists alike, and prepare value-added reports for the public.

### ***Enforcement***

Registries should have the resources and powers to effectively enforce registry provisions, including but not limited to ensuring compliance with the various disclosure requirements.

### ***Actively Engage Public Office Holders***

The best practice in this area is that public office holders would actively use the registry as part of the public policy development process and as part of maintaining high awareness of the importance of ethical behaviour.

### ***Be Clear that Lawyers are Included***

Registration requirements should be clear up front that lawyers who engage in lobbying would be required to register that activity and that they would be required to register.

### ***Include Procurement and Sales People***

The definition of lobbying should encompass procurement related activities broadly defined, including sales people contacting public office holders as part of their sales and marketing related activities.

### ***Value-added Reporting to the Public***

As a best practice, registries should be expected to provide the public with *value-added*, as well as statistical reports, including the following:

- The most active consultant lobbyists and lobbying organizations.
- Which issues, decisions, by-laws, zoning applications, etc. were the subject of the most intensive lobbying activity.

- Some explanatory information that would help the public to better understand the issue that was the focus of the lobbying.
- Which departments, units within departments, and individual public office holders were the subjects of the most intensive lobbying.

### ***Program Evaluation***

Design and development of a new lobbyist register should include and incorporate the elements that will be necessary for ongoing program/effectiveness evaluation. These elements include a clear description of the intended outcomes, and the capacity/requirement that the necessary data and information be collected, analyzed, and reported.

### ***Identify Lobbyist's Other Relationship with Decision Makers***

Lobbyist registration should identify where the lobbyist and/or client organization/employer receive funding direct from government as well as identify whether the lobbyist is directly providing consulting services to government departments/public office holders.

## **Part 5: Conclusion**

How lobbyist registries perform in terms of restoring, enhancing, or forestalling declines in public confidence in government is the most important test of effectiveness and, ultimately, of whether the expenditure of public resources to create a registry was worthwhile. The research and expert opinion indicates that lobbyist registries do not perform well in many key areas and that as currently constituted may not be worth the expenditure of public resources, particularly relative to other arguably more effective policies and practices, e.g. conflict of interest, codes of conduct, procurement rules, more comprehensive efforts to instil values/create an operating culture of high ethical standards, etc..

One particularly key area is related to disclosure of the actual decisions that lobbyists/lobbying organizations are attempting to influence. We are suggesting that future iterations of lobbyist registries need to shift the focus from *who is lobbying* and *which client* to the substantive subject matter of the lobbying and which decision is being sought – in effect, addressing the first three of the five key questions identified on page 11 of this volume:

- Who is attempting to influence government decision-making?
- Which government decision makers are the focuses of the influencing efforts?
- Which decisions are the subjects of the influence attempt?

To date, we cannot point to a jurisdiction that has moved to this next logical stage of evolution in lobbyist registry design. If, however, a jurisdiction is determined to put a registry in place, focusing on the substantive issues at stake provides for a greater likelihood that the registry will have a demonstrable and beneficial impact.

# Part 1

## Introduction

We are pleased to submit this, our second volume on lobbyist registration. This volume is intended to build on the base of information and analysis that we presented in *Volume 1* – a comparative overview of lobbyist registries in Canadian and U.S. jurisdictions.

## Focus and Structure

The overall focus of this volume is on assessing the effectiveness of lobbyist registries. We have adopted an *outcomes-based* approach whereby we attempt, in three different parts to:

- Articulate the various outcomes that registries are (explicitly and/or implicitly) intended to achieve (*Part 2*).
- Provide an analysis/assessment of how effective registries are at achieving these various outcomes (*Part 3*).
- Provide a set of *best practices* – in effect, enhancements to the standard model of registry – that in our view and as supported by the research and views of experts, etc. would result in a more effective registry (*Part 4*).

In preparing this volume, we drew on analysis and views expressed in interviews and informal surveys with a total of 29 individuals including academics, lobbyists, lobbyist registry officials at the federal, state/provincial, and municipal level, other provincial municipal public servants, and representatives from the Association of Municipalities of Ontario and the Association of Municipal Managers, Clerks, and Treasurers. Wherever possible, the analysis and views have been

supplemented by available secondary material – academic papers, monographs, articles, etc. – containing various evaluative viewpoints.

### **A Word about Program Evaluation**

It is important to note at the outset that we were not able to locate, nor are we or our key informants aware of, any studies conducted by government or other organizations that attempt to formally evaluate the effectiveness of lobbyist registration systems using a professional program evaluation methodology.

## Part 2

### Lobbyist Registry Outcomes

#### What do we mean by *Outcome*?

The answer to this question begins with defining what we mean by *outcome*. Governance expert John Carver provides a succinct definition that we summarize as follows: *the impact, difference, change, or benefit to be obtained*.

With this definition in mind, the answer to the central line of inquiry for this volume – whether and/or to what extent lobbyist registries are effective – depends, therefore, on what *outcome(s)* registries were intended to achieve.

#### ***Do the origins of lobbyist registries point to a specific overarching outcome?***

The answer to this question is clearly *yes*. As we indicated in *Volume 1*, the origins of lobbyist registration are varied in the specific instances but a number of consistent general themes are evident from the research:

- In the U.S. in particular, as part of an overall trend since the early 1970's towards professionalization of legislatures including, with in the post-Watergate period, a renewed emphasis on ethics-related policies and programs as a vehicle for dealing with what was then widely acknowledged to be a lack of public trust in the integrity of government decision making.
- In both Canada and the U.S., as a political response to a public scandal or series of scandals (often involving a previous government), with the



emphasis being on creating the public perception that appropriate corrective action has been taken.

- In both Canada and the U.S., as a “pre-emptive” move by governments that are interested in alternative service delivery including privatization. In these cases lobbyist registries are proactive attempts to assure the public that the appropriate safeguards are in place.

The common thread running through each of the themes identified above is obviously a real or perceived problem with respect to public confidence in government and a desire to restore, enhance, or forestall a decline in this confidence. One might expect, therefore, that statements emphasizing this outcome would be commonplace in how lobbyist registries communicate their value to the public.

However, this is not the case. In fact, in their actual implementation, lobbyist registries are often somewhat muted in terms of their intended outcomes.

The Canadian federal government is a case in point. According to federal officials, the current lobbyist registry is a direct outgrowth of a 1993 Liberal Redbook promise to deal with the fact that Canadians were “concerned and distrustful about the role of lobbyists.” Quite understandably, a citizen might take this to mean that a major self-defined role for the federal lobbyist registry is to alleviate public concerns and restore public trust.

However, the federal lobbyist registry (as is the case with other registries) is apparently careful to avoid addressing this issue head on. The registry makes it clear that its focus is *transparency* and, more than that, a kind of *neutral* transparency whereby:

- Lobbying is viewed as a legitimate part of the public process.
- The public has a right to know who is lobbying.

- Registration is not intended to impede access by paid lobbyists to government officials.

This general approach was reinforced in our interviews. As often described to us, various governments, in establishing registries, did not want to suggest that lobbying was a problem or that behaviour related to lobbying needed to change. Instead, they wanted only to make sure that the public had access to information about who was lobbying (not who was being lobbied or what decision was to be influenced) and are careful to point out that their legislation does not impose any limits on what constitutes lobbying.

In light of the above, citizens might well ask the question: *if lobbying does not pose a problem in terms of the integrity of government decision making, why would I need to know who is lobbying?*

This is not to suggest that this notion of transparency with respect to who is lobbying, is not a legitimate outcome. However, as we suggest in this volume, it is a rather limited outcome. Furthermore, the research indicates that it is not an outcome that the public makes use of to any extent, judging by what many registry officials and advocacy groups feel (in the absence of any formal evaluation) is a widespread lack of public interest in the data contained in most lobbyist registries.

## **Is there more than one legitimate outcome?**

The answer to this question is a clear yes. In fact, most lobbyist registries have multiple outcomes that are both formal and informal. In some cases, explicit and more implicit outcomes are present at the same time (as in the federal Canadian example, related to transparency of registry information and the Liberal Party's Redbook promise with respect to restoring confidence). In still other cases, the

outcome depends on the perspective of the stakeholder, i.e. their view of what the lobbyist registry was intended to “fix” in the first place.

From our perspective, this last point is particularly important. As we attempt to demonstrate in this section, the lack of up-front clarity in outcomes often means that governments, ethics advocacy groups, lobbyists, and, we would argue, the general public, often have different expectations. These expectations reflect their own underlying definitions of the problem to be solved and results that lobbyist registries are intended to achieve.

## **Examples of Outcomes**

In the remainder of this first part of this Volume, we attempt to describe the various outcomes, formal or informal/explicit or implied, that might be expected from having a lobbyist registry. As will be seen, these outcomes are not necessarily mutually exclusive, with any or all of them coming into play at different times and from different stakeholder perspectives. Keep in mind that our intention in this section is to be descriptive. In Part 3, we offer an analysis of whether and to what extent lobbyist registries are successful in achieving these outcomes.

### ***Outcome: Transparency for its Own Sake***

- Lobbyist registries are sometimes positioned as part of a general move towards greater transparency in government. Along these lines, the outcome of the lobbyist registry would be increased public transparency most often with respect to the question of who is lobbying public office holders (as per the Canadian federal government example cited earlier).
- In this sense, the registry would be somewhat less focused on “regulating” or in any way moderating/changing behaviour, but would more likely be a

specific institutional example of the general principle of the public's "right to know".

**Outcome: A Better Informed/Engaged Public**

- The outcome in this case would be a general public that is better informed with respect to whatever information is made more transparent via the registry. For example, in Canada the primary focus is on who is doing the lobbying. In the U.S., the emphasis is on who is doing the lobbying and how much they are spending. Just exactly what the public is expected to do with this more transparent information is not usually stated up front. In theory, potential and progressively more *engaged* uses by members of the public could include:
  - A better, but relatively basic understanding of the relationships between public office holders and external interests.
  - Using the information about these relationships to hold public office holders accountable for making decisions that are in the public interest, as opposed to responding more narrowly to special interest pressures.
  - Using the information to trigger or support their own involvement in the public policy process on a particular issue. For example, on a controversial local issue such as a proposal to put in a new dam that is being opposed by the local citizens, using the Register to find out whether and to what extent proponents of the dam have hired lobbyists to influence key decision makers.

**Outcome: Restored Public Confidence**

- The outcome in this case is that by providing the public with more transparent information about ongoing contact between government

officials and external interests, public confidence in the integrity of government decision making would be increased.

**Outcome: Improved Ethical Behaviour**

- The outcome in this case would be an overall increase in the level and extent/pervasiveness of ethical behaviour in the relationship between lobbyists and public office holders as a result of requiring lobbyists to register. The obvious underlying assumption for this outcome is that there is a need for improved behaviour in this area. Accordingly, successful achievement of this outcome might be measured in a number of ways:
  - A general (but more short term) heightening of awareness of the importance of ethical behaviour that might be expected to result from the public debate that accompanies the introduction of a lobbyist registry.
  - Ongoing (as opposed to short term) general awareness of the importance of ethical behaviour on the part of lobbyists and public office holders by virtue of ongoing registration, training, enforcement, regular reporting and analysis of the data by registry officials, and, in the case of public office holders, mandatory registry monitoring activities.
  - Fewer instances of unethical behaviour by lobbyists and public office holders, e.g. providing public office holders with misleading information, putting public office holders in positions of real or perceived conflicts of interest, etc.

**Outcome: Moderating the Extent of Lobbying**

- The outcome in this case is that the establishment of a lobbyist registry would result in a general “cooling out” or lessening of lobbying activity.

- The underlying problem statement related to this outcome is that there is too much lobbying going on or at least too much of the wrong kind of lobbying. If individuals and organizations were required to register as lobbyists, a significant number of them would simply stop lobbying.

**Outcome: Enhancing the Legitimacy/Professionalism of Lobbying**

- The outcome in this case is that having a lobbyist registry in place would provide additional legitimacy to lobbying and enhance the general level of professionalism among practitioners, including consultant lobbyists – the traditional “hired guns”.
- The intention is that the image of lobbyists in the public mind will change from traditional negative stereotypes to one where lobbyists are viewed as a more accepted/established part of the public policy process.

**Outcome: Following the Money**

- The outcome in this case would be that by providing the public with access to information about gifts/other perks and campaign contributions from external interests, the public will be able to *follow the money* – in effect, to hold legislators accountable for having made the “right decision”, as opposed to a decision that was “purchased” by special interests.
- Note: this outcome would tend to apply in the U.S. and not in Canada, given the different approaches in these jurisdictions to regulating campaign financing and election expenses.

## Part 3

### Assessing Outcomes Effectiveness

In this section, we review each of the outcomes discussed in Part 2. The intention, drawing on the interviews and literature review, is to provide an assessment of whether lobbyist registries are successful in achieving the intended outcome(s) and to identify specific issues or concerns/strengths and weaknesses associated with each outcome.

#### ***Assessment:* Transparency for its own sake**

Across all jurisdictions, transparency – and in many instances, what would appear to be “transparency for its own sake” – is an important foundation principle for lobbyist registration.

On one level, it is easy to say that virtually all registries achieve their intended result with respect to transparency. By this we mean that each jurisdiction has made a policy decision about what information to collect, whether/how to make it accessible to the public, and how much of their own analysis/interpretation of the data to make publicly available.

However, transparency, as demonstrated in our *Volume 1*, comes in many shapes and sizes along a continuum from *less* to *more*.

To begin to make sense of the array of possibilities, one must start by asking what is the purpose of the transparency. Here, we would suggest that from a citizen’s perspective there are five key questions related to transparency, lobbying, accountability, and the public interest:

- Who is attempting to influence government decision-making?
- Which government decision makers are the focus of the influencing efforts?
- Which decisions are the subjects of the influence attempt?
- Was the attempt to influence successful?
- Was the decision in the public interest?

We are not suggesting that a lobbyist registry system can or should provide citizens with the answers to all five of these key questions. However, we would suggest that a lobbyist registry that does not provide citizens with information that answers at least the first three questions may be of very limited value to citizens.

From our review, it is apparent that many registries – and in particular, registries in the Canadian model – do not really provide much in the way of helpful information, except with respect to the first question – *who is attempting to influence government decision making?* For the most part, answering this first question is in fact their explicit focus.

As discussed earlier, the Canadian federal registry is very clear on this count. The purpose of that registry is stated in the *Guide to Registration*:

*To ensure that the general public and public office holders know who is attempting to influence the government's decisions.*

Very clearly this approach, while transparent, is not the same thing as *which decision makers are being lobbied?* Or, more importantly, *what decision does the lobbyist want?*

Although Canadian registries do ask some questions related to which decision makers and which decisions, we found that these were most often at such a high



level as to be of little practical value. For example, with minor variations depending on the registry:

- One can find out which government departments were lobbied but not which areas within those departments or which public office holders were approached (e.g. the department of health, but not the information technology division of that department, or the Chief Information Officer.)
- One can find out whether MPPs or members of their political staff were lobbied but not which ones (with the exception of British Columbia).
- One cannot find out whether and which Cabinet Ministers or members of their political staff were lobbied (with the exception again of British Columbia).
- One can find out whether a lobbyist is interested in a particular piece of legislation or regulation but not which section and what the lobbyist's position is on that section.
- One can find out generally which policy or program area is the focus of the lobbying, but little or no information about the specific policy or program issue(s) at stake, let alone the lobbyist's position on that issue or the actual decision the lobbyist wants.

To summarize, the research confirms that knowing who is doing the lobbying and the high-level subject matter of their lobbying is without question a form of transparency. However, it is not necessarily one that is useful or most relevant in terms of the five key questions we identified earlier.

### ***Assessment: A Better Informed/Engaged Public***

From our interviews and research, there is no solid evidence to suggest that the public accesses the information contained in registries on a regular basis or for meaningful purposes.

Experts, practitioners, and advocates alike (the latter being quite blunt in their obvious dismay and frustration) were generally very specific that the public use of registries (most often as measured by overall website “hits”, without attempting to separate out hits from public servants, lobbyists, the general public, media, etc.) is usually quite limited.

Furthermore, little or no information/analysis exists with respect to whether those relatively few members of the public who have accessed registries found the information to be useful/informative and for what purpose.

In our interviews, we also asked whether, in the absence of individual citizens using registries, citizens’ groups (e.g. local volunteer or grass roots organizations that might be interested in a specific issue, such as a proposal for a new highway) *mined* the registry to find out whether their opponents were using “high-priced lobbyists” or making major campaign contributions in an effort to get a favourable decision.

The most common answer was that this kind of access and analysis by community/advocacy groups does not happen to any great extent. Registry officials from at least one Canadian jurisdiction confirmed that the design of their registry was never intended to facilitate this kind of *mining* or more aggregate analysis. Rather, as discussed earlier in this section, the information on the Registry website focused primarily on who was doing the lobbying, and less on who was being lobbied/what decision was being sought.

Not surprisingly, the above findings begged the question for us: if the public is not using this information, who is? We address this question in more detail in *Appendix A*.

## **Assessment: Restored Public Confidence**

Academics, observers, and registry officials alike (albeit primarily from the U.S.) have noted that rather than resulting in increased public confidence in public office holders and decision-making in government, lobbyist registries have actually had the opposite effect over the years. As American academics have suggested, this has happened notwithstanding the fact that significant professionalization of legislators/legislatures has occurred during the past few decades and that legislators in general “are more representative, responsible, independent, capable than ever before”.

As reported to us in interviews and as presented in the literature, this phenomenon has two different facets:

- As noted earlier, the fact that the public for the most part does not appear to access or use (or, as the Washington-based Centre for Public Integrity puts it, even seem to care about) the information in lobbyist registries.
- In the absence of direct contact with registry data, the public receives its information largely from the media, political campaigns, and external watchdog/advocacy groups.

The messages the public receives from the media are more often in stories containing suggestions of “shady dealings”, with a typical story being short on content, and long on negative inferences. For example, the basic information in most registries could demonstrate that “Company X” has hired a former congressional staffer or minister’s staff member to lobby on their general area of interest. There is no more specific information available about the specific issue and whether “Company X” is for or against, or merely monitoring developments. However, the simple fact of *who is lobbying for whom* is often presented in such a way as to leave the public with the impression that inappropriate or unethical activity is taking place.

The messages the public receives from political campaigns appear to be similar in nature. In the U.S., lobby registries have been linked to the rising incidence, in the words of one academic, of *“parties and candidates accusing each other of violations, and the accusations carrying into the day-to-day legislative process.”* The result is predictably a negative one: *“The ensuing breakdown in trust and diminution of civility among members leads to lack of consensus and unresponsive gridlock that, in turn, perpetuates the public’s distrust.”*

### **Assessment: Improved Ethical Behaviour**

As discussed earlier, many if not most lobbyist registries actually maintain that their program is not intended to result in improved ethical behaviour. Not surprisingly, therefore, the evidence with respect to the impact of lobbyist registries on behaviour is somewhat limited or mixed at best.

The historical origins of lobbyist registries (and other ethics-related policies and programs), as described by academics, does clearly confirm that improved ethical behaviour was part of the original intent.

As discussed in *Research Paper #1*, the introduction of what were in effect “suites” of ethics policies in the early 1970’s is viewed as having had a positive impact on ethical behaviour in government, particularly where these policies were previously weak or non-existent. Academics note that that the introduction of conflict of interest rules, campaign financing legislation, integrity commissioners/boards of ethics, procurement policies, gift bans, and lobbyist registries were part of a larger movement afoot at that time to professionalize legislatures and were also a response to growing public concern, particularly in the post-Watergate period, with respect to ethics in government.

Academics also note that as a consequence of these various ethics related policies and programs:

- Public office holders generally experienced a heightened awareness of the importance of ethical behaviour in public decision-making.
- Individual behaviours (both internal and external to government) improved markedly.
- These gains have for the most part been sustained over the decades.

Having said that, the academic analysis does not distinguish whether and to what extent lobbyist registries was a critical component of the suite or the extent to which the apparent professionalization would have taken place in their absence.

When we asked this of registry officials, we received a variety of responses:

- Many of the registry officials we spoke with reiterated that their governments in establishing registries (as distinct from the political rhetoric that preceded the establishment of the registry) were not making statements that ethical behaviour by lobbyists or public office holders needed to be enhanced or that their registry was intended to achieve this result.
- Notwithstanding this caveat, many registry officials held the view that awareness of the importance of ethical behaviour was generally heightened as a result of their lobbyist registry having been in place, although stopping short of suggesting that overall behaviour changed as a result. They often pointed to the number of inquiries they received from lobbyists asking for clarification of the rules as evidence of that heightened awareness.
- Although a number of registries include a prohibition against putting public office holders in a real or potential conflict of interest or providing them with false or misleading information, there were few examples of investigation/enforcement actions in this regard and registry officials often noted that they had insufficient resources in this area in any event.

The real test for us, however, was in the views of public office holders themselves as to whether the lobbyist registry had an overall positive impact on ethical behaviour. Again, an unclear picture emerges.

- In Chicago, it was pointed out to us that public officials are required by policy to use the registry and actively confirmed that individuals lobbying them are registered. However, there was no clear answer with respect to a positive impact on ethical behaviour. Also, it was suggested that City officials, as part of the normal course of doing their jobs, already have a good awareness of who is lobbying which public office holders, and what they want.
- Closer to home, as noted elsewhere, we conducted an informal survey of senior public servants in a major Canadian jurisdiction. The results indicated that the public servants did not see the registry as a relevant factor in the public policy development process, let alone as something that would influence their or their staff's behaviour in any way.

### ***Assessment: Moderating the Extent of Lobbying***

From the research and our interviews, there is no evidence to suggest one way or the other that the implementation of lobbyist registries has had, or was intended to have, any impact on the pervasiveness/extent of lobbying that takes place in a given jurisdiction.

While Registry officials suggest that implementation of a lobbyist registry usually results, at least for an initial time period, in greater awareness of lobbying by both lobbyists and public office holders (as measured, for example, by the number of calls they receive in the start-up phase asking for clarification and/or interpretations), they also note that, year to year, the number of registered lobbyists active in most jurisdictions continues to increase.

This correlates with analysis prepared by U.S. ethics advocacy groups at both the State and municipal levels indicating – in distinctly alarmist terms in terms of a perceived “imminent threat to democracy” – that lobbying continues to grow at a healthy (or unhealthy, depending on your perspective) pace in most jurisdictions. This includes:

- The number of lobbyists in absolute numbers and also relative to the number of legislators.
- The amount of money spent on hiring lobbyists.
- The amount of money that lobbyists spend on public office holders.
- The amount of money lobbyists contribute to campaign coffers.

It is important to point out that this analysis does not mean that in the absence of lobbyist registration, growth rates might not actually have been higher, but rather there is no evidence one way or the other.

Our own impression, based on the cumulative evidence, is that lobbyist registries for the most part have not moderated the extent of lobbying. Rather, much of what they have captured was pre-existing and generally legitimate contact between outside interests (individual companies, industry associations, non-profit organizations, etc.) and governments.

Academics and practitioners alike are quick to point out that registries do not capture – and were not intended to capture – the kinds of stereotypical unethical or even illegal behaviour that often typifies lobbying in the public mind.

Furthermore, as we will discuss in the next sub-section (re the outcome of *Enhancing the Legitimacy/Professionalism of Lobbying*) registration in Canada has actually improved business for consultant lobbyists.

### ***Assessment: Enhancing the Legitimacy/Professionalism of Lobbying***

Our research indicates that, in fact, lobbyist registration has been successful in elevating the industry, at least in the minds of public office holders if not the general public. It is important, however, to be clear about the type of lobbyist to which this outcome appears most to relate.

In fact, most in-house lobbyists (corporate or non-profit) are employees of legitimate businesses, non-profit organizations and commercial and non-profit associations. Prior to the implementation of lobbyist registries, these types of “lobbyists” were generally already viewed as legitimate both by the public and public office holders in their interactions with government. Examples could include: the director of public affairs for a major petrochemical company, a senior legal counsel in charge of regulatory affairs for a transportation firm, the CEO of a provincial association of manufacturers, the executive director of the provincial association representing children’s aid societies, etc.

Rather, it may be that third party consultant lobbyists (government relations consultants) – the so-called “hired guns” – are among the primary beneficiaries of enhanced status. It is not surprising, therefore, that the government relations industry itself – encompassing both consultant and organization lobbyists – is one of the strongest advocates in favour of registration.

As confirmed in our interviews, the government relations industry does feel that its legitimacy and professionalism has been positively enhanced as a result of registration. Registration has, in fact, been “good for business” in at least two important ways:

- That potential clients no longer need to “feel embarrassed” about hiring a lobbyist.
- The registry provides extremely useful competitive and strategic information for lobbyists, including:



- Who their competition's clients are.
- Which competing interests have hired lobbyists, who those lobbyists are, their political stripe, and their degree of "political connectedness".

Furthermore, registry officials in a number of Canadian jurisdictions where the size of the lobbyist community was felt to be relatively small, pointed out that lobbyists themselves, through their own monitoring of competitors' registrations, were a very effective means of ensuring compliance.

The government relations industry's perceptions were echoed by a number of registry officials and also reflected in the fact that most registries make an upfront public statement that lobbying is a legitimate activity, with some going on to suggest that it makes a valuable or important contribution. More than one official noted that in establishing a registry in their province, the government purposely did not want to suggest that something was wrong with lobbying, but rather just to focus on greater transparency as principle of good government.

Our research included an interesting perspective on this phenomenon from two political staff members who suggested that political parties tend not to want to be too tough on consultant lobbyists because very many of them are former associates and colleagues and that government relations consulting is a common career path out of government. It was suggested to us that these views hold true for both governing and opposition parties.

Our inquiries in this area led to a related question: *if the focus of enhanced legitimacy is primarily on consultant lobbyists/government relations consultants, just how effective and influential are they?* We deal with this question in *Appendix B*.

## ***Assessment: Following the Money***

As discussed in more detail in *Volume 1*, this outcome would tend to apply in the U.S. rather than in Canada, given the comparatively different approaches to campaign financing and election expenses.

As noted earlier, the American public does not generally access registry information about campaign contributions or gifts/perks from lobbyists. This means that for the most part, ethics advocacy groups (such as the Centre for Public Integrity that we referred to in *Volume 1*) and the media are among those external groups most interested in *following the money* in the form of periodic (as opposed to regular) reports on who are the most highly paid lobbyists or which legislators accepted the most gifts/other perks or financial contributions. The most frequent reporters of this kind of information are actually the various internal ethics commissions, many of which publish annual or semi-annual reports identifying the top paid lobbyists and/or the legislators that accepted the most in contributions, gifts, etc. from lobbyists.

Experts and advocates alike, however, have noted the central issue here is not really lobbyist registration, but rather effective conflict of interest policies (in the case of gifts and other perks) and the much larger and, in American politics, more complex issue of campaign financing. The primary point of reports by ethics advocates on *following the money* is less about the need for more lobbyist registration, and more about the perceived need for campaign financing reform. To the extent that ethics advocates such as the Centre for Public Integrity are advocating for changes to lobbyist registration systems, those recommendations tend to be for more financial disclosure as part of putting additional pressure on politicians to enact campaign financing reforms.

## Part 4

# Lobbyist Registry Best Practices

### Introduction

The focus of this section of our paper is on how lobbyist registries might be made more effective. To this end, we provide a description of the various best practices that if implemented, would have this effect.

We begin this section with three conclusions that set the stage for the discussion of best practices:

- The analysis presented in the previous section points to the fact that as currently constituted, lobbyist registries in and of themselves are not very effective in terms of achieving either the overarching goal of enhancing public confidence in government or the various more specific stated or unstated outcomes.
- We do not want to suggest or leave the impression that we believe making lobbyist registries more effective is about focusing on bad behaviour. As discussed earlier, much of the activity now legally defined as lobbying is actually long-standing and legitimate interaction between public office holders and outside organizations. Furthermore, a leading best practice in terms of *good government* appears to be in the direction of creating more (and more transparent) ways for this interaction to take place. Also, the evidence suggests that third party consultant lobbyists (again, the stereotypical “hired guns”) do provide value and, although one can always point to exceptions, conduct themselves according to the rules.

- Lobbyist registries, particularly in the Canadian context, are more in the realm of providing guidance and structure to support/reinforce good behaviour. There is no evidence to suggest that they can root out or *catch* bad behaviour. Having said that, there is an increased pressure on governments, particularly in the U.S., from ethics advocacy groups and the media for more prescriptive regulation, notwithstanding the apparent reality that, as many observers suggested, “you can’t regulate ethical behaviour”. Recognition of the fact that lobbyist registries are not effective tools for stopping bad behaviour is widely shared among registry officials, public office holders, lobbyists, and academics. Professor Alan Rosenthal, a widely recognized U.S. expert on ethics in government cautions against the simplistic remedy of laying on more rules:

*"What we're doing by overlegislating ethics is trying to get the bad guys, but we're never going to get the bad guys, because they are very good at being bad. What we succeed in doing is making life increasingly miserable and fraught with danger for the good guys."*

Having reached these conclusions, we were faced with two important questions:

- Why implement a lobbyist registry in the first place?
- If a jurisdiction is going ahead with a lobbyist registry, what would it take to make a registry more effective?

### ***Why implement a registry in the first place?***

Based on our research and interviews with experts and practitioners alike, the answer to the first question is that lobbyist registries appear to be more often about *window dressing* than *good government*. In practice, the establishment of a registry is frequently an (sometimes pre-emptive, sometimes post-facto)

attempt to create the public appearance of having solved a problem, rather than a concerted, meaningful effort to enhance public confidence in government decision making.

Many registries – including most Canadian registries – are relatively minimalist in terms of disclosure requirements, level of transparency, application of technology related to accessibility, and allocation of resources. This minimalism seems to correlate well with what appear to be relatively minimalist government expectations for their actual impact on behaviour.

Although lobbyist registries tend to be positioned by government as part of a *suite* of ethics related policies and tools that historically have resulted in higher standards of ethical behaviour in government, there is no evidence to indicate that, as most commonly constituted, registries have been a critical part of achieving that result.

Furthermore, the literature as well as expert and practitioner opinions suggest that other components of the *suite* are likely more important in terms of achieving positive outcomes. These include:

- Implementing and enforcing rigorous conflict of interest/code of ethics, procurement policies, and campaign financing rules that plainly define what constitutes good and bad behaviour and includes robust sanctions.
- Ensuring that the organizational culture – the values, beliefs, accepted behaviours, reward systems, etc. – reflects the desired standard of ethical behaviour.

This, in turn, leads to the conclusion that if public resources are scarce, perhaps they would be better spent first in support of these arguable more effective policies and accountability mechanisms, and on building a culture that supports and reinforces the desired behaviour.

### ***What would it take to make a registry more effective?***

Notwithstanding our conclusion that lobbyist registries are not as vital and effective as they are often thought to be, the experience of other jurisdictions, as well as the literature and expert/practitioner opinion, point to a number of best practices as part of improving this effectiveness.

The starting point, however, lies in what the registry is expected to achieve (“*be clear about outcomes*” – our first design principle, as discussed in the next section under **Design Principles**). For the purposes of discussion, we want to suggest two related and overarching outcomes as the underpinning of more effective program design. These are:

- Enhancing public confidence in government decision making by giving citizens better tools to hold public office holders accountable for decisions in the public interest.
- Assisting the public to better understand the nature of the public policy debate and the complexity of the issues, as part of their own determination of whether and how to become more engaged.

We begin with what we mean by *enhancing public confidence in government decision making* and *holding public office holders accountable for decisions in the public interest*. What we do not mean is using a registry to root out bad lobbying. Instead, we mean shifting the focus of the registry:

- Beyond the current competitive/strategic utility for lobbyists themselves and beyond the media “gossip”, e.g. which organization has hired which lobbyist and the inevitable negative speculation about inappropriate influence.

- Towards the issues at stake in lobbying and promoting a more transparent and substantive debate of those issues.

This is consistent with the five key questions related to transparency, lobbying, accountability, and the public interest that we identified earlier:

- Who is attempting to influence government decision-making?
- Which government decision makers are the focuses of the influencing efforts?
- Which decisions are the subjects of the influence attempt?
- Was the attempt to influence successful?
- Was the decision in the public interest?

In short, disclosure that is focused less on the *who* and more on the *what* – the actual issues that lobbyists are interested in and the decisions that they want public office holders to make.

From our perspective, this is the kind of information that would better enable citizens (and their proxies in the media, advocacy groups, and others) to make more informed decisions about whether public office holders are making decisions in the public interest, or simply responding to lobbyist pressures. (We are not suggesting for a moment that the vast majority of public office holders do not operate with integrity. Rather, our focus is on the capacity of the public to make their own assessment of this fact.)

This more substantive information about the public policy debate would also position the public (and the media among others) to have a better understanding of the issues at stake and, in particular, the increasingly complex nature of the challenges facing governments at all levels. Furthermore, as noted earlier, it would allow citizens to make more informed decisions about whether and how to become more involved in the public policy process.

In saying this, we are not naïve enough to believe that simply making this kind of more substantive information available means automatically that more citizens or public office holders will make use of lobbyist registries. Nor are we naïve enough to believe that the only thing preventing more substantive and complex public policy debate is that lack of public access to more complex information. In truth, complexity is often a *tough sell* in politics – politicians, the public, and the media frequently prefer simple problem statements and simple solutions.

Furthermore, although registry officials and other public servants in many of the jurisdictions we contacted confirmed that this greater emphasis on substantive disclosure should make lobbyist registries more effective and should be pursued as a matter of public policy, this shift in disclosure represents a major departure from the standard approach in most jurisdictions.

At present we cannot point to a jurisdiction that has moved to what we would argue is this next logical stage of evolution in lobbyist registry design. Rather, our point is simply this – a lobbyist registry focused on *who is lobbying* does not appear to be an effective vehicle for instilling confidence in public office holders and can actually diminish rather than enhance that confidence. If, however, a jurisdiction is determined to put a registry in place, focusing on the substantive issues at stake provides for a greater likelihood that this expenditure of scarce public resources will have a demonstrable and beneficial impact.

With this in mind, describing best practices is the focus of the remainder of this section of *Volume 2*. The descriptions are presented in three parts:

- A brief set of design principles that can be used to guide registry program design.
- The two *key design best practices* that we believe would bring a more substantive focus to lobbyist registries.



- A larger number of secondary, but still important, best practices that would further support improved effectiveness.

Before we delve into these various design principles and best practices in more detail, we want to offer one final caveat: our discussion does not dwell to any great extent on what is arguably the central design feature of most U.S. registries – that of *following the money*. This decision reflects the very different reality in Canada with respect to campaign finance and expense rules and the fact that much of what exists in U.S. registries in this regard is essentially not applicable/relevant to the Canadian political context.

This does not mean that we have completely disregarded the considerable U.S. experience with lobbyist registries. There are various operational best practices, (e.g. education and communication, value-added reporting, etc.) from U.S. jurisdictions that are worth considering in the Canadian context and have been included below.

## **Design Principles**

In identifying best practices for this section of Volume 2, we drew on a small number of design principles that we felt could also be useful for designers of registries. These principles, however, are not intended to be absolute: the application of judgement related to the specific jurisdictional context is still required.

- *Lobbying is a legitimate part of the public policy process:* Lobbyist registry design should reflect the reality that much of what is covered by the legal definition of lobbying is legitimate and useful interaction between government and outside interests.

- *Ethical behaviour cannot be regulated:* Lobbyist registry design should recognize that ethical behaviour cannot be regulated, regardless of the prescriptiveness of regulatory requirements.
- *Be clear about outcomes:* Lobbyist registry design should be clear up front with respect to the intended primary and second outcomes.
- *Provide for relevant and substantive disclosure:* Disclosure requirements should provide citizens with more relevant and substantive information about lobbying efforts to assist them in evaluating whether public office holders are making decisions in the public interest.
- *Be clear – in plain, practical language – about what is not considered to be lobbying:* Registry policy should be clear that much of the interaction between outside interests and government is clearly not lobbying but rather the normal interaction between citizens and public office holders.
- *Disclosure consistent with FIPPA:* While disclosure requirements should be as useful as possible in terms of the subject matter of the lobbying/lobbyist's position, they should also be consistent with the third party confidentiality requirements of Freedom of Information/Protection of Privacy legislation and policies.
- *Allocated adequate resources:* The allocation of resources to registries should be sufficient to ensure that the intended outcomes can actually be achieved.
- *Program evaluation:* The design and development of lobbyist registries should include the program evaluation features that will facilitate program evaluation/effectiveness measurement.

## **Key Design Best Practices**

As described earlier, the key design best practices that we are proposing involve what would, in effect, be a new standard of disclosure and transparency. The

purpose of this new standard would be to shift the public focus away from “which companies have hired which lobbyists” (something that is often presented by the media and others in a way that is akin to “gossip”) and towards identifying the substantive issues that are the focus of the lobbying and giving the public the tools necessary to hold public office holders accountable for making decisions in the public interest.

The two key best practices related to enhanced disclosure are:

- The lobbying subject matter and specifically the decision that lobbyists are attempting the influence.
- The public office holders lobbied or to be lobbied.

### **Key Design Best Practice #1:**

#### **Increased Disclosure of Lobbying Subject Matter**

As discussed elsewhere in this report and *Volume 1*, most lobbyist registries require disclosure of the general subject of the lobbying. While we do not argue with the fact that this is a measure of transparency, our research indicates that this disclosure is at a high level and does not give the public the information it would need to be able to correlate lobbying efforts to actual decisions by public office holders or to better enable them to become more directly engaged.

Consistent with our design principles, part of the purpose of increasing disclosure of this nature is to shift the public attention from the identity of the lobbyists and their clients, towards the actual decisions that lobbyists are attempting to influence.

The following are two different sample approaches to the kind of disclosure that could provide the public with a better and more useful understanding of the

actual decisions lobbyists are attempting to influence and the rationale for their position.

The first of these samples is at a fairly high level, although still more detailed than the broad subject matter questions that are the focus of most lobbyist registries. The second sample is considerably more detailed. The samples were not drafted with a particular level of government in mind but could easily be modified accordingly.

Before we present these samples, however, we want to offer two caveats:

- There is no doubt that more detailed disclosure of subject matter represents a greater burden for lobbyists and their clients. However, in the absence of this kind of disclosure, we continue to be reluctant to suggest that lobbyist registries are worth the investment of public sector time and resources.
- We believe it would be possible to exempt lobbyists from a number of the more detailed subject matter disclosure requirements to the extent that they are involved in other parallel decision making processes within government that:
  - Are already transparent to the public (e.g. an application to change a zoning requirement).
  - Include processes whereby the lobbyist's/client's specific interest and position are already a matter of public record and are accessible to the public through other government channels.

### **Sample Approach #1: Examples of High Level Disclosure**

- Seeking changes to sec.21 of Bill 123 to raise the threshold for reporting on environmental performance.
- Seeking individual Councillor support for a zoning variance on Property X.

- Seeking active support from individual Councillors/Ministers for a grant application where the decision making process has been delegated to administrative staff.
- Seeking active support from Councillors/Ministers for the XYZ software company's bid in response to Tender #12345.
- Seeking to overturn a recommendation from staff to award a contract.
- Seeking to interest Councillors and administrative staff in purchasing a new software package.
- Seeking support from individual Councillors/MPPs to change the City's/province's lobbyist registration by-law to eliminate the need for disclosure of the decisions that lobbyists are attempting to influence.

## **Sample Approach #2: More Detailed Disclosure**

The following is a theoretical (as opposed to being based in actual practice in an existing jurisdiction) example of the kinds of more detailed questions that might be asked of lobbyists as they complete the registration process.

### **Lobbying to Change Existing Legislation/By-law or Regulations**

- Which existing by-law, piece of legislation, regulation, etc. are you interested in?
- Are you proposing or opposing a change?
- Which specific sections of the by-law/legislation/regulation are you proposing/opposing be changed?
- What is your rationale/argument for your position on the specific changes?

### **Lobbying on Proposed Legislation, Resolutions, Bylaws,**

- Which by-law/Bill/resolution, etc. before Council/the Legislature are you interested in?
- Which sections of the by-law/Bill/resolution, etc. are you interested in? Or is it the whole by-law/Bill/resolution, etc?
- Do you, in fact, have a position or are you just monitoring developments, i.e. with the possibility that you might have a position depending on future changes/amendments that might take place?
- If you have a position:
  - Is that position a simple *for or against*? If so, does this position apply to the whole by-law, etc. or just specific sections of it? If specific parts, then which specific parts? Summarize the reasons/arguments for your position.
  - If not a simple *for or against*, what is your position on the specific sections that are of interest to you? Are you proposing amendments to these specific sections? What is your rationale/argument for the proposed modification(s)?

### **Lobbying for a Policy, Program or Other Decision** (*i.e. a decision not requiring changes to Legislation, Regulation, Bylaws, etc.*)

- Which policy or program area are you interested in? e.g. education, social housing, development, etc.
- What are the specifics of your interest?
  - Are you proposing changes to current policies or operational practices that would not require changes to legislation or regulations? If yes, which policies and which specific aspects of those policies/practices do you want changed? What is your rationale/argument for wanting those changes?

- Do you want a policy, regulatory or other decision that does not require a policy change? What is the specific decision that you want and what is your rationale/argument for wanting that decision?
- If you do not want any specific decisions or changes to legislation, regulation, or policies, are you simply monitoring developments in the event that something specific arises at a future date?

**Lobbying related to Procurement** *(would apply to lobbyists, including sales people, who are attempting to market/sell their products to public office holders.*

- What is the nature of the product or service you are interested in selling to the government?
- Which department(s) do you see as the potential purchaser(s) of this product or service?
- Are your activities in anticipation of a future RFP? If so, what is the expected focus of the RFP?
- Are your activities related to an existing RFP? If so, what is the number and focus of the RFP? *(Note: this question would only be relevant in jurisdictions that allow direct lobbying of public office holders after an RFP has been issued – something that jurisdictions viewed as leaders in procurement would usual not consider to be a best practice.)*

**Lobbying related to Monitoring Developments** *(would potentially apply to lobbyists who are not lobbying to change legislation, regulations, bylaws, or policies or who are not lobbying to get a specific policy, program or other decision)*

- Which policy/program areas are you monitoring?
- Which ministries/departments/agencies will you be monitoring?

### ***A Word about Lobbying related to Monitoring Developments/Research***

An issue with respect to lobbying related to monitoring developments or conducting research is whether this should be a registerable activity if it does not involve a direct attempt to influence decision making?

There are different approaches to this issue in different jurisdictions.

Some jurisdictions are silent on this issue and in their interpretive material (handbooks, frequently asked questions, etc.) neither explicitly exempting nor including it from the definition of lobbying.

In other jurisdictions, the rules are clear that lobbyists who contact public officials for the purposes of collecting routine or background information on behalf of their client, as long as they do not refer to a specific issue or client position on that issue, would not be required to register for that purpose.

In still others, the context of the contact and the client's true intent in hiring the lobbyist becomes more important, e.g. if the lobbyist knows the routine information will be used as part of the client's/lobbying organization's strategy for dealing with government. For example, at the U.S. federal level, the following interpretation is given:

*Lobbyist "A," a former chief of staff in a congressional office, is now a partner in the law firm retained to lobby for Client "B." After waiting one year to comply with post-employment restrictions on lobbying, Lobbyist "A" telephones the member on whose staff she served. She asks about the status of legislation affecting Client "B's" interests. Presumably, "B"*



*will expect the call to have been part of an effort to influence the member, even though only routine matters were raised at that particular time.*

The recently passed, although yet to be implemented, changes to the Government of Canada's registry, would go even further. As discussed in *Volume 1*, the new requirements are intended to capture *all* communications in respect of legislation, regulations, policies, programs, etc. as opposed to communications more focused specifically on influencing a decision.

## **Key Design Best Practice #2: Disclosure of Which Public Office Holders**

Consistent with our five key questions and design principles, the purpose of disclosing which public office holders are/will be/have been the subject of lobbying is intended to complement the greater disclosure requirements related to lobbying subject matter. The goal is to give the public the information it would need to evaluate whether public office holders are being inappropriately influenced by lobbyists.

It is important to note that the majority of lobbyist registries in North America do not collect this kind of information. However, many registry officials we spoke with suggested that this kind of information would make registries more effective for the public. It is also important to note that British Columbia originally required disclosure of civil service contacts, as well as political contacts, but found the volume of disclosures to be too onerous in terms of technology requirements and have since discontinued the requirement.

Among other public servants we contacted (i.e. individuals not involved in delivering a registry), the reaction to this suggested approach was mixed.

Some felt that while there is no logical reason that this kind of transparency should not be workable, it would likely result in a level of public and political exposure to which provincial public servants are not accustomed. It was felt that this would lead to an undesirable dampening of legitimate and valuable communications between public servants and outside interests.

Others expressed the view that if one is going to have a lobbyist registry, then disclosing the identity of public office holders at all levels within the organization would be the most appropriate and effective course of action. It was also noted that the public profile of municipal public servants is already significantly higher than those at the provincial/state or federal level.

The following are two different options for how best to proceed. Option 2 is the most consistent with the *five key questions* and design principles.

***Option 1:***

The focus of this option is on elected political officials and the most senior bureaucratic levels of government. Accordingly, lobbyists would be required to disclose the names and positions of the individuals they are lobbying, have lobbied, or plan to lobby in the following positions:

- Elected officials (Councillors, MPs, MPPs, etc.)
- Senior public servants (Commissioners, Deputy Commissioners, Deputy Ministers, Assistant Deputy Ministers, etc.)

***Option 2:***

The focus of this option is on all public office holders, regardless of level, that would be the subject of lobbying efforts. This would include:

- Elected officials (Councillors, Cabinet Ministers, MPs, MPPs, the Mayor, etc) and their staff.
- All administrative staff.
- Appointees and staff of agencies, boards and commissions.

## **Secondary Best Practices**

The following are secondary, although still important best practices, that would enhance the effectiveness of lobbyist registries.

### **Analytical Capacity**

As reported in *Volume 1*, many of the registries we looked at had only a very limited capacity for citizens to search and analyze the on-line data contained in registries. The focus appeared to be much more on disclosure of each individual transaction, rather than the ability to identify patterns, trends, etc.

Our research and interviews point to an enhanced analytical capacity as an important best practice. The data definitions (terminology that lobbyists will be required to use in registering) and information system used by a registry should allow the public to conduct its own analysis of the data to identify relevant patterns, trends, etc. Potential relevant patterns could include:

- Which major issues and possibly which positions on those issues, are the focuses of the most lobbying?
- For these issues, who are the lobbyists involved and the clients?
- Which public office holders are the subjects of the most lobbying/most accessible to lobbyists and which lobbyists?

- For the most lobbied issues or for those public office holders most frequently lobbied, what are the most prevalent types of lobbying that are taking place, for example – phone calls, meetings, lunches/dinners, etc.

The important point is that citizens and others should be able to cross-reference specific and aggregate information in the registry with the actual decisions taken by public office holders (recognizing that the record of these decisions will likely be contained in other databases/locations). The purpose of this cross-referencing ability is not to suggest for a moment that public office holders should be in any way discouraged from making decisions that are in the private interest (whether commercial or non-profit). Rather, it is an issue of making it easier/more transparent for citizens to evaluate whether in their own view those decisions (particularly decisions that were the subject of lobbying efforts) were also in the public interest.

### **Enforceable Code of Conduct**

We make the point elsewhere that many lobbyist registries are somewhat neutral with respect to what constitutes *good* versus *bad* lobbying. The Ontario registry, for examples, is very neutral, with the exception of a general provision that lobbyists will not place public office holders in a real or potential conflict of interest.

However, the Government of Canada's *Lobbyist Code of Conduct* is a good example of an attempt to put more definition on *good* and *bad*, subject as we discuss further on in this section, to the capacity of the registry to enforce these provisions. The main elements of this Code are the lobbyists should:

- Conduct all relations with public office holders, clients, employers, the public and other lobbyists with integrity and honesty.
- At all times, be open and frank about their lobbying activities.

- Observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the Legislation and Code of Conduct.
- Ensure that they provide public office holders with accurate and factual information and that they are not knowingly misleading anyone and have taken proper care to avoid do so inadvertently.
- Not propose or undertake any action that would constitute an improper influence on a public office holder.

### **Adequate Resources**

Adequacy of resources is a major crosscutting best practice. Our research and, in particular, our interviews with public officials makes it clear that the effectiveness of registries is very dependent on the level of human and technology resourcing that is available – as one registry official put it: “if you are going to do it, do it right”. Simply put, jurisdictions that are serious about making their registries effective and useful for the public need to allocate sufficient resources for these purposes.

Most, if not all, of the best practices we identify in this section have resourcing implications. As we have suggested elsewhere, rather than create an ineffective registry, the public might be better served by allocating scarce public resources to other arguably more effective ethics policies and programs such as the areas of conflict of interest and procurement, as well as on developing and maintaining a strong, ethical culture for politicians and their staffs, as well as public servants.

## Education and Communication

The research indicates that education and communications – for lobbyists, their current and potential clients, public office holders, and the public – is an important best practice. The experience in other jurisdictions suggests that this is particularly true where there are:

- More complex reporting requirements (for example, more rather than less disclosure).
- A greater emphasis on ensuring that disclosure information is in a format that is useful for citizens and public office holders alike.
- Expectations that public office holders will monitor the registry and identify/report contacts they have had with lobbyists who are not registered or who have provided misleading or false information.

Best practices in this area include regular and, in some jurisdictions, mandatory training for lobbyists and public office holders, as well as the provision of educational material for the public with particular emphasis on ensuring that:

- The public/other registry users understand the purpose of the lobbyist registry and how to make effective use of the data and information.
- Lobbyists understand both the letter and spirit of the legislation, including how to operationalize a Code of Conduct.
- Descriptions of lobbying subject matter are sufficiently detailed to be of practical use to registry users.

We would also include in this area the practice of communicating regularly with lobbyists and the public for the purpose of ensuring the rules are clear and that overall awareness of the importance of ethical behaviour in lobbying remains high. The most common forms of this communication are by way of:

- Frequently asked questions.

- Advisory/interpretive bulletins, whereby registry officials regularly publish official *rules clarifications* in response to inquiries or investigation/enforcement activities.
- Publishing complaints and the results of investigation/enforcement activities as a means to heighten general awareness of the registry and/or a particular form of *bad behaviour* and to demonstrate that the registry has an effective enforcement capacity.

One approach we saw was not only to post these various bulletins, opinions, or enforcement reports on the registry website, but also to summarize them in regular newsletters that were distributed electronically to all registered lobbyists and public office holders and posted on the registry website.

### **Independent Oversight Body**

Most jurisdictions have some form of arms-length body to administer the lobbyist registry (as well as conflict of interest and, in the U.S., campaign financing laws). The point here, however, is to ensure that this body has the mandate and resources (either direct or the capacity to draw on others) to monitor and review registrations, investigate complaints and take enforcement actions, conduct training and education for staff and lobbyists alike, and prepare value-added reports for the public.

### **Enforcement**

As discussed earlier, ensuring that the registry has the resources and powers necessary to effectively enforce registry provisions is an important best practice. This would include but not be limited to ensuring compliance with the various disclosure requirements. Just as or, perhaps more importantly it would include

the powers and capacity to ensure compliance (capacity to investigate, power to require lobbyists to provide additional information/clarification, etc.) with the legislation and, in particular, the Code of Conduct (as described above).

### **Actively Engaging Public Office Holders**

From our perspective, an indication of the level of interest in/effectiveness (or lack thereof) of a registry is the fact that, in many jurisdictions, there is no formal or informal expectation that public office holders will:

- Make use of the registry information on a regular basis.
- Be actively engaged in ensuring that lobbyists are registered and conducting themselves appropriately.

The research clearly leads to the conclusion that lobbyist registries that are not relevant for the public or for public office holders are not the most effective use of public resources.

The best practice in this area is that public office holders would actively use the registry as part of the public policy development process and as part of maintaining high awareness of the importance of ethical behaviour. Expectations for public office holders could include:

- As part of the public policy development process, public office holders would regularly access the registry database to identify who/which organizations are lobbying on particular issues and, most importantly, the lobbyists' positions on issues. This information could be included in policy papers, staff recommendations, etc. that go forward to the political level.
- Reporting someone who a public office holder believes has lobbied them but who is not registered.



- Reporting a lobbyist who has violated the Code of Conduct and in particular the key provisions against providing false/misleading information and/or putting public office holders in real or potential conflicts of interest.

### **Be Clear that Lawyers are Included**

The experience of some jurisdictions, particularly municipalities, in implementing lobbyist registries has been that it was not always clear up-front that lawyers engaging in activity that met the definition of lobbying were considered to be lobbyists. This resulted in some initial confusion (and unsuccessful legal challenges) within the legal community that perhaps lawyers should not be required to register or disclose the same level of detail as non-lawyer lobbyists for reasons of solicitor-client privilege.

Accordingly, it is important that registration requirements are clear up front that lawyers who engage in lobbying would be required to register that activity and that they and their clients would be required to provide full disclosure according to the registration requirements.

### **Include Procurement and Sales People**

The experience of many jurisdictions clearly points to procurement as a problematic area for governments in terms of maintaining high standards of ethical behaviour. The research and expert opinion in this area points in direction of ensuring that lobbyist registration and procurement policies are coordinated and integrated.

To this end, the best practice would be to ensure that the definition of lobbying includes procurement related activities broadly defined and that sales people

contacting public office holders as part of their sales related activities be included in the definition of lobbyists and as such be required to register. We would suggest that “sales related activities” be defined more broadly to include inquiries/research about future potential business opportunities or RFPs, responding to RFPs, etc.

## **Value-added Reporting to the Public**

As a best practice, it is important to ensure that the registry has sufficient resources to and an expectation that it will provide the public with *value-added*, as well as statistical reports. By *value-added*, we mean reports that would:

- Be intended to support and reinforce a more transparent climate and appropriate culture of high standards of ethical behaviour within the organization.
- Establish the context within which the public (and media) should interpret the information from the registry.

This kind of reporting would include analysis of:

- Which consultant lobbyists and lobbying organizations are most active (number of registrations, most contacts with public office holders) – although a least one jurisdiction we spoke with recently halted this practice because they felt it amounted to free advertising for the most active consultant lobbyists.
- Which issues, decisions, by-laws, zoning applications, etc. were the subject of the most intensive lobbying activity, including, issue, decision, etc.
- Some explanatory information for the public that would help them to better understand the issue, decision, etc. that was the focus of the lobbying, i.e. what the various lobbyists wanted.

- Which departments, units within departments, and individual public office holders were the subjects of the most intensive lobbying.

## **Program Evaluation**

As we noted earlier in this volume, no jurisdiction that we looked at had engaged in or was planning to engage in a formal evaluation of the effectiveness of their lobbyist registry. This is consistent with a pattern that we have observed both in Canada, the U.S. and abroad whereby there is often considerable discussion/rhetorical emphasis in the public service on the importance of evaluating the effectiveness of programs, but in practice, little focus in the program design phase on ensuring that a program is actually evaluable and similarly little emphasis on actually conducting program evaluations.

The evidence suggests that both politicians and bureaucrats are often reluctant to learn whether new or existing programs are actually achieving intended results. However, program evaluation continues to be viewed as an important best practice in public administration.

Accordingly, the design and development of a new lobbyist register should include and incorporate the elements that will be necessary for ongoing program/effectiveness evaluation. These elements include a clear description of the intended, measurable outcomes, (e.g. improved public confidence in government decision-making, improved standards of ethical behaviour, etc.) and the capacity/requirement that the necessary data and information be collected, analyzed, and reported.

## Identify Lobbyist's Other Relationship with Decision Makers

The research identifies the identification of lobbyists' other relationships with decision makers as a potentially important practice in terms of the public's ability to hold public office holders accountable. This could include:

- Identifying whether and to what extent the lobbyist (consultant or in-house) and their client organization/employer receive funding direct from government as well as the type of funding (e.g. grant) and source (department/program) of that funding (as indicated in *Volume 1*, a standard practice in many lobbyist registries).
- Identifying whether the lobbyist (particularly consultant lobbyists) provides, on their own and for compensation, any direct products or services to government departments/public office holders that are being lobbied, including the nature of those services (e.g. communications consulting services, etc.), the client department/program area, and the key contact within the administration.

## Part 5: Conclusion

In this paper, we have attempted to evaluate the effectiveness of lobbyist registries drawing on research and interviews that cut across a number of Canadian and U.S. jurisdictions.

As noted, lobbyist registries have generally been established as part of a suite of ethics related policies and practices, including conflict of interest policies, procurement policies and procedures, campaign financing rules, etc. There is historical evidence that indicates the value of these suites since the 1970's in terms of positively affecting ethical behaviour in government. However, there are few if any formal studies that assess the role of lobbyist registries as one component of the suite, in producing this result.

In our efforts to do so, we identified various explicit and implicit outcomes that registries were intended, or perceived to be intended, to achieve. Drawing on our interviews and literature review, we provided an assessment of how well registries perform in each of these areas.

As discussed earlier, each registry defines its purpose/intended outcome in somewhat different terms. In addition, external stakeholders have their own views about purpose and effectiveness. It is difficult, however, not to come to the conclusion that, despite the various qualifiers expressed by registry officials, lobbyist registries are, in fact, about public confidence in government. As suggested in this volume, how lobbyist registries perform in terms of restoring, enhancing, or forestalling declines in public confidence in government is the most important test of effectiveness and, ultimately, of whether the expenditure of public resources to create a registry was worthwhile.

With this ultimate test in mind, the research and expert opinion indicates that lobbyist registries for the most part do not perform well in many key areas of

performance and that as currently constituted may not be worth the expenditure of public resources. Our specific findings include that:

- While registries generally achieve a measure of enhanced transparency, this is often limited to the question of who is lobbying on behalf of which client, rather than the arguable more relevant questions of who are they lobbying and what do they want.
- There is no evidence to suggest that the public or public office holders make regular use of registry data for meaningful purposes.
- There is no evidence to suggest that in the present day lobbyist registries moderate the amount of lobbying that takes place in a jurisdiction or result in higher standards of ethical behaviour by lobbyists or public office holders.
- Finally, and most importantly, there is no evidence that public confidence in government is actually enhanced as a result of having lobbyist registries in place. Furthermore, there is evidence to suggest that public confidence has actually been eroded through use of registry data by the media and political campaigns.

In response to the question of what would make lobbyist registries more effective, we take the view that the ultimate test of effectiveness has to be enhanced public confidence in decision-making. To this end, future iterations of lobbyist registries need to shift the focus from *who is lobbying?* and for *which client?* to the substantive subject matter of the lobbying and which decision is being sought – in effect, addressing the first three of the five key questions we identified on page 11 of this volume:

- Who is attempting to influence government decision-making?
- Which government decision makers are the focuses of the influencing efforts?
- Which decisions are the subjects of the influence attempt?

As part of an attempt to become more effective, lobbyist registries should provide the public with the answers to these questions so that citizens can then make up their own minds with respect to the crucial remaining two questions:

- Was the attempt to influence successful?
- Was the decision in the public interest?

We acknowledge that this proposed approach represents a new (although by experts and practitioners not unanticipated or un-debated) direction for lobbyist registries and that this kind of disclosure would represent a somewhat greater administrative burden. Our point, as suggested earlier, is that a lobbyist registry focused on *who is lobbying* and subject matter in the broadest possible terms does not appear to be an effective vehicle for instilling confidence in public office holders. If, however, a jurisdiction is determined to put a registry in place, focusing on who is being lobbied and the substantive issues at stake provides for a greater likelihood that this expenditure of scarce public resources will have a demonstrable and beneficial impact.

## **Appendix A**

### **Who actually uses the information in Lobbyist Registries?**

If the public are not major users of this information, who is? The correct answer – as given to us by one Canadian advocacy organization – appears to be that no one really knows. That is to say, no jurisdiction we looked at or read about systematically tracks who accesses the information on the registry, the purposes to which that information is put, and whether the information is thought to have been useful. In the absence of this formal analysis, we have relied on informed opinion coming out of our interviews and literature review, summarized as follows:

#### ***Media and Political Campaigns***

- The media and political campaigns are major users of the information to write what are most often negative stories that make use of the data to infer inappropriate behaviour, often with respect to a political opponent. One academic described this phenomenon as “grist for the mill”.

#### ***Lobbyists***

- Lobbyists themselves are a major user of the information. According to lobbyists and registry officials alike, lobbyists/lobbying organizations use the registry information to keep up on their competition (e.g. which competitors have which clients), to plan strategy (e.g. whether organizations opposed to their clients' interests have also hired lobbyists and who/how politically connected are those lobbyists), and to hold their competitors accountable for complying with registry disclosure requirements.



## ***Public Servants***

- Use by public servants of the registry information is mixed.
  - In some jurisdictions (the City of Chicago, for example), public servants are required to refer to the registry on a regular basis and to confirm whether an organization or individual that has contacted them and that they feel was lobbying them is in fact registered.
  - Officials from other municipalities suggested that public servants are already usually quite aware of who is lobbying and what they want, without having to refer to the registry.
  - It was suggested to us that in at least one Canadian jurisdiction, public servants on occasion check the registry as a way of identifying stakeholders on particular issues.
  - Our research indicates that unless there is some form of formal or informal expectation, public servants rarely or never make use of the information in the registry (or, in some cases, were even fully aware of the registry). This suggests to us that public servants in some jurisdiction see little or no value in the registry information.

## ***Ethics Advocacy Groups***

- The experience in the U.S. has been that advocacy groups, periodically, are major users of registry information, typically in preparing special reports on lobbying in a particular jurisdiction.
- Reports of this nature that we reviewed as part of our research tended to focus on the triangular relationship between lobbyists, legislators (municipal and state/federal) and the extent of gifts and campaign contributions. For the most part the reports take the position that the rules governing lobbyists are not tough enough. Generally the reports position the data in the context of “where there is smoke there is fire” and call for a

combination of additional and more detailed lobbyist disclosure requirements and campaign financing reform.

## Appendix B

### How Effective and Influential are Lobbyists?

In response to the question of how effective and influential lobbyists really are, there is no clear answer. As we noted in *Volume 1*, the industry itself downplays the stereotypical services, e.g.

- “Let me use my connections to put a bug in the Councillor’s/Minister’s ear”.
- “I can get you that meeting”.
- Let’s appear before the Committee but I can also get you in to see the Chair of the Committee and some other key Councillors/MPPs”

Rather the professional focus is on strategy development for clients and political intelligence gathering that feeds into that strategy development.

In response to the question “do I need to hire a lobbyist”, Sean Moore, a long time observer of the Ottawa lobbying scene once gave what in our view is a reasonable and succinct answer:

*There's only one answer. Absolutely yes AND absolutely no.*

*Absolutely No: There's no way progress can be made on any issue - especially if it represents change of any sort - unless there's a well-conceived and ably executed plan that deals with both process and substance.*

*Absolutely Yes: Yes, an organization can do this without a hired-gun lobbyist on the case, provided that there are skilled in-house resources or experienced volunteers that can provide the sound strategic insight and*

*direction required to lobby well. Some of the best advocacy efforts in recent years have been executed without paid outside help.*

Certainly the media, which as discussed earlier is the public's primary source of information about lobbying, and ethics advocacy groups, have a definite tendency to present consultant lobbyists as extremely powerful and influential, often focusing on a relatively small number of high profile consultants that were former politicians or senior policy staff. However, there is evidence to the contrary as well.

Our interviews indicated that senior bureaucrats often have very little direct contact with consultant lobbyists and do not see them as major influencers on most issues. One official, however, noted that in their own experience, outside organizations that obtain good, objective strategic policy advice on how best to approach government, are usually more effective at brokering decisions that are in both the public and private interest. These observations are consistent with the publicly stated view held by many government relations professionals that a good consultant lobbyist should be "seen and not heard" and "clients are their own best advocates".

This view is confirmed by a more detailed study conducted in 2000 by the Canadian-based Public Policy Forum looking, among other things, at the prevalence and utility of government relations consultants in the on-going relationship between industry and government at the federal level.

The survey canvassed the views of 163 corporate executives and 227 senior federal government officials. Participants were asked to identify the intermediary they preferred to deal with in conducting their government industry relations.

- Private sector respondents said they preferred to rely on their own representations, followed by those of their industry association.

- Government respondents indicated a preference for dealing with industry associations, though in-house company representatives were a close second.
- For both groups of respondents, government relations consultants ranked at distant third at between 11 and 17 percent.

The view that consultant lobbyists are the least preferable intermediary corresponds with the view (also shared by both private sector and civil service respondents) that the number of key decision makers within government has been narrowing in recent years. As reported in the study, respondents saw the influence of the Prime Minister's Office, cabinet ministers and their political staff, and deputy ministers as increasing, while the influence of Members of the House of Commons, senators and less senior public servants was perceived to be declining.

It is also interesting to focus for a moment on the finding that the private sector respondents did not see their industry associations as the most effective intermediary on issues of importance (preferring, instead, their own employees). The study reports that corporate respondents:

*“...acknowledge that associations represent industry’s collective interests and ensure corporations are provided timely information on government activities, but their assistance as strategic advisors, direct lobbyists and helpers in bridging differences between the two sides was downplayed. In short, corporate respondents appear to see their associations as useful sources of information, but not as important players in actually dealing with government on relevant issues.”*

The study noted that this private sector view was at odds with the perception of public servants, who felt that associations “did have a large role in making

representations to government on behalf of industry and providing networking opportunities.”

With respect to government relations consultants, the study noted that there is a perception among journalists and government officials that large corporations rely on big consulting firms when dealing with government. However, the survey did not support that perception.

In terms of the effectiveness of government relations consultants:

*“...both corporate and government respondents gave consultants positive marks for helping corporations identify government decision makers, and corporate respondents acknowledged their role in providing strategic advice. However, consultants are not perceived to be providing other services to any great extent. Surprisingly, public servants saw consultants as more significant to government–industry relations activities than did the corporations themselves.”*

Corporate responses indicated that smaller corporations use consultants more often than larger corporations. Service include to providing networking opportunities, cost effective government relations, and a single entry point of industry contact for the federal government.

Finally, the study asked participants *“to what extent do government relations consultants provide the following government–industry relations services for their clients?”*

The responses are shown in the table on the following page. The results indicate that the primary focus of most government relations consulting, as suggesting by the consulting industry’s marketing material, is on providing advice, background information, expertise in the decision-making structures, processes, and culture within government, political intelligence gathering, (as well as the apparently

<b>Question</b>	<b>Private Sector</b>	<b>Public Sector</b>
Provide guidance in identifying government decision makers.	61%	58%
Provide strategic advice.	56%	39%
Assist in making appointments with decision makers.	43%	46%
Provide corporations with accurate guidance on what factors are behind a proposed government initiative.	43%	27%
Ensure that corporations are in the right place at the right time in making representation to government.	34%	29%
Ensure corporations are informed of government initiatives in a timely and accurate way.	30%	31%
Provide direct representation (lobbying) to government on behalf of the corporations.	26%	38%
Help to bridge possible differences between corporate and federal government positions on a given issue.	25%	16%
Provide networking opportunities between govt and industry.	25%	36%
Provide cost effective government relations.	20%	14%
Provide a single entry point of industry contact for the federal government as a whole.	13%	13%
Represent the collective interests of industry.	6%	5%
Are forthcoming in disclosing to government the corporate or industry interests they represent.	N/A*	29%
<i>Note: % represents percentage of those who responded either (4) or (5), with (4) being to a "moderately great extent" and (5) to a "great extent"</i>		
<i>* Only government respondents were asked this question.</i>		

ubiquitous but not widely advertised “arranging a meeting”). Both private sector and public sector respondents scored consultants as having much lower value as direct participants (as opposed to behind-the-scenes advisors) in the policy process, either in the role of advocating directly with government officials, attempting to directly broker between their clients and government officials, or as a communications “go-between” between government and industry.

The Public Policy Forum study confirms that in Canada, consultant lobbyists do intervene directly with public office holders, although perhaps with less frequency and impact than the media would have us believe. (The Public Policy Forum study brought to mind a comment offered by one individual – that it is important not to confuse *gaining access* with *having influence*, something that the media, it was suggested, often overlooks.)

Reports from U.S. ethics advocacy organizations are often replete with documented examples of *bad behaviour* provided through interviews with politicians and lobbyists alike. The advocates generally take the position that state and federal politics are rife with this kind of behaviour, that lobbyists are extremely powerful and influential and, in fact, constitute a serious threat to democracy.

Obviously, it is very difficult to determine to what extent the more stereotypical *bad lobbying* – the inappropriate attempts to influence that often give rise to lobbyist registries in the first place – takes place in Canada. It is also very difficult to determine whether and to what extent these efforts are successful and actually result in decisions that are not also in the public interest.

At the same time, however, the evidence suggests that there is no reason to believe that Canadian politicians, their staff, and even public servants are immune from having what the public might perceive as inappropriately close relationships with lobbyists. It is also not unreasonable to assume that some



lobbyists are actually able to directly influence public office holders to make decisions that are not in the public interest.

Finally, the literature and expert opinion point to two key factors that would tend to mitigate against this kind of behaviour:

- The extent to which a large, professional, and competent bureaucracy is in place that is trusted by the politicians, that maintains open communication with all stakeholder groups, and is in a position to effectively counterbalance or neutralize “bad public policy”,
- The extent to which a government decision-making takes place in a transparent environment, including the extent to which public servant analysis and recommendations to politicians are publicly available and political debates and decision-making takes place in a public forum.