



Government
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Registrar of Lobbyists

Annual Reports

2006-2007

Free and open access

to government is an

important matter of

public interest.

Lobbying public office

holders is a legitimate

activity.

It is desirable that public

office holders and the

general public be able to

know who is attempting

to influence government.

The system for the

registration of paid lobbyists

should not impede free and

open access to government.

Canada

Registrar of Lobbyists

Annual Reports

2006-2007

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For a print copy of this publication, please contact:

Office of the Registrar of Lobbyists, Operations Directorate, 255 Albert Street, 10th Floor Ottawa ON K1A 0R5
Tel.: 613-957-2760 Fax: 613-957-3078 Email: QuestionsLobbying@orl-bdl.gc.ca

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June 30, 2007

The Honourable Vic Toews, P.C., Q.C., M.P.
President of the Treasury Board of Canada
House of Commons
Ottawa ON K1A 0A6

Dear Minister Toews:

I have the honour of presenting to you the eighteenth annual report of the Registrar of Lobbyists on the administration of the information disclosure and public registry provisions of the *Lobbyists Registration Act*, R.S.C. 1985, c. 44 (4th supp.), as amended by S.C. 1995, c. 12; by *An Act to Amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and Other Acts in Consequence*, S.C. 2004, c. 7; and by *An Act to Amend the Lobbyists Registration Act*, S.C. 2003, c. 10, which came into force on June 20, 2005. This report is presented in accordance with the provisions of subsection 11(1) of the *Lobbyists Registration Act*. The report covers the fiscal year ending March 31, 2007.

I also have the honour of presenting, under the same cover, the twelfth annual report on the administration of the *Lobbyists' Code of Conduct* for transmission to Parliament, in accordance with section 10.6 of the *Lobbyists Registration Act*. The Act requires the Registrar of Lobbyists to table a report on the exercise of the Registrar's powers, duties and functions under the *Lobbyists Registration Act*. This report also covers the fiscal year ending March 31, 2007.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Michael Nelson". The signature is stylized and cursive.

Michael Nelson
Registrar of Lobbyists

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Message from the Registrar of Lobbyists

This year, for the first time, the annual reports of the Registrar on the *Lobbyists Registration Act* (Act) and the *Lobbyists' Code of Conduct* (Code) are combined in one document. This will serve as a transition to the production of a single annual report in future years, as will be required under the *Lobbying Act*.

The 2006–2007 reporting period saw levels of activity in administration of the Act and the Code that surpassed even those of 2005–2006, itself a very busy year. The total number of active registrations reached a new high with a total of 5,281 lobbyists registered at year-end. Detailed statistics are included in Part One – *Lobbyists Registration Act* Annual Report.

The number of cases under review or investigation by the Investigations Directorate nearly tripled as compared to the previous reporting period. In March 2007, a milestone was achieved with the tabling in Parliament of the first-ever investigation reports on breaches of the *Lobbyists' Code of Conduct*. More detail is provided in Part Two – *Lobbyists' Code of Conduct* Annual Report.

Bill C-2, the *Federal Accountability Act*, received Royal Assent on December 12, 2006, as S.C. 2006 c. 9, setting the stage for amendments to the *Lobbyists Registration Act*. The *Lobbyists Registration Act* will be renamed the *Lobbying Act* and will include important changes. Among these are:

- the appointment of an independent Commissioner of Lobbying with a strong mandate to investigate violations of the *Lobbying Act* and the *Lobbyists' Code of Conduct*;
- a five-year ban on lobbying for ministers, ministerial staff, and senior public servants once they leave office, as well as for members of Prime Ministers' transition teams;
- a ban on the payment and receipt of success or contingency fees;

-
- requirements that communications with certain designated public office holders be recorded; and
 - expanded investigative powers for the Commissioner of Lobbying and a longer period under which lobbying violations may be investigated and prosecuted.

The Office of the Registrar of Lobbyists supported the work of Parliament as it considered Bill C-2 by appearing before the committees of the House of Commons and the Senate to provide testimony on the operational implications of the Bill. Subsequent to Royal Assent, the Office began preparing for implementation of the lobbying provisions. Chief among these are enhancements to the Lobbyists Registration System.

The *Lobbying Act* is expected to come into force in the 2007–2008 reporting period. The Office will work to ensure that lobbyists have available the information they need to meet their obligations, so that the intent of Parliament in enacting the *Federal Accountability Act* is achieved.

Michael Nelson
Registrar of Lobbyists

The *Lobbyists Registration Act*



Purpose and Description of the *Lobbyists Registration Act*

The *Lobbyists Registration Act* (Act) provides for the public registration of those individuals who are paid to communicate with public office holders with regard to certain matters as described in the legislation. Public office holders (POHs) are defined in the Act as virtually all persons occupying an elected or appointed position in the Government of Canada, including members of the House of Commons and the Senate and their staff, as well as officers and employees of federal departments and agencies, members of the Canadian Forces and members of the Royal Canadian Mounted Police.

The preamble to the Act sets out four basic principles pertaining to the registration of lobbyists:

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is attempting to influence government.
- A system for the registration of paid lobbyists should not impede free and open access to government.

Under the Act, individuals must be registered if they communicate with federal POHs, whether formally or informally, with regard to:

- the making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs; or
- the awarding of federal grants, contributions or other financial benefits; and
- in the case of consultant lobbyists, the awarding of a federal government contract and arranging a meeting between their client and a POH.

The Act provides for three categories of lobbyist — consultant, in-house (corporations) and in-house (organizations).

Consultant lobbyists are individuals who are paid to lobby on behalf of a client. Consultant lobbyists may be government-relations consultants, lawyers, accountants or other professional advisors who provide lobbying services for their clients. They must file a registration for each individual undertaking.

In-house lobbyists (corporations) are employees of corporations that carry on commercial activities for financial gain, and who lobby as a significant part of their duties. These employees are usually full-time officers who devote a significant part of their duties to public affairs or government-relations work. As the registrant, the most senior paid officer must register the corporation if the total lobbying activity of all employees equals 20 percent or more of the duties of one equivalent full-time employee (FTE). The registration must include the names of all senior officers (the most senior officer and all their direct subordinates) who engage in any lobbying activity, as well as the name of any employee who individually devotes a significant part of their duties to lobbying activities.

In-house lobbyists (organizations) are employees of non-profit organizations, such as associations. As the registrant, the most senior paid officer of such an organization must register the names of all employees engaged in lobbying activity if the total lobbying activity of all such employees equals 20 percent or more of the duties of one equivalent full-time employee.

All three categories of lobbyist are required to disclose certain information within time limits specified in the Act. This information includes:

- names of their clients, or corporate or organizational employers;
- names of the parent or subsidiary companies that would benefit from the lobbying activity;
- organizational members of coalition groups;
- specific subject matters of lobbying;
- names of the federal departments or agencies contacted;
- sources and amounts of any government funding received; and
- communication techniques used, such as meetings, telephone calls or grass-roots lobbying.¹

Corporations and organizations must also provide general descriptions of their business or activities.

Legislative Changes: The Federal Accountability Act

The *Lobbyists Registration Act* was enacted in 1989. Bill C-15, *An Act to Amend the Lobbyists Registration Act*, received Royal Assent on June 11, 2003, as S.C. 2003, c. 10. The legislative amendments and the associated changes to the *Lobbyists Registration Regulations* came into force on June 20, 2005.

¹ An explanation of “grass-roots lobbying” may be found in the *Frequently Asked Questions* section of the ORL website: www.orl-bdl.gc.ca.

The major changes brought to the Act with these amendments were:

- a clearer definition of lobbying through the removal of the expression “in an attempt to influence;”
- the removal of the requirement to register if a person made only simple enquiries or requests for information;
- the requirement to register if a POH initiated contact with a lobbyist;
- the requirement for lobbyists and registrants to update or renew filings every six months;
- an obligation for former POHs, who now lobby, to disclose previously held positions with the federal government;
- the harmonization of registration of corporations and non-profit organizations; and
- stronger enforcement provisions requiring that the police be notified if the Registrar of Lobbyists, while conducting an investigation, had reasonable grounds to believe that a criminal offence had been committed.

On April 11, 2006, the Government of Canada introduced the proposed *Federal Accountability Act* (FedAA) to make government more accountable. The FedAA received Royal Assent on December 12, 2006.

The FedAA is an omnibus bill that amends 46 existing statutes and creates two new ones. With the exception of the five-year post-employment prohibition on transition team members, which came into force upon Royal Assent, the remainder of the sections related to the *Lobbyists Registration Act* have not yet come into force.

The FedAA amends the *Lobbyists Registration Act* (to be renamed the *Lobbying Act*) in eight major ways:

- replacing the Registrar of Lobbyists with the Commissioner of Lobbying, an independent agent of Parliament;
- identifying a new category of key decision-maker within government called “designated public office holder” (DPOH) which includes ministers, ministers of state and their exempt staff, deputy heads, associate deputy heads and assistant deputy ministers and equivalent ranks throughout the public service;
- imposing a five-year post-employment prohibition on designated public office holders and individuals identified by the Prime Minister as being members of his or her transition team from becoming registered lobbyists once they have left office;
- requiring lobbyists to register on a monthly basis certain types of communications with designated public office holders, including with whom they met, when, and on what subject, plus any other information that may be prescribed by regulation, in addition, the type of communication for which monthly returns will be required will be set out in regulations;
- banning the payment of contingency fees to consultant lobbyists;
- extending from two to 10 years the period during which possible infractions or violations under the *Lobbying Act* may be investigated and prosecution may be initiated. Within this 10-year period, the Commissioner will have to complete investigations within five years of becoming aware of the possible infraction or violation.

-
- doubling the criminal monetary penalties for lobbyists who fail to comply with the requirements of the *Lobbying Act*; and
 - enhancing the investigative powers and mandate of the Commissioner of Lobbying. The Commissioner will be able to:
 - ask DPOHs to verify the accuracy and completeness of information pertaining to them in monthly reports that lobbyists submit, to correct it if necessary and display that information in the registry; the Commissioner is required to report to Parliament the names of DPOHs who do not respond to this request;
 - conduct expanded investigations, including the power to summon and compel persons to produce documents relevant to any investigation of possible infractions under the *Lobbying Act* or the *Lobbyists' Code of Conduct*;
 - prohibit any lobbyist convicted of any offence from communicating with the federal government as a paid lobbyist for up to two years, if the Commissioner deems it to be in the public interest;
 - publish the names of violators in reports tabled before Parliament; and
 - undertake expanded outreach, education, and communications activities with the public, lobbyists and their clients, and public office holders to foster understanding and awareness of the requirements.

The *Lobbyists' Code of Conduct* is not affected by the coming into force of the FedAA and remains as it is.

New Regulations under the *Lobbying Act*

Regulations will be required to bring the *Lobbying Act* into force. The regulations are to prescribe:

- the form and manner of all returns, including the new monthly returns to be submitted by consultant lobbyists and in-house lobbyists;
- the type of communication or lobbying activity to be reported on in a monthly return;
- the details on subject matter and other information that may be required in a monthly return;
- the form and manner in which to respond to the Commissioner's request for clarification or for confirmation of registered information; and
- individuals or classes of individuals who are Designated Public Office Holders.

The Treasury Board Secretariat (TBS) conducted consultations in March 2007 with registered lobbyists and the public to obtain their views on the lobbying regulations and registration system. The results of these consultations will help TBS formulate related regulatory proposals. The ORL is working in close collaboration with TBS to adjust the online registration system to support the new Act and regulations.

The Office of the Registrar of Lobbyists

This has been the first full reporting period for the Office of the Registrar of Lobbyists (ORL) as a department for the purposes of the *Financial Administration Act*. A considerable amount of management time during the year continued to be spent on establishing the personnel, administrative and financial arrangements required of an independent organization.

Staff responsibilities for corporate functions such as finance, communications, information management and technology, facilities and security were assigned. In some cases, such as for financial services, the decision was made to obtain the majority of services from an outside provider. For some others, such as communications, an in-house approach was chosen. Legal services for the ORL were provided by the Department of Justice. The ORL was already physically separate from Industry Canada. Early in 2006–2007, the ORL established its own website.

The first ORL Human Resources Plan was developed early in 2006. This set the stage for the exercise of staffing authorities that were delegated to the Registrar by the President of the Public Service Commission. During the reporting period, the staff complement of the ORL grew to 20. Included in this growth were additional staff for the Registry and the Investigations Directorate.

In the summer of 2006, Treasury Board approved a Program Activity Architecture (PAA) for the ORL. The government's *Management, Resources and Results Structure Policy* (MRRS) requires that all departments under section 2 of the *Financial Administration Act*, which includes the ORL, develop a management, resources and results structure that is current and reflects the way the organization manages its various programs and activities toward the achievement of results. The PAA is part of this structure.

The ORL PAA includes one Strategic Outcome and three Program Activities. The Strategic Outcome is, “Transparency and accountability in the lobbying of public office holders contribute to confidence in the integrity of government decision-making.” The three Program Activities are as follows:

- *Registration of Lobbyists.* This activity is intended to ensure that public office holders and the public know who is lobbying government. Its outputs are a current and accurate public Registry and registration advice for registrants. Key functions under this activity are registration of lobbying activities, maintenance of the public Registry, and provision of registration advice to lobbyists to assist them in meeting the letter and spirit of the Act.
- *Education and Research.* This activity aims for greater awareness and clarity with regard to the accountability of lobbyists and public office holders. It targets lobbyists and their clients, public office holders and the general public. Its outputs are education programs for lobbyists and public office holders; communications for the general public; policy research for informed input into public policy development; annual reports; and advisory opinions and interpretation bulletins.
- *Investigations under the Lobbyists Registration Act and the Lobbyists’ Code of Conduct.* The aim of this activity is enhanced compliance and integrity in lobbying. It targets lobbyists who fail to comply with the Act or the Code. Key outputs include audit and investigation reports and annual reports.

The next step in completing the ORL MRRS will be to develop a performance measurement framework. We will begin this work in 2007–2008.

Later in 2006, Parliament approved an increase to the ORL budget through Supplementary Estimates. The Main Estimates process subsequently provided for continuation of this funding in future years. Details of ORL funding may be found in the Estimates documents. Links are provided on the ORL website.

Part One

Lobbyists Registration Act

Annual Report

2006-2007



Registrations

The Lobbyists Registration Process

More than 99 percent of the transactions performed in the Registry of Lobbyists (registrations, amendments, renewals, and terminations) are carried out electronically through the Lobbyists Registration System (LRS). The LRS is a web-based application available to lobbyists and the public through the Internet. It is used both for processing and disclosing registrations filed by lobbyists.

All Registry information collected under the Act and the *Lobbyists Registration Regulations* is a matter of public record. The objective of the Registry is to ensure that the general public and public office holders know who is being paid to communicate with federal public office holders.

The majority of lobbyists complete their transactions electronically through the LRS. This interactive system validates basic data, such as names and addresses; reminds lobbyists to complete all required information; and permits lobbyists to easily edit their own disclosures. Data, once verified, are moved to the Registry database. Anyone may search this database for information and produce reports from their own computer.

Users can search and retrieve information on:

- who lobbies for which firms, corporations, organizations or associations;
- the parent and subsidiary companies or corporations that may benefit from the lobbying;
- the organizational members of coalition groups;
- the activities that corporations and associations engage in (a general description);
- the Government of Canada departments or agencies being contacted;
- the names or descriptions of the specific legislative proposals, bills, regulations, policies, programs, grants, contributions or contracts being sought; and
- the positions former public office holders have held with the Government of Canada.

Users can also produce their own summary reports on registered lobbyists, as well as copies of individual registration forms, directly from the Registry. It is also possible to access a list of recent registrations that includes all new registrations, amendments and terminations processed within the previous 30 days. Users who search and retrieve the data directly from their own computers may do so free of charge. If personnel of the ORL are asked to search and retrieve information, a service charge may be applicable.

Improvements to the Lobbyists Registration System

During fiscal year 2006–2007, the ORL completed a series of changes to the LRS. The need for changes was identified in fiscal year 2004–2005 for future implementation in relation to the coming into force of the amended *Lobbyists Registration Regulations* on June 20, 2005. In 2005–2006, extensive modifications had been made to the system to enable lobbyists and registrants to record renewals every six months, and accommodate requirements regarding the registration of in-house corporate lobbyists, and the disclosure of federal positions that former public office holders occupied. In 2006–2007, improvements to the system’s administrative and public interfaces were put into place to make the LRS more efficient.

To further improve the approval process, new procedures were also implemented which allowed for a broader use of electronic correspondence to issue renewal and termination notices. In addition, the ORL undertook a review of its registration business processes, with a view to making better use of the system’s capabilities to process electronic transactions.

As there will be a considerably different set of rules to govern the registration of lobbyists under the *Lobbying Act*, the ORL carried out preliminary work to define the system requirements that would be necessary to implement the new rules.

Statistical Review

Information Services

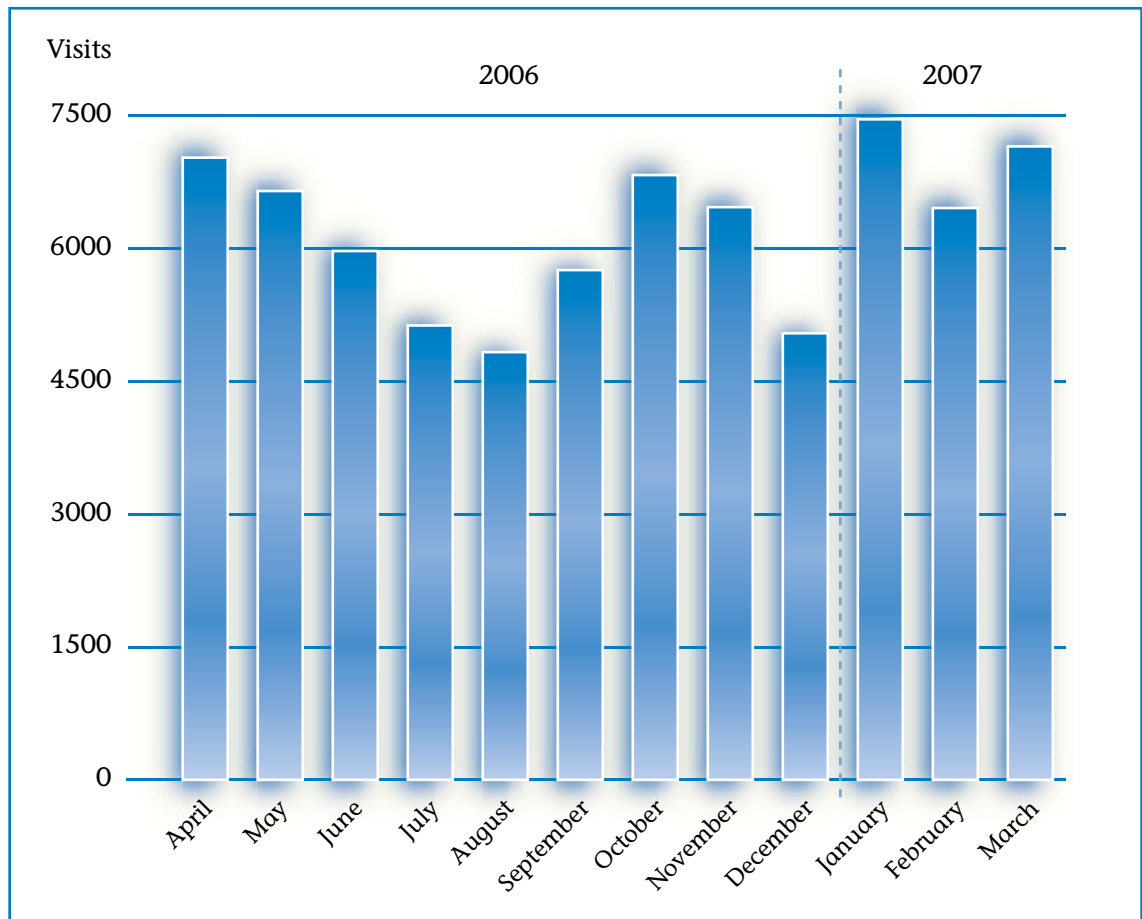
The ORL provides assistance in relation to the registration process, reminds lobbyists to renew their registrations, and verifies that disclosures are consistent and complete. During fiscal year 2006–2007, 9,656 registrations were processed, of which 7,775 were consultant lobbyist registrations, 793 were in-house lobbyist (corporations) registrations and 1,088 were in-house lobbyist (organizations) registrations. In 2005–2006, 6,994 registrations had been processed, including 5,347 consultant lobbyists registrations, 617 in-house lobbyist (corporations) registrations and 1,030 in-house lobbyist (organizations) registrations. This represents a global increase of 38 percent for all three categories of lobbyists. For each type of lobbyist, the year-over-year increases were of 45 percent for consultant lobbyists, 29 percent for in-house lobbyists (corporations) and 6 percent for in-house lobbyists (organizations).

The number of requests for technical assistance decreased compared to the previous year. Typically, such calls relate to the use of incorrect website addresses, navigational assistance, forgotten passwords, broken links and other technical problems. There were 332 helpline calls in 2006–2007, compared to 426 calls in 2005–2006 and 1,280 calls in 2004–2005. More than half of the calls had to do with lost passwords and user names. This would seem to confirm that the ORL's new user-friendly website reduces navigation and technical problems for users.

The Registration Unit also handled 4,406 calls from users of the Lobbyists Registration System during the fiscal year. This represents a 14 percent decrease from the 5,142 calls received in 2005–2006. However, as the number of registrations added to the Registry increased during the year, the complexity of calls became greater, especially for first-time registrants. As a result, the Unit's overall workload increased significantly over the fiscal year.

In 2006–2007, the ORL website recorded 74,792 visits during which a total of 305,533 pages were accessed. This may be compared to the previous year, when 82,330 visits were recorded and 379,720 pages accessed. This decrease in the number of visits was not surprising considering that 2005–2006 had been a record year. That year, there was a 96 percent year-over-year increase in the number of visits compared to 2004–2005 due to the coming into force, on June 20, 2005, of amendments to the *Lobbyists Registration Act*. The high level of activity in 2006–2007, despite the absence of extraordinary events, is an indication of the level of interest shown by the public in lobbying matters.

As may be seen from the figure below, Web activity, as measured by the number of visits, varied considerably over the year with peaks reached in July and January, and high activity levels recorded between those two months. This is consistent with the activity levels witnessed in terms of the processing of registrations.



Subject Matter of Lobbying Activities (Areas of Concern)

All lobbyists are required to identify the broad subject matter of their lobbying activities from a pre-selected checklist when registering. In the table that follows, the first column shows, in descending order, the 20 subject areas most frequently identified by lobbyists in their registrations. This information is based on the registrations that were active on March 31, 2007. The second column indicates the ranking from the previous year.

	<i>2006-2007</i>	<i>2005-2006</i>
Industry	1	1
Taxation and Finance	2	3
Foreign Affairs and International Trade	3	2
Environment	4	4
Health	5	6
Science and Technology	6	5
Transportation	7	9
Employment and Training	8	10
Consumer Issues	9	8
Energy	10	12
Regional Development	11	11
Government Procurement	12	7
International Relations	13	13
Infrastructure	14	16
Intellectual Property	15	15
Aboriginal Affairs	16	19
Defence	17	17
Internal Trade	18	14
Agriculture	19	18
Financial Institutions	20	20

Government Institutions

All lobbyists are required to identify the names of the Government of Canada institutions that they contact or expect to contact in the course of their lobbying activities. In the table below, the first column identifies, in descending order, the 20 institutions most frequently identified by lobbyists in their active registrations as of March 31, 2007. The second column indicates the ranking from the previous year.

	<i>2006-2007</i>	<i>2005-2006</i>
Industry Canada	1	1
Finance Canada	2	2
Privy Council Office	3	4
Foreign Affairs and International Trade Canada	4	3
Members of the House of Commons	5	–
Environment Canada	6	5
Health Canada	7	6
Transport Canada	8	7
Treasury Board of Canada	9	11
Natural Resources Canada	10	8
Canada Revenue Agency	11	9
Public Works and Government Services Canada	12	10
Prime Minister's Office	13	–
Human Resources and Social Development Canada	14	12
Indian and Northern Affairs Canada	15	15
Agriculture and Agri-Food Canada	16	14
National Defence	17	13
Canadian Heritage	18	16
Department of Justice Canada	19	17
Fisheries and Oceans Canada	20	18

Changes in the ranking of federal institutions can often be related to developments or modifications in programming, policy, regulatory or legislative activity levels, for instance. In 2006–2007, federal institutions such as the House of Commons and the Prime Minister's Office were mentioned more often than last year by registered lobbyists. Others, such as National Defence and Justice Canada, were cited less often by lobbyists.

Registrations

On March 31, 2007, 860 active individual consultant lobbyists were registered with the ORL, an increase of more than 17 percent from the 732 consultants registered the previous year. These consultant lobbyists work primarily for firms active in areas such as government relations, law, accounting, strategic advice and other professional services that include lobbying services for their clients.

As of March 31, 2007, the LRS indicated that a total of 1,882 individual in-house lobbyists (corporations) were registered, representing the interests of 313 different corporations. This reflects an increase of 4 percent from the 1,809 individual in-house lobbyists (corporations) registered at the same date last year. During the same period, the number of corporations registered by their most senior officers increased by some 13 percent from 276 to 313.

The number of organizations registered by the most senior paid officers of non-profit organizations and interest groups, as well as business, trade, industry and professional organizations or associations, was up by almost 26 percent from the previous year, increasing from 364 to 457. Over the fiscal year, the number of individual in-house lobbyists (organizations) grew by 10 percent, from 2,306 to 2,539.

	<i>2006-2007</i>	<i>2005-2006</i>
Individual Lobbyists – active as of March 31, 2007		
Consultant lobbyists	860	732
In-house lobbyists (corporations)	1,882	1,809
In-house lobbyists (organizations)	2,539	2,306
Total registered individual lobbyists, all categories	5,281	4,847
Registrations – active as of March 31, 2007		
Consultant lobbyists (one registration per client)	2,975	2,726
Corporations	313	276
Organizations	457	364
Total active registrations, all categories	3,745	3,366

Enforcement of the Act

Processing Complaints

Over the past year, the Investigations Directorate developed a set of procedures to govern administrative reviews and investigations. Administrative reviews are initiated following requests or complaints received from various external sources, which allege a possible contravention of the Act or the Code. Administrative reviews are also initiated as a result of in-house monitoring by the ORL. An administrative review is not a formal investigation. Its purpose is to assemble and check factual evidence, with a view to determining if a formal investigation is required. All information gathered during either an administrative review or an investigation is retained in accordance with government information management practices.

An administrative review typically involves reviewing all registration files in the custody of the ORL, available correspondence and other forms of communication between the ORL and the lobbyist; and confirming, through phone or in-person interviews with public office holders, whether registrable activities have indeed taken place. The ORL may also decide to contact the lobbyist during the course of a review.

If the review indicates there are reasonable grounds to believe a breach of the Act has occurred, the Registrar of Lobbyists is informed of the conclusions and the matter is referred to the Royal Canadian Mounted Police (RCMP). The Act stipulates a two-year limitation period for contraventions of the registration requirements, after which no charges may be laid. Conviction for a contravention of the Act relating to fraudulent misrepresentation carries a fine of up to \$100,000 or a jail term of up to two years.

The newest enforcement and education initiative undertaken by the Investigations Directorate in this reporting year was the issuance of advisory letters to lobbyists whose activities come to the ORL's attention primarily through media sources that allege they are conducting unregistered lobbying activities. This initiative is designed to enhance the awareness of organizations and corporations regarding the Act and to encourage them to visit the ORL website or contact the ORL directly for additional information pertaining to registration requirements.

Administrative Reviews

Subject to certain exceptions, section 8 of the *Privacy Act* provides that personal information shall not be disclosed without the consent of the individual to whom it relates. The following summary of administrative reviews undertaken by this Office is written to protect personal information in accordance with the *Privacy Act* and the restrictions associated with disclosure of personal information.

In July 2005, the Investigations Directorate referred a case, for which the administrative review was finalized in March 2005, to the RCMP for investigation, as mentioned in last year's annual report. In March 2006, the RCMP informed the ORL that it would not be proceeding with an investigation under the Act. As there were reasonable grounds to believe that a breach of the *Lobbyists' Code of Conduct* had occurred, the Registrar initiated an investigation under the Code. This investigation is ongoing.

The following two administrative reviews, referred to in the *Lobbyists Registration Act* Annual Report 2005–2006, were finalized in the current reporting period and involved:

- Allegations of unregistered lobbying activities and breaches of the Code by a number of lobbyists, acting on behalf of an organization, who were communicating with a government department to seek federal funding. The individuals in question are alleged to have breached all three principles of the *Lobbyist' Code of Conduct*, (Integrity and Honesty, Openness, and Professionalism), and, additionally, are alleged to have not provided accurate information in registering.

In order to determine whether the organization had breached the Code it was first necessary to determine whether the individuals should have registered. An organization must register the names of all employees engaged in lobbying activity if the total lobbying activity of all such employees equals 20 percent or more of the duties of one equivalent full-time employee. The information gathered showed that the alleged lobbyists were not paid to communicate with public office holders and, even if they had been, the cumulative time of the employees conducting lobbying activities was approximately five percent or less of the duties of one equivalent FTE. Therefore the organization was not under any obligation to register employees as in-house (organization) lobbyists in accordance with the *Lobbyists Registration Act*, nor were the employees subject to the Principles and Rules set out in the *Lobbyists' Code of Conduct*. In the absence of any requirement to register, a breach of the Code could not have occurred. The file was closed.

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- An allegation of improper disclosure of government funding by several organizations. The organizations had not understood that the funding they received might require disclosure in the registrations. For example, one organization had already listed their government funding in their annual report, which was publicly available on their website. Once the funding disclosure requirements were explained, the organizations that were receiving government funding amended their registrations. The review concluded that the organizations had not deliberately attempted to avoid full disclosure and that a referral to the RCMP was not warranted. The file was closed.

NB: The written material available on the ORL website defines the type of funding to be disclosed, that is, non-repayable funding, but offers no guidance as to the year for which the funding is to be reported. This review and one other mentioned later in this report prompted the ORL to clarify its information on disclosure of government funding. The Operations Directorate has updated the ORL website sections “Guide to Registration” and “Frequently Asked Questions” to ensure that clearer direction is provided to lobbyists as to the year for which the government funding is to be disclosed.

In the reporting period of 2006–2007, 24 administrative reviews were initiated with 15 of them discussed in Part Two – *Lobbyists’ Code of Conduct* Annual Report, Enforcement of the Act, Administrative Reviews. The other nine reviews are discussed below and related to possible contraventions of the Act that involved:

- An allegation against a coalition group that it had failed to disclose the receipt of government funding in its registration. The issue involved in this review was a misunderstanding regarding the disclosure year involved in a registration. It was not understood by the coalition, until the guidelines were explained during the course of this review, that the disclosure of government funding was to cover the previous fiscal year. As stated above, the ORL took steps to clarify the issue of government funding. The file was closed.
- An allegation that an association had performed registrable activities but failed to register under the *Lobbyists Registration Act*. Based on the evidence gathered, employees of the organization communicated with public office holders regarding a matter deemed registrable under the Act. While one employee had been remunerated, the communications in question did not constitute a significant part of the individual’s activities. All of the other individuals who communicated with POHs did so as volunteers and did not receive any payment related to their activities on behalf of the organization. The file was closed.
- Allegations that employees of a public broadcasting advocacy group were engaged in unregistered lobbying activities. The review is ongoing.
- An allegation that a human rights advocacy organization had been conducting activities deemed registrable under the Act. The review is ongoing.

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- An allegation that a voluntary, charitable organization, which promotes personal health across Canada and in developing countries, failed to register receipt of financial benefits from a government institution. The review is ongoing.
 - Allegations that employees of a not-for-profit business association engaged in unregistered lobbying by communicating with POHs in a number of federal departments regarding matters deemed registrable under the Act. This review is ongoing.
 - An allegation that an individual was conducting unregistered lobbying activities. The review found reasonable grounds to believe that the individual in question had contravened the Act through organizing and participating in meetings with POHs while not registered as a lobbyist. The case was subsequently referred to the RCMP for a follow-up investigation. In March 2007 the RCMP informed the ORL that taken in their entirety, the facts in this case did not lend themselves to a successful prosecution. The file is still open.
 - Allegations that representatives of a drug company had contravened the Act and the Code in relation to meetings with POHs. The review is ongoing.
 - An allegation that a lobbyist's registration did not contain information that he would be lobbying MPs. The meetings with MPs occurred during a period in the summer of 2005 when the Office of the Registrar of Lobbyists automatically terminated a number of registrations. These terminations occurred as a result of changes to the Act, which came into force in June 2005. Lobbyists were given a two-month period to re-register or to file a new registration. The review indicated that the lobbyist did re-register within the prescribed time and included in his registration that MPs were part of the POHs to be lobbied. It was therefore concluded that the lobbyist was not in violation of the Act. The file was closed.

Advisory Letters

The Investigations Directorate issued a total of 24 advisory letters from October 2006 to March 2007. These letters resulted in eight respondents replying that they were not required to register. It is worth noting that four registrations were received from addressees shortly after advisory letters had been sent.

Over this same period, an additional 91 entities (consulting firms, corporations, and organizations) were examined as a result of references in the media alleging unregistered lobbying activities. As 54 of the institutions were already registered and 12 were volunteer organizations which did not fall under the registration Act, advisory letters were not sent to 66 entities. Twenty-five continue to be monitored so that advisory letters may be issued, if required.

Education and Awareness



The ORL believes that education and awareness are key to compliance with the Act. During the reporting period, the ORL used several means to promote awareness of the Act and its requirements, including:

- direct communication;
- training and information sessions;
- media relations;
- conferences and learning events;
- presentations to departmental management teams and staff; and
- dialogue with other jurisdictions.

Direct Communications

Over the past year, the ORL responded to inquiries from lobbyists, the media and the public on a daily basis. Updates about the Registry were provided to registered lobbyists via email and through notices to registrants on the Office's website.

In order to improve communications with registrants, the Operations Directorate continued to organize outreach and information sessions with lobbying firms, with a view to improving the overall quality and reliability of disclosures filed in the Registry of Lobbyists.

The ORL staff devoted considerable effort to improving the ORL's website, giving it a clearer, fresher appearance, and making it a more useful information and communications tool. An updated version of the site, which is easier to navigate, was launched in 2006–2007. New sections were created for information documents, such as reports, presentations, interpretation bulletins and advisory opinions, which are updated or added on a regular basis.

Training and Information Sessions

While the ORL does not have resources for the delivery of extensive training programs, it presents information sessions to interested groups and organizations outside the federal government.

Last year, the Registrar participated in an information session on the proposed lobbyists registry for the City of Toronto. Senior Office staff provided a briefing session about the Canadian federal regime to a delegation from the Republic of Korea Independent Commission Against Corruption. Senior Office staff also presented information sessions on request to registered groups of lobbyists and to organizations that expressed interest in becoming registered under the Act.

Media Relations

In August 2006, the ORL organized a half-day consultation session with members of the media to obtain their views on using the online Registry. Participants contributed their views about functions that might be added to make the Registry more easily accessible and helpful as a research tool.

During the past year, ORL staff responded to media inquiries relating to reported allegations of non-compliance with the Act or the Code. A good deal of media attention was directed to allegations of breaches of the Act and related court proceedings. The media reported on the four ORL investigation reports tabled in Parliament and Office staff followed up on media inquiries.

On a regular basis, the ORL responded to inquiries from the media about the Registry, provided clarification about the registration process, investigations, and administrative reviews to the extent permissible under the Act and under privacy provisions.

At the end of 2006 and in early 2007, there was substantial media interest in the new *Lobbying Act*, which is to come into force when the relevant sections of the *Federal Accountability Act* that deal with lobbying also come into force. As many of the questions related to the differences between the *Lobbyists Registration Act* and the new *Lobbying Act*, most of these were referred to the Treasury Board Secretariat, which is the primary policy centre for the *Federal Accountability Act*. Through its website, the ORL provided lobbyists and the Canadian public with access to key documents related to lobbying in the context of the *Federal Accountability Act*.

Conferences and Learning Events

Last year, the Registrar and senior ORL staff took part in a number of conferences and panel discussions in the National Capital Region and elsewhere in Canada. These included the Access and Privacy Conference, hosted by the University of Alberta in Edmonton in June and the Annual University Government Relations Officers' Meeting in Winnipeg, also in June; the Public Affairs Association of Canada Conference in October and the Canadian Council for Public-Private Partnerships National Conference in November, both of which were held in Toronto.

Briefings for Federal Government Institutions

The ORL continued its outreach efforts within the federal government through briefings to management at a number of departments and other federal organizations. These sessions, provided at the organizations' request, were aimed at assisting their members in becoming familiar with the provisions of the Act and the Code and in addressing issues faced by specific organizations regarding lobbying and interactions with lobbyists.

Dialogue with Other Jurisdictions

The ORL continued its practice of exchanging ideas and practices with counterparts from other Canadian and international jurisdictions. Meetings were held with officials from Québec, Nova Scotia, Ontario and British Columbia, with U.S. counterparts and with officials from the Organisation for Economic Co-operation and Development (OECD). As well, some discussions were held with officials from Newfoundland and Labrador, the most recent Canadian province to adopt lobbying legislation. A meeting of all Canadian jurisdictions that have lobbying legislation was held in Toronto. The ORL expects that another such meeting will be held in the fall of 2007.


Outside of Québec, which already has lobbyists registration rules applying at the municipal level, there has been a growing interest in the applicability of lobbyist registration on the municipal scene. A case in point is the City of Toronto, which has elected to create a municipal registry of lobbyists. The ORL shared its best practices with representatives of the city to assist with the development of its municipal registry.

Part Two

Lobbyists' Code of Conduct

Annual Report

2006-2007



Purpose and Description of the *Lobbyists' Code of Conduct*



The *Lobbyists' Code of Conduct* (Code) was developed for lobbyists under the *Lobbyists Registration Act* (Act). The Code came into force on March 1, 1997. The purpose of the *Lobbyists' Code of Conduct* is to assure the Canadian public that lobbying is done ethically and with the highest standards, with a view to conserving and enhancing public confidence and trust in the integrity, objectivity and impartiality of government decision-making.

The Code establishes mandatory standards of conduct for all lobbyists communicating with federal POHs. It is composed of a set of principles — Integrity, Honesty, Openness and Professionalism — and an accompanying set of rules organized into three categories: Transparency, Confidentiality, and Conflict of Interest.

The Code is an integral part of the disclosure and ethical requirements that apply to all lobbyists. Paper copies of the Code are available from the ORL or may be printed from its website.

Enforcement of the *Lobbyists' Code of Conduct*



Processing of Complaints

Over the past year, the Investigations Directorate developed a set of procedures to govern administrative reviews and investigations. Administrative reviews are initiated following requests or complaints received from various external sources, which allege a possible contravention of the Act or the Code. Administrative reviews are also initiated through in-house monitoring by the Office of the Registrar of Lobbyists. An administrative review is not a formal investigation. Its purpose is to assemble and check factual evidence, with a view to determining if a formal investigation is required.

If the review indicates that there are reasonable grounds to believe that a breach of the Code has occurred, the Registrar of Lobbyists is informed of the findings so that appropriate action may be taken. There is no limitation period for breaches of the Code. Breaches do not carry fines or jail sentences, but a report of an investigation conducted by the Registrar of Lobbyists must be tabled before both houses of Parliament.

The Act requires that investigations relating to possible breaches of the Code be conducted “in private.” Consequently, the Registrar of Lobbyists will neither confirm nor deny the existence of any investigation. All information gathered during either an administrative review or an investigation is retained in accordance with government information management practices.

Administrative Reviews

Subject to certain exceptions, section 8 of the *Privacy Act* provides that personal information shall not be disclosed without the consent of the individual to whom it relates. The following summary of administrative reviews and investigations undertaken by the ORL respects protection of personal information in accordance with the *Privacy Act* and the restrictions associated with disclosure of personal information.

The Investigations Directorate continued with two outstanding complaints from the 2005–2006 reporting period, related to the Code. The first review concerned Mr. Barry Campbell, a registered consultant lobbyist who organized a fundraising event for a public office holder. The review resulted in a finding of no breach of the Code (for more details on this particular review, see Court Challenges section). The second review related to the involvement of political party officials and non-elected persons in the review of federal grant applications. The review is still ongoing but has progressed substantially.

In the present reporting period of 2006–2007, a total of 24 administrative reviews were initiated, 15 of which related to possible contraventions of the Code and are summarized here. The remaining nine are discussed in Part One – *Lobbyists Registration Act* Annual Report, Enforcement of the Act, Administrative Reviews.

Democracy Watch is an independent, non-profit, non-partisan, Canadian organization that advocates democratic reform, government accountability and corporate responsibility. In 2006, Democracy Watch accepted the Registrar's offer to have the ORL examine six older matters, all of which had been previously dealt with in the Federal Court. Four of these matters were decisions of the former Ethics Counsellor and were quashed by the Federal Court in July 2005. The other two, which had been filed by Democracy Watch in 2004, were dismissed in February and March 2005 respectively. Administrative reviews were opened on all of these matters and assigned to investigators. One of the matters has become an investigation initiated by the Registrar in 2006.

Seven reviews, which relate to possible breaches of the Code, involve allegations of improper lobbying activity by individuals who were seeking financial benefits from a special operating agency of the federal government.

The remaining two reviews involve registered lobbyists who were alleged to be providing advice and professional services to federal POHs at the same time as being registered to lobby the government.

Investigations Under the Code

Once it has completed an investigation under the Code, the Investigations Directorate submits a report to the Registrar. Before the Registrar can determine whether a person has breached the Code, the Act requires that the Registrar give the person a reasonable opportunity to present their views. The investigation procedures provide individuals under investigation with 30 days in which to present their views to the Registrar. Once the Registrar has completed an analysis of the file, a report is prepared and tabled in Parliament with the Registrar's findings, conclusions, and supporting reasons.

In October 2005, the Registrar initiated eight investigations under the Code. The reports on four of these investigations were tabled in Parliament in March 2007. The reports involved the lobbying activities of Mr. Neelam J. Makhija, on behalf of four companies. In each of the four cases, the Registrar concluded that Mr. Makhija violated the Act by failing to register as a lobbyist. As well, in each of the cases, the Registrar found that Mr. Makhija had breached the Code's Principle of Professionalism, which requires that lobbyists observe the highest professionalism and ethical standards. In particular, lobbyists must conform fully not only to the letter but the spirit of the Code as well as relevant laws, including the *Lobbyists Registration Act*.

The Registrar also determined in each report that Mr. Makhija had breached Rule 3 of the Code, Disclosure of Obligations, under the heading Transparency. This Rule requires that lobbyists shall indicate to their clients, employer or organization their obligations to adhere to the Code. In one report, the Registrar concluded that Mr. Makhija had also breached Rule 2 of the Code, Accurate Information, which requires that lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently. Additional details can be found on these four investigation reports at: <http://www.orl-bdl.gc.ca>

During the fiscal year 2006–2007, the Registrar initiated two investigations. These two investigations — along with the remaining four initiated in October 2005 — are still in progress.

Court Challenges

During this reporting period, the Registrar was involved in three separate matters in the courts. Two decisions made by the Registrar were the subject of applications for judicial review in the Federal Court that were commenced in 2006. In addition, the litigation commenced by Democracy Watch on September 20, 2005 against the Registrar of Lobbyists and the Ethics Commissioner in the Ontario Superior Court of Justice remains active.

In the action commenced by Democracy Watch in 2005, that organization asserted that the Registrar of Lobbyists was in a position of inherent conflict of interest and bias, primarily because he was an Assistant Deputy Minister of the Department of Industry.

On February 6, 2006, the Prime Minister announced that the Office of the Registrar of Lobbyists had been transferred from the Industry portfolio to the Treasury Board portfolio, as a stand-alone office, to increase its independence, while the federal government was working to further revise and strengthen the *Lobbyists Registration Act*. This change in the reporting relationship of the Office of the Registrar of Lobbyists has ramifications for the main concern identified by Democracy Watch of conflict of interest and bias. The legal action is still outstanding, however the applicants have adjourned the date for the hearing.

In October 2006, the Registrar made a ruling regarding a complaint by Democracy Watch into the activities of a registered lobbyist named Mr. Barry Campbell. The complaint concerned the political fundraising activities of Mr. Campbell. The Registrar concluded that he did not have reasonable grounds to believe that Mr. Campbell had breached Rule 8 of the Code and, as a result, no investigation of Mr. Campbell's lobbying activities was commenced. Democracy Watch was informed of this decision and commenced an application for judicial review in the Federal Court in November 2006, seeking to overturn the decision and compel the Registrar to conduct an investigation. As of March 31, 2007, the parties had exchanged pleadings and the applicant has sought a hearing date. Mr. Campbell has also elected to participate in the judicial review hearing.

As mentioned in the previous section, in the course of conducting investigations under the *Lobbyists' Code of Conduct* provisions of the *Lobbyists Registration Act* into the lobbying activities of Mr. Neelam Makhija, the Registrar's office contacted Mr. Makhija in order to provide him with an opportunity to present his views regarding the four investigations that were being conducted into his activities. Mr. Makhija provided his views in writing, but did not receive an oral hearing. As a consequence of this, Mr. Makhija commenced an application for judicial review in the Federal Court in December 2006, alleging that:

1. The Registrar of Lobbyists' decision violated the rules of natural justice by not granting Mr. Makhija the right to be heard in person.
2. Sections of the *Lobbyists Registration Act* violated the constitutionally protected rights guaranteed by the Canadian Charter of Rights and Freedoms and were therefore unconstitutional and inoperative.
3. The structure of the Act was flawed and unconstitutional in that it permitted the Registrar of Lobbyists to be both the investigator and the judge who decides whether a breach of the Act had been committed. This violated the right to be judged by an impartial and independent decision-maker.
4. The structure of the Act did not allow for due process, adherence to natural justice, the right to cross-examine and impeach the truthfulness of the witnesses against Mr. Makhija.

Mr. Makhija sought injunctive relief to compel the Registrar to provide him with an oral hearing, but the Federal Court denied his application. As of March 31, 2007, Mr. Makhija had not taken any further action on this application.

Additional Information



For the legal text of the Act and Regulations, consult the following:

- *Lobbyists Registration Act*, R.S.C. 1985, c. 44 (4th supp.);
- *Lobbyists Registration Regulations*, *Canada Gazette*, Part II, December 27, 1995;
- *Lobbyists Registration Regulations*, *Canada Gazette*, Part I, December 18, 2004;
- *Lobbyists Registration and Service Fees*, *Canada Gazette*, Part I, December 16, 1995;
- *An Act to Amend the Lobbyists Registration Act*, S.C. 2003, c. 10.
- *An Act to Amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and Other Acts in Consequence*, S.C. 2004, c. 7; and
- *The Federal Accountability Act*, S.C. 2006, c. 9.

Additional publications available on the ORL website www.orl-bdl.gc.ca include the *Registration Guide*, which covers the basic requirements of the *Lobbyists Registration Act*, a *Quick Reference Guide* to registration, as well as advisory opinions and interpretation bulletins.

Lobbyists registry data are accessible free of charge on the ORL website for viewing, searching, and producing summary reports.

As well, the ORL website contains additional links to related information.

For further information, please contact:

Office of the Registrar of Lobbyists
Operations Directorate
255 Albert Street, 10th Floor, Ottawa ON K1A 0R5
Tel.: 613-957-2760
Fax: 613-957-3078
Email: QuestionsLobbying@orl-bdl.gc.ca

