



Treasury Board of Canada
Secretariat

Secrétariat du Conseil du Trésor
du Canada

Public Consultation on the Lobbying Regulations and Registration System

Conducted March 1 to 23, 2007

August 2007



Canada

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Executive Summary

In order for the *Lobbying Act* to come into force, amendments to the regulations are necessary. This includes regulations to prescribe:

- ▶ the form and manner of all returns, including the new monthly returns for consultant lobbyists and in-house lobbyists;
- ▶ the types of communications or lobbying activities 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 survey consisted of 16 questions seeking both qualitative and quantitative input on key elements of the regulations, including the types of communications requiring the filing of the new monthly returns as well as non-regulatory aspects of the online Registry of Lobbyists.

The following is a summary of the key findings from this public consultation:

- ▶ 97 responses were received.
- ▶ 37% of respondents indicated that they have searched the Registry of Lobbyists. The Public Registry Search and the Recent Registrations are the search features most used by respondents.
- ▶ A majority of respondents who have searched the Registry, rate the search features as being at least somewhat helpful.
- ▶ Frequently Asked Questions and A Guide to Registration are the two help services of the Office of the Registrar website that are most accessed by the respondents.
- ▶ A majority of the respondents who have accessed at least one of the website help services have rated them as being at least somewhat helpful. When asked to provide suggestions to improve the online help services, presenting the information in easy to understand and clear language was the suggestion most offered.
- ▶ Suggestions for topics requiring an interpretation bulletin include clarifying the guidance regarding the 20% rule for in-house lobbyists and guidance on whether non-salaried individuals who are paid a per diem by an organization or registration are considered a “paid employee” for registration purposes.
- ▶ A majority of respondents rate themselves as being at least somewhat familiar with the *Lobbyists Registration Act*.
- ▶ There were several suggestions offered to add to the list of subject-matters (areas of concern) to identify the topic of the lobbying activity. The suggestion most offered was “foreign affairs”.

- ▶ Respondents were presented five different regulatory options for defining the types of communications for the new monthly returns. They were asked to rate their level of satisfaction for each of the options.
- ▶ Generally, respondents did not seem particularly satisfied with any of the options presented. The only option to have a slightly higher rate of satisfaction (57%) than dissatisfaction (42%) is the option of prescribing that all communication involving a designated public office holder (DPOH) requires the filing of a monthly return.

Background and Methodology

On December 12, 2006, the *Federal Accountability Act*, which amends the *Lobbyists Registration Act* (to be renamed the *Lobbying Act*), received Royal Assent.

The *Lobbying Act* introduces 4 major changes to the current *Lobbyists Registration Act*:

- ▶ by replacing the Registrar of Lobbyists with the Commissioner of Lobbying, an independent agent of Parliament;
- ▶ by identifying a new category of key decision makers within government called “designated public office holders”;
- ▶ by imposing a five-year post-employment prohibition on designated public office holders on becoming lobbyists once leaving office;
- ▶ by imposing new filing requirements on lobbyists and an obligation on designated public officials to confirm the information on contacts provided by lobbyists when asked to do so by the Commissioner.

Before the Act can come into force, amendments to the regulations must be reflected in the Act. This includes regulations to prescribe:

- ▶ the form and manner of all returns, including the new monthly returns for consultant lobbyists and in-house lobbyists;
- ▶ the types of communications or lobbying activities to be reported on in monthly returns;
- ▶ the details on subject-matter and other information that may be required in monthly returns.

Consistent with the Government’s regulatory policy, on February 22, 2007, the President of the Treasury Board announced a consultation process on the regulations necessary to implement the new *Lobbying Act*.

Through the consultation process, stakeholders, lobbyists and Canadians were given the opportunity to provide their views on proposed options and the design of the registration system. Specifically, the purpose and objectives of the public consultations were:

- ▶ to give individuals who will be using the registration system, an opportunity to provide input into the design, so that the new system is user friendly;
- ▶ to ensure that any member of the public who has an interest in these regulations had the opportunity to provide their opinion on some aspects of the proposed policy approach;
- ▶ to ensure that the consultation was focused on the reporting provisions and that the feedback addressed specific proposals.

Consultations were held between March 1 and March 23, 2007. Members of the public who have an interest in the regulations were invited to send their views through a questionnaire accessible online. Decima Research Inc. conducted a consultation process on our behalf with registered lobbyists and contacted registrants directly via e-mail inviting them to participate in a similar survey. The results of that survey are presented in a [separate report](#).

All responses for each question were analyzed regardless of whether the respondent fully completed the survey. The survey consisted of 16 questions seeking both qualitative and quantitative input on key elements of the regulations, including the type of communication requiring the filing of the new monthly returns as well as non-regulatory aspects of the online Registry of Lobbyists.

Key Findings

The following are the key findings of the public survey.

Opinions on the online registry (Questions 1 to 10)

Ninety-seven responses were received from the general public. Of those who responded, only 37% indicated that they have searched the Registry of Lobbyists. These individuals indicated that the Public Registry Search and Recent Registrations are the search features they have used most often (see graphs 1 and 2 in Appendix A).

A majority of respondents who have searched the Registry rate the search features as being at least somewhat helpful, with 33% indicating that they are somewhat helpful, 44% indicating that they are helpful and 33% indicating that they are very helpful (see graph 3 in Appendix A).

Respondents were asked to provide other suggestions for search tools of the Registry. Some suggestions were to allow for a search by date of initial registration or for search by subject-matter.

Frequently Asked Questions and A Guide to Registration are the two website help services that are most accessed by the respondents. Again, a majority of respondents who have accessed at least one of the website help services have rated them as being at least somewhat helpful; with 29% indicating that they are somewhat helpful, 48% indicating that they are helpful and 3% indicating that they are very helpful (see graphs 5 and 6 in Appendix A). When asked to provide suggestions to improve the online help services, presenting the information in clear language that is easy to understand was the suggestion most offered.

When asked to provide suggestions for other topics requiring an interpretation bulletin, suggestions included clarifying the guidance regarding the 20% rule for in-house lobbyists, especially with the new monthly reporting requirement and explaining who is a paid employee

for in-house lobbyists (e.g. non-salaried individuals who are paid a per diem by an organization or corporation).

Of the respondents, who were asked to rate their familiarity with the current *Lobbyists Registration Act*, 36% indicated not being very familiar or not at all familiar, 44% indicated being somewhat familiar, while 20% indicated being either familiar or very familiar (see graph 9 in Appendix A).

Opinions on regulatory options (Questions 11 to 16)

Respondents were asked to provide suggestions for additional topics to be added to the list of the subject-matters (areas of concern); “foreign affairs” was the suggestion most offered. Other suggested topics were: elections; federal-provincial relations; post-secondary education; animal welfare; natural resources; religion; housing; child services; security; media; bilingualism.

Respondents were presented with five different regulatory options for defining which types of communication involving a designated public office holder should require the filing of a monthly return. They were asked to rate their level of satisfaction for each of those options. The results for each of the options are as follows:

Option 1 (Question 12) - That lobbyists be required to file a monthly report when lobbying involves designated public office holders for the following type of communication:

- ▶ oral communication;
- ▶ arranged communication;
- ▶ communication initiated by government and communication initiated by the lobbyist;
- ▶ communication that occurs as a result of a lobbyist’s participation in a government established advisory board (e.g. task force, blue ribbon panel) or roundtable;

But excludes:

- ▶ written communication;
- ▶ spontaneous communication.

Dissatisfaction with this option was indicated by 83% of respondents, while only 17% indicated some level of satisfaction. This option had the highest level of respondents (71%) indicating that they would be very dissatisfied with it (see graph 12 in Appendix A).

Option 2 (Question 13) - That lobbyists be required to file a monthly report when lobbying involves designated public office holders for the following type of communication:

- ▶ oral or written communication;
- ▶ arranged or spontaneous (e.g. a chance encounter) communication;
- ▶ communication initiated by government or communication initiated by the lobbyist;
- ▶ both communication for which the designated public office holder has acknowledged receipt and communication where there has been no acknowledgement of receipt;
- ▶ communication that occurs as a result of a lobbyist's participation in a government established advisory board (e.g. task force, blue ribbon panel) or roundtable.

This is the preferred option of respondents with 57% indicating some level of satisfaction, and 42% indicating a level of dissatisfaction. While 34% show being very satisfied with this option, 30% would be very dissatisfied (see graph 13 in Appendix A).

Option 3 (Question 14) - That lobbyists be required to file a monthly report when lobbying involves designated public office holders for the following type of communication:

- ▶ oral communication;
- ▶ arranged or spontaneous communication;
- ▶ communication initiated by government and communication initiated by the lobbyist;
- ▶ communication that occurs as a result of a lobbyist's participation in a government established advisory board (e.g. task force, blue ribbon panel) or roundtable;

But excluding:

- ▶ written communication.

Results show that 81% of respondents would be dissatisfied to very dissatisfied with this option, and only 19% indicated a level of satisfaction (see graph 14 in Appendix A).

Option 4 (Question 15) - That lobbyists be required to file a monthly report when lobbying involves designated public office holders for the following type of communication:

- ▶ oral communication;
- ▶ arranged communication;
- ▶ communication initiated by the lobbyist;

But excludes:

- ▶ written communication;
- ▶ spontaneous communication; and
- ▶ communication initiated by government.

Similar to the previous option, 19% of respondents indicated a level of satisfaction while 81% would be dissatisfied or very dissatisfied (see graph 15 in Appendix A).

Option 5 (Question 16) - That lobbyists be required to file a monthly report when lobbying involves designated public office holders for the following type of communication:

- ▶ oral communication;
- ▶ arranged communication;
- ▶ communication initiated by the lobbyist;
- ▶ any other communication initiated by government, where the purpose is not relating to a lobbyist's participation in a government established advisory board (e.g. task force, blue ribbon panel) or roundtable;

But excludes:

- ▶ written communication;
- ▶ spontaneous communication;
- ▶ communication initiated by government officials relating to a lobbyist's participation in a government established advisory board (e.g. task force, blue ribbon panel) or roundtable.

Only 10% of respondents indicated a level of satisfaction with this option while 21% would be dissatisfied and 69% indicated that they would be very dissatisfied (see graph 16 in Appendix A).

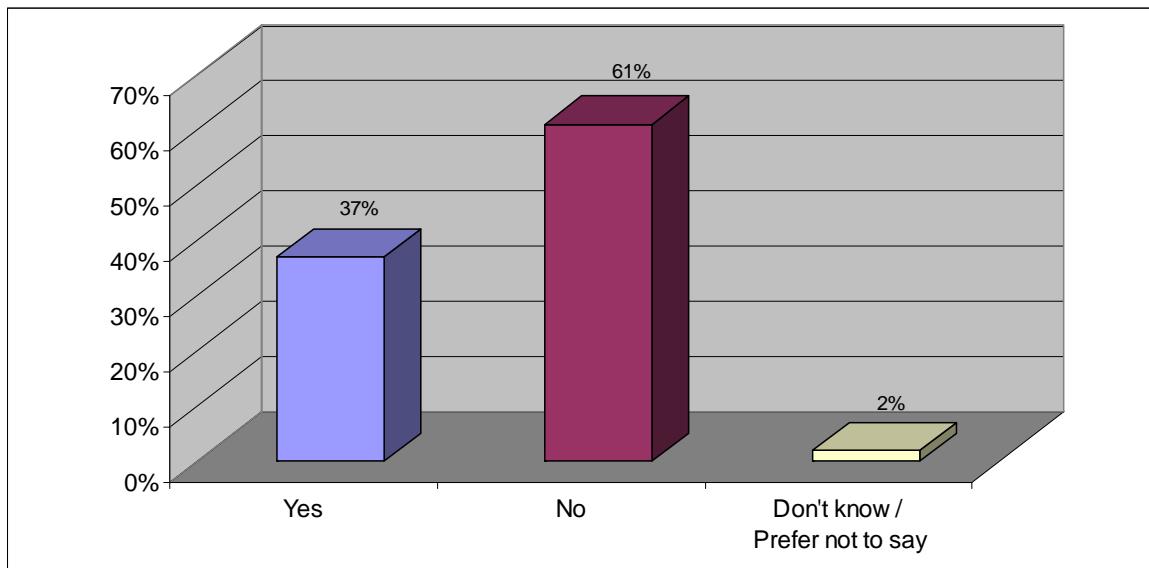
The results show that none of the options presented would provide respondents with a high level of satisfaction. The only option to have a rate of satisfaction higher than that of dissatisfaction is to prescribe that all communication involving a designated public office holder require the filing of a monthly return. However, only 57% of respondents indicated a level of satisfaction with this option, with 23% being satisfied and 34% indicating very satisfied. The level of respondents who would be very dissatisfied is comparable at 30%.

Respondents were provided with an opportunity to provide detailed information which they feel should be considered when regulating the types of communication involving a designated public office holder required in lobbyists' monthly returns. The full verbatim responses for questions 4, 7, 8, 10 and 11 are included in Appendices B through F.

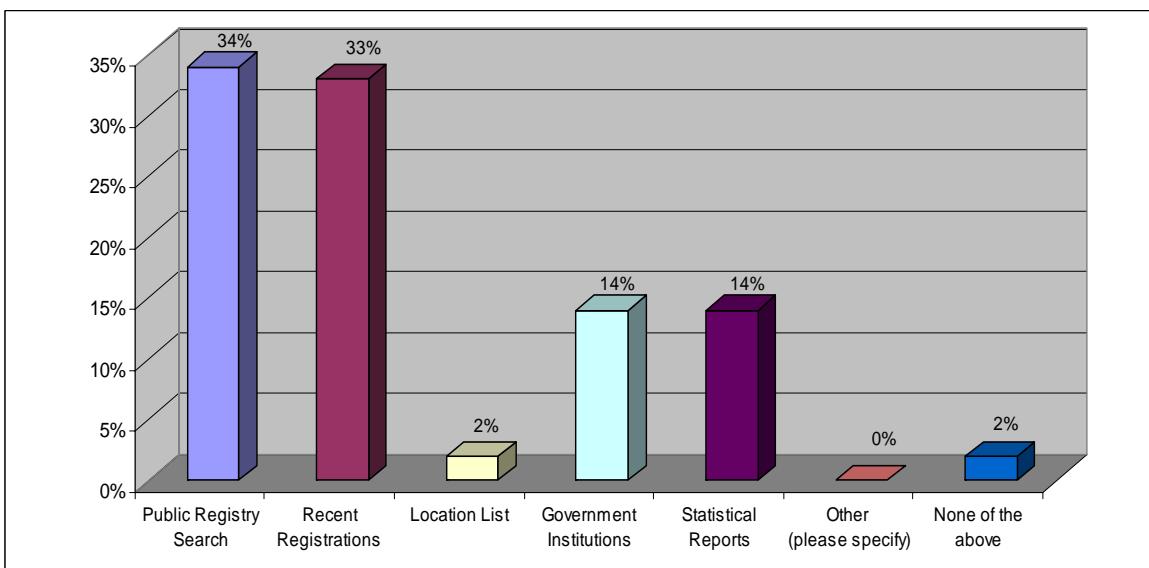
Appendix A

Questions on the online registry

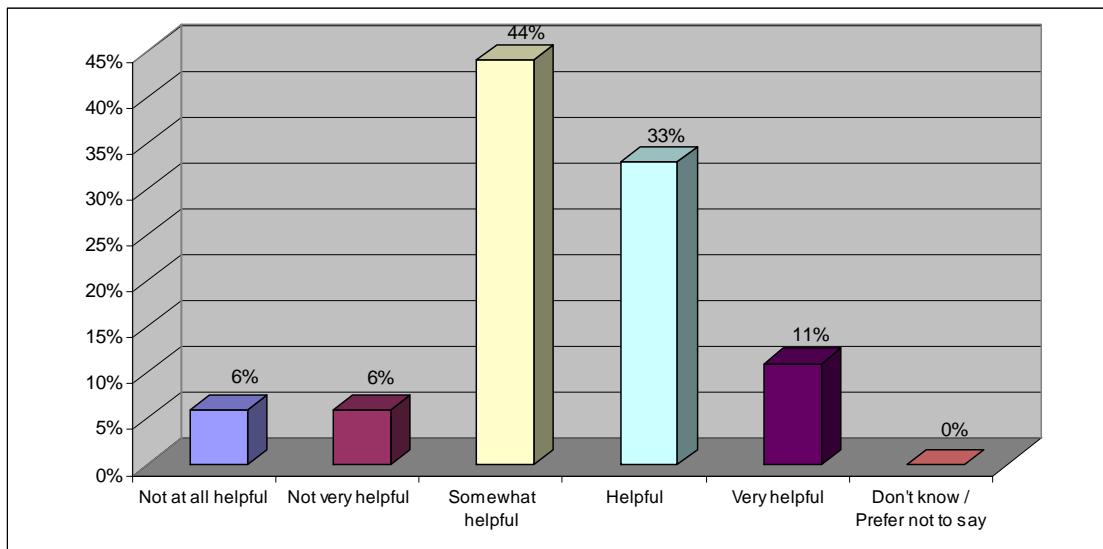
Question 1: Have you ever searched the Registry of Lobbyists?



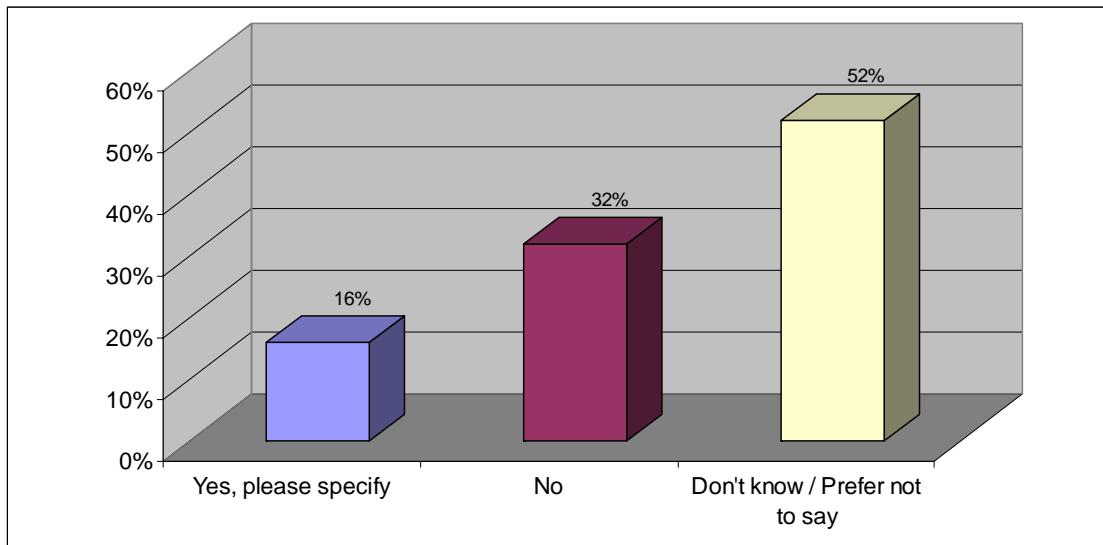
Question 2: (If yes) Which of the following search features have you used?



Question 3: (If yes) Overall, how would you rate the search tools you have used?

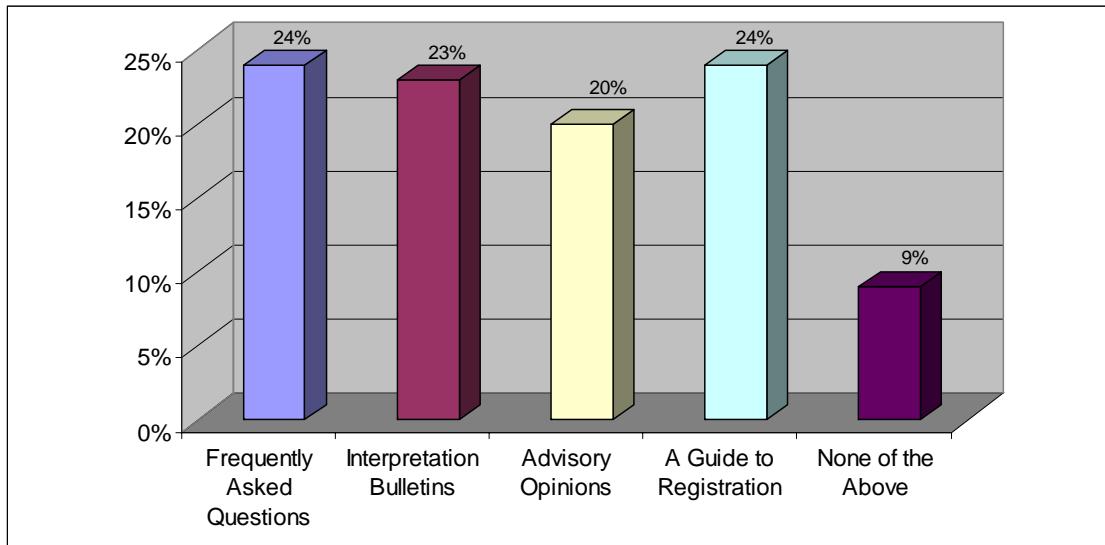


Question 4: Are there other search tools that you would like to see in the online Registry?

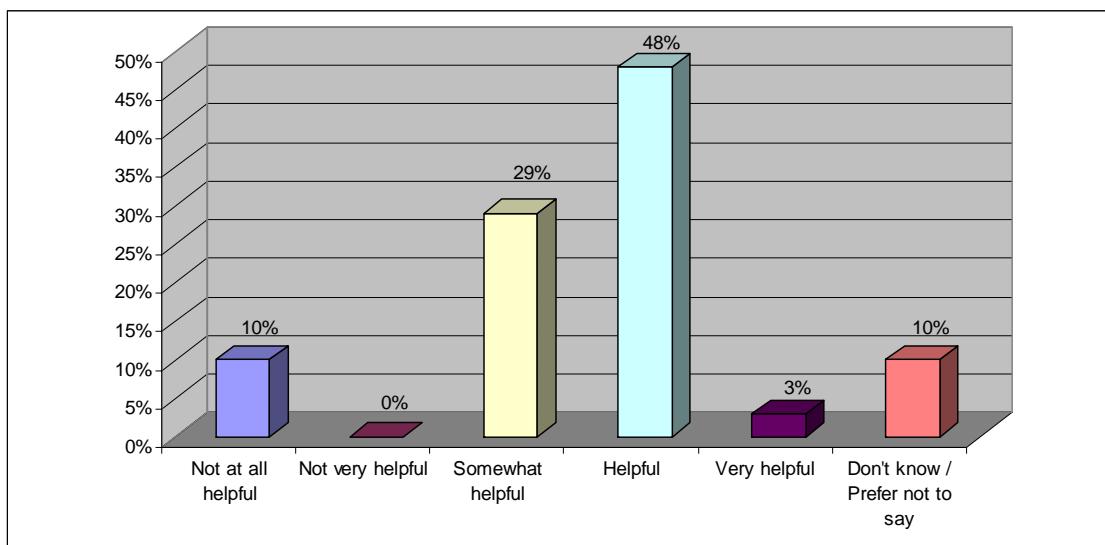


*See Appendix B for respondent's comments.

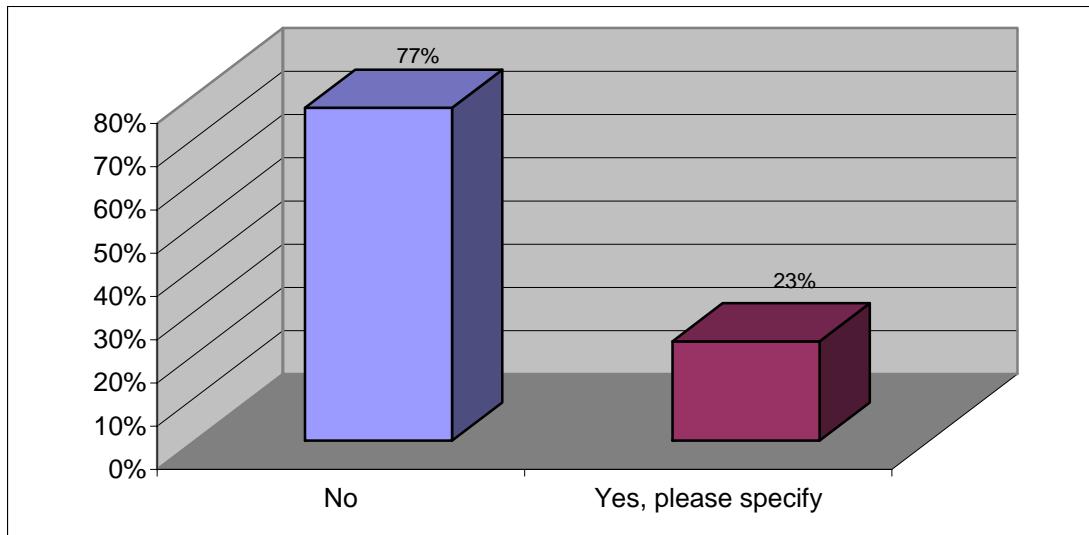
Question 5: Which of the following website services of the Office of the Registrar of Lobbyists have you accessed?



Question 6: (If accessed at least one) Overall, how would you rate the above-mentioned help services using a five-point scale where 1 is “not at all helpful” and 5 if “very helpful”?

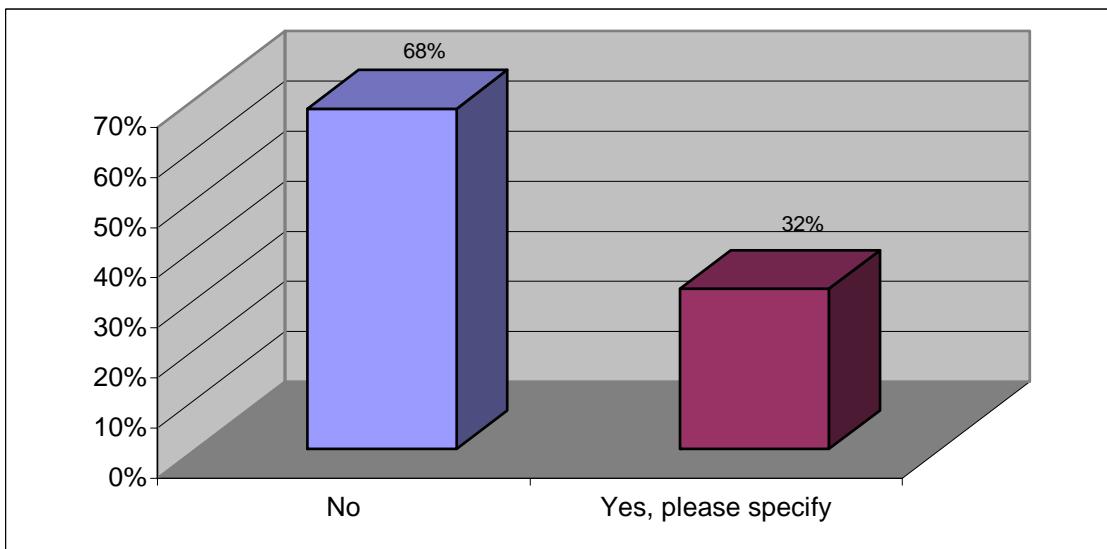


Question 7: Do you have any suggestions for improving the online help services or for other methods to provide better outreach, education or help services?



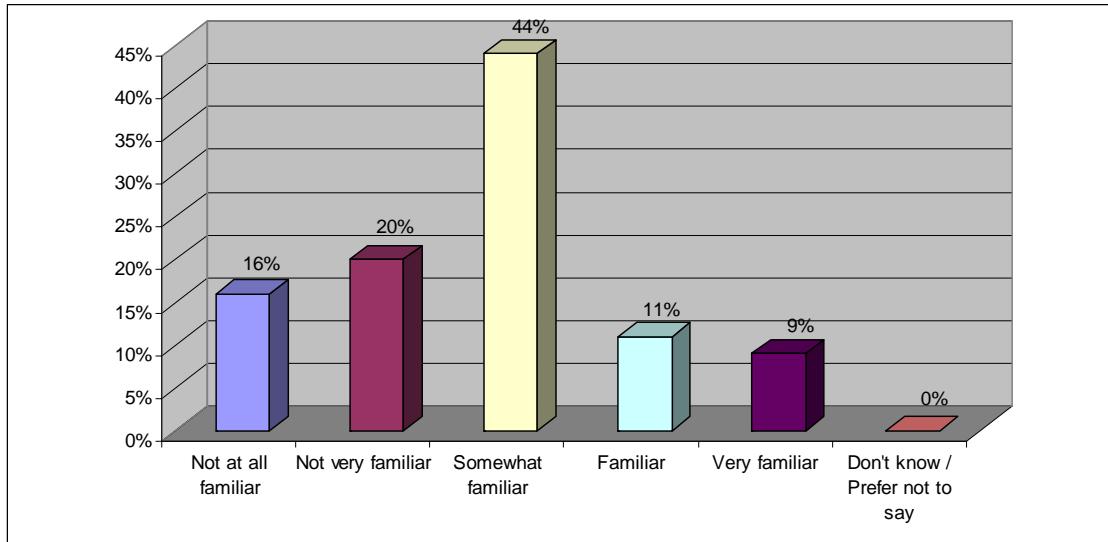
*See Appendix C for respondent's comments.

Question 8: Are there any topics or issues that you feel require the development of a new interpretation bulletin or advisory opinion?

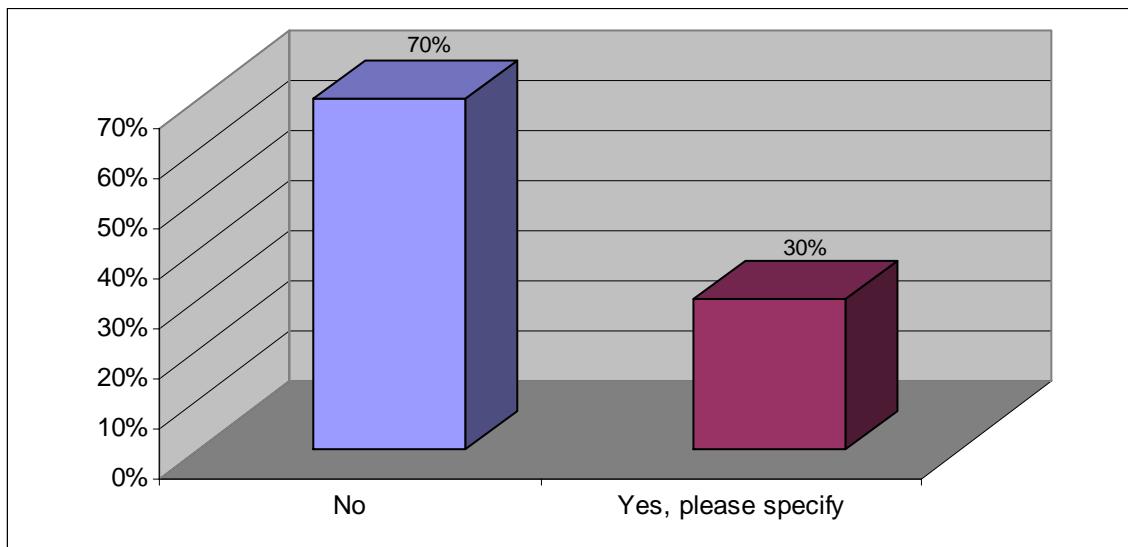


*See Appendix D for respondent's comments.

Question 9: Overall, how familiar are you with the current registration requirements laid out in the *Lobbyists Registration Act* using a five - point scale where 1 is “not at all familiar” and 5 is “very familiar”?



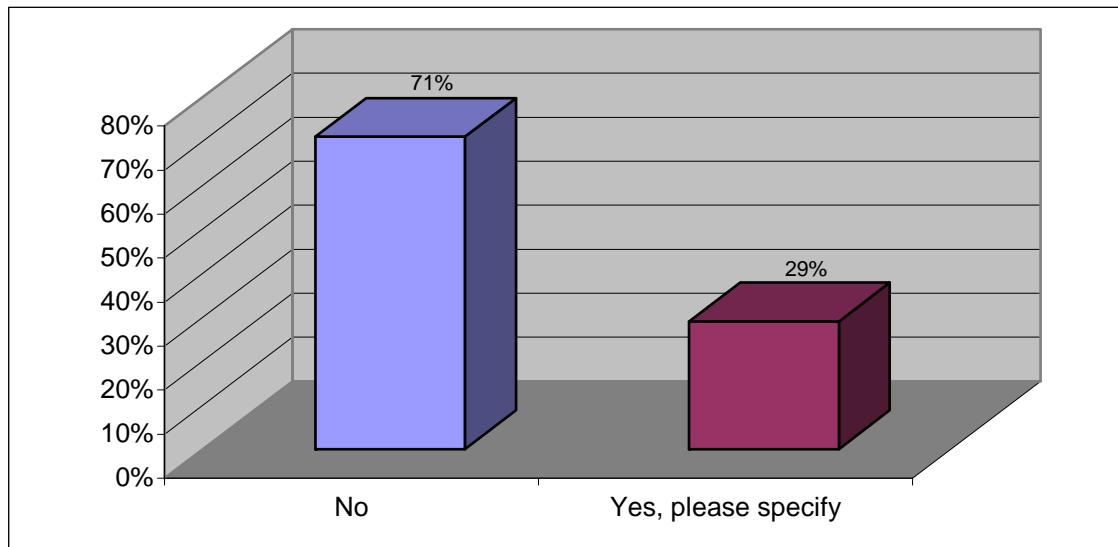
Question 10: Are there other topics that need to be added to the list of subject-matters (areas of concern)?



*See Appendix E for respondent's comments.

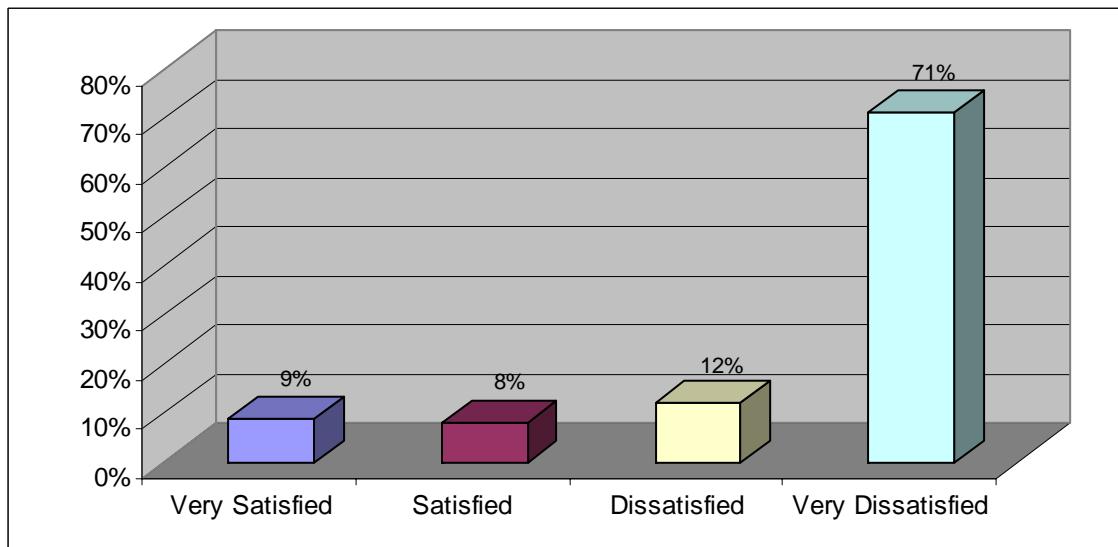
Questions on regulatory options:

Question 11: Is there any other relevant information that you feel should be considered in monthly reports that lobbyists will submit?

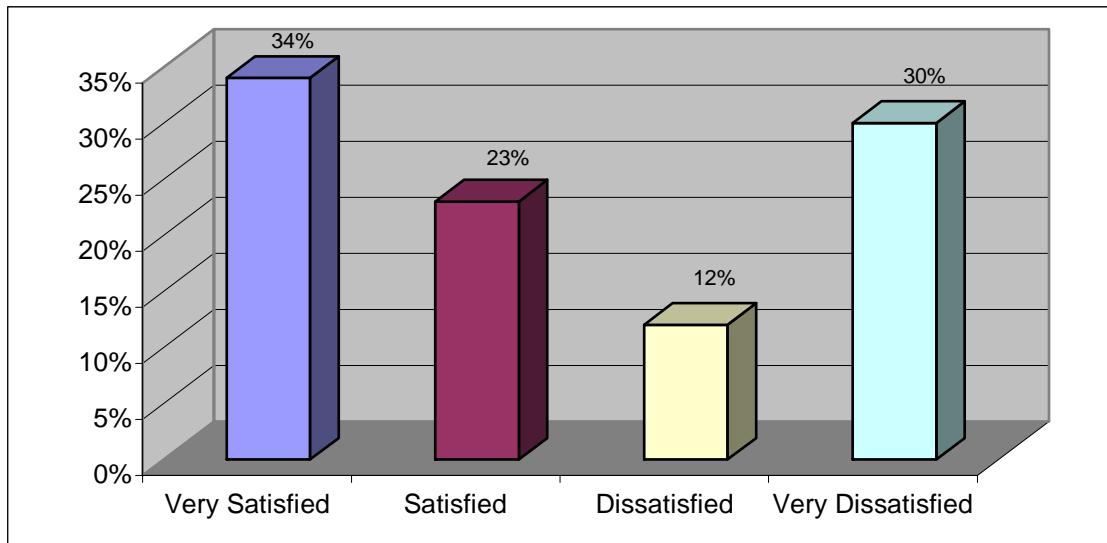


* See Appendix F for respondents' comments.

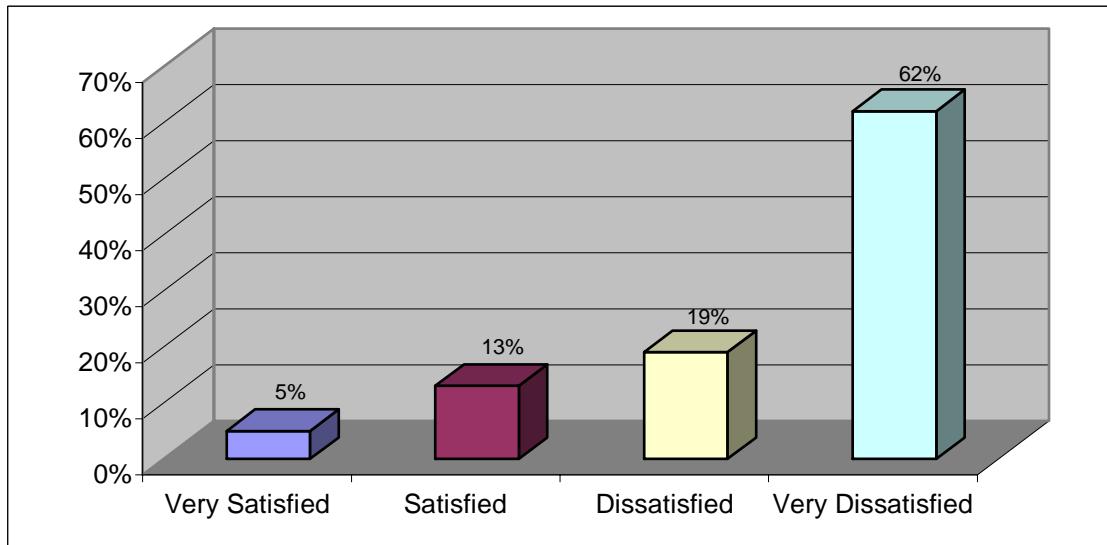
Question 12: What is the level of satisfaction if lobbyists are required to record monthly all oral and arranged communication involving a DPOH?



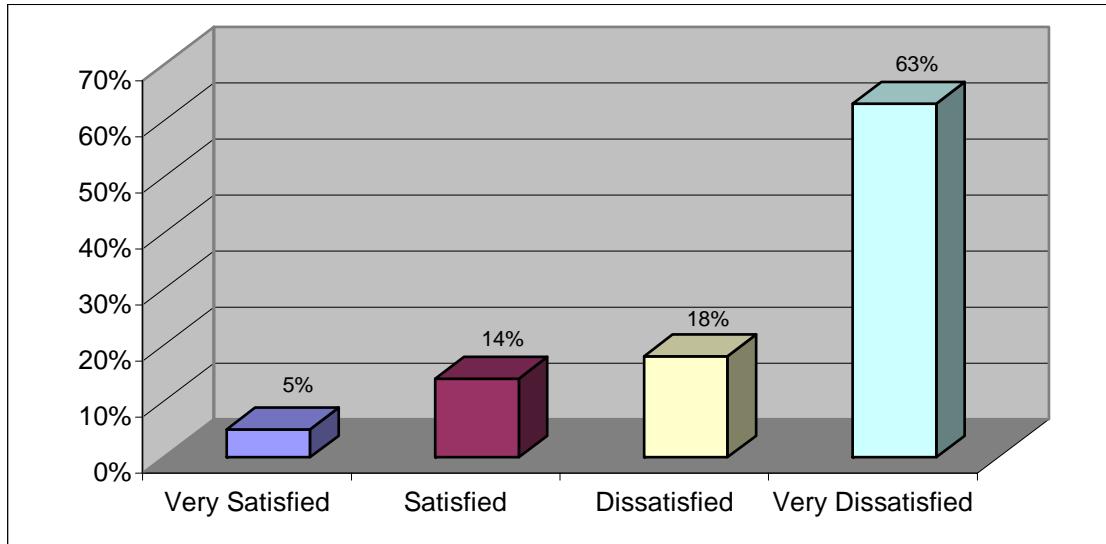
Question 13: What is the level of satisfaction if lobbyists are required to record monthly all communication involving a DPOH?



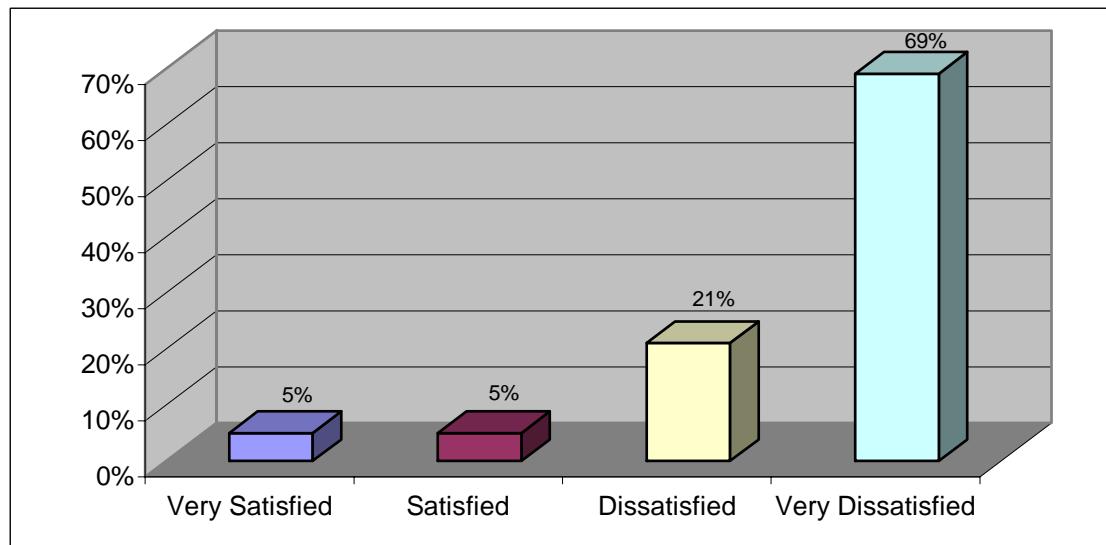
Question 14: What is the level of satisfaction if lobbyists are required to record monthly all oral communication involving a DPOH?



Question 15: What is the level of satisfaction if lobbyists are required to record monthly on all oral and arranged communication involving a DPOH that is only initiated by the lobbyist?



Question 16: What is the level of satisfaction if lobbyists are required to file a monthly return on all communication involving a DPOH that is only initiated by the lobbyist?



Appendix B

Responses to Question 4: Are there other search tools that you would like to see in the online Registry?

- ▶ Records of how many times a lobbyist is actually in communication with the agency they are trying to reach& if there was a response to that inquiry.
- ▶ Registrations grouped by category (academic institutions, Tobacco etc.).
- ▶ Search by initial date of current registration.
- ▶ The name search is not very effective.
- ▶ Federal Officials names, lobbyist budgets.
- ▶ A complete listing of all government departments, agencies, councils, foundations and any other entities that fall within the purview of the act. In addition, a listing by surname, by name of entity be it dept. or agency or foundation, etc., by title/level of all those in the senior ranks, appointments by order in council that come within the purview of the Act, including exempt staff and those in the similar ranks group so that a lobbyist can easily check who is in this designated category. This list should be able to be searched by dept/agency etc as well as by surname and title. These lists should also be kept up to date.
- ▶ Specific Lobbying Subjects e.g. for National Defence Armaments, Communications, Aircraft etc. As well as lobbying that can be directly connected to upcoming government legislation.
- ▶ Genuine full text search (i.e., covering all fields including contact info).

Appendix C

Responses to Question 7: Do you have any suggestions for improving the online help services or for other methods to provide better outreach, education or help services?

- ▶ 99% of the Canadian population does not know this registry even exists!!! Nor do they know what lobbyists exist!!!
- ▶ Clearer language.
- ▶ Hyperlinks on key words or terms – linking to the Act or Bulletins or Advisories.
- ▶ The Bulletins and Advisory Opinions are confusing.
- ▶ Clearer internet.
- ▶ Sending those who register online an update missive when new information is placed on the website.
- ▶ Increase the budget of the office/registry so that officials can appear before groups to explain requirements and answer questions directly. Also, increase the number of interpretation bulletins. One on funding – money received from the federal government, etc. If a contract is extended what is the status of this activity...is it a new contract...how does one handle an extension.
- ▶ The site and its options need to be better advertised to Canadians and they need to be made more accessible, under a more frequently visited website of the Canadian government.

Appendix D

Responses to Question 8: Are there any topics or issues that you feel require the development of new Interpretation Bulleting or Advisory Opinions?

- ▶ Opinions are like you know what!!!
- ▶ Detailed Interpretation of “Paid Employee” i.e. when a Board member lobbies on behalf of a non-profit org receives no salary but is paid expenses and a per diem when travelling on organization’s behalf. (It took over a year and many verbal interpretations from the office of the Registrar to advise us on whether the board member should be registered as a consultant or under the organization’s registration).
- ▶ There will be many once the new regulations are in place, so it is hard to specify now. I do feel there will be a need to be proactive in ensuring postsecondary education institutions are registered and complying with the Act, as there is a general feeling that academics are excluded from this.
- ▶ They should all be re-written more clearly now that corporations are required to make a “determination” if they are required to register as in house corporate lobbyists. The time threshold calculation set out in “A Significant Part of Duties” creates a burden to monitor the situation almost continuously as it states that “if the 20% threshold is crossed during any given month during the six month period, then registration would be required”. What then is the point of a 6 month estimation period? The lack of clarity throughout creates an Orwellian nightmare.
- ▶ Definition of conflict of interest.
- ▶ Reporting requirements.
- ▶ What constitutes communication?
- ▶ The changes to the FAA.
- ▶ Would expect new bulletin when new act in place.
- ▶ There need to be mandated timelines in which the office processes registrations.
- ▶ See above plus one on when one should consider MPs and Senators as coming under the purview of the Act.

Appendix E

Responses to Question 10: Are there other topics that need to be added to the list of subject-matters (areas of concern)?

- ▶ Animal Welfare Issues
- ▶ Postsecondary Education (split education in a separate category)
- ▶ Natural Resources
- ▶ Public safety, economy
- ▶ Check the “others” on current registrations
- ▶ Political honesty and truth
- ▶ Religion
- ▶ Print media; religion; edition
- ▶ Research and Development (programs)
- ▶ Child services
- ▶ National security
- ▶ Advanced Space Program
- ▶ Media (all forms of written media)
- ▶ Water
- ▶ Any area for which lobbyists exist
- ▶ Bilingualism
- ▶ Real property
- ▶ Review the individual submissions and add all those in the “other” category
- ▶ Foreign Affairs advocacy (particularly by religious/cultural groups)
- ▶ Federal-Provincial Relations, Unity
- ▶ Each of these should have subheadings, as each subject-matter is enormous and makes it difficult to understand the true nature of the lobbying in question.
- ▶ New drug approvals
- ▶ Elections
- ▶ Municipal affairs
- ▶ Housing
- ▶ Financial assistance (grants, contributions, loan insurance/guarantee, loans, in-kind) regardless of sector in
- ▶ Pharmaceutical

Appendix F

Responses to Question 11: Is there any other relevant information that you feel should be considered in monthly reports (that lobbyists will submit)?

- ▶ Where/how the communication was made; I also saw someone lobbying the PM's office! He should and all the house and senate staff should have to do the same!!! Not just the "designated public office holders"!! THAT'S FAIR!
- ▶ Disclosure of conflicts of interest.
- ▶ Clearly defining "certain types of communication" A standardized e-form that could be easily completed would make this new reporting requirement manageable.
- ▶ How much money spent or gifted and the dollar values of any material goods or services given to MPs and designated public office holders.
- ▶ Cost of the lobbying contact.
- ▶ This whole area should be rethought as there is too much confusion. Question 11 below is a good illustration of this confusion. Are all "oral communications" included, or is it intended that only "oral communications" which are also "arranged communications" are included and those "oral communications" which are "spontaneous communications" are intended to be excluded. The confusion in the Act and the interpretation bulletins, etc. is appalling. I am unable to answer Q 11 as I don't know what it means.
- ▶ Mode of communication.
- ▶ Client Confidentiality as to subject matter is always a concern.
- ▶ All communication.
- ▶ A list of all communications, formal and informal, including participation at events such as golf tournaments and public activities.
- ▶ Foreign lobbying activities.
- ▶ Latest update.
- ▶ All of the existing *Lobbyists Registration Act* requirements as well as a clear definition of who the client is and who they represent (to provide transparency of intent).
- ▶ Federal Officials should also submit monthly reports.
- ▶ Time spent in government as MP or civil servant.
- ▶ The client's name for whom the lobbying activities were done.
- ▶ Other recipients of the same or essentially the same communication.
- ▶ ALL communication (no exemptions).
- ▶ Relationship or former relationship with lobbied person (personal or professional).

- ▶ Names of members of Parliament (Senate and House) including parliamentary secretaries that they have contact with.
- ▶ Members of Parliament (Senate and House) including parliamentary secretaries; and House, Senate and Library officers and staff that are contacted for lobbying purposes.
- ▶ I want it to include all “incidental conversations as well”.
- ▶ Their compensation levels for their work.
- ▶ All elected officials, all MPs.
- ▶ ALL, not just certain types of communication, period.
- ▶ The name of the lobbyist who made the contact and particularly explain what is meant by “particulars”.
- ▶ Communication type: Arranged or Ad-hoc communication. Oral or written communication.
- ▶ What they where promised.
- ▶ MPs and staff should not be excluded.
- ▶ Contact with ANY senior level civil servant who is in a position to influence public policy outcomes and/or government procurement decisions.
- ▶ Members of Parliament and parliamentary secretaries should be included as designated public office holders... obviously MPs are lobbied as well. Also, lobbyists should disclose whether or not the meeting/communication has led to a new point of contact or referral within the government for follow-up. This will establish a chain of communication as a lobbying initiative progresses and is in the best interests of public accountability.
- ▶ Any entreaty also reports from MPs.
- ▶ Outcome desired by lobbyists as a result or their activity.
- ▶ Any specific changes to legislation or regulations they are seeking. An estimate of the benefit to their client or employer if the change is made.
- ▶ Were incentives offered to public office holders including meals, trips and things, such as golf games and free tickets.
- ▶ What they are lobbying for (desired result).
- ▶ Age, height and weight.
- ▶ The yearly budget of each lobbyist.
- ▶ Name of the lobbyist involved in the communication, if in-house lobbying is involved (2) location of communication, if oral.
- ▶ Who was part of the communication or copied on the communication.