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Monday, May 29, 2006

Chair

Mr. David Tilson

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● (1535)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): I'd like to call the meeting to order.

Good afternoon, ladies and gentlemen.

This is the Legislative Committee on Bill C-2, An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability.

Our first witness, our first guest, this afternoon is Teri A. Kirk, who is the vice-president, government relations and public policy, Imagine Canada.

Good afternoon, Ms. Kirk.

You have a few moments to make some preliminary comments, and then members of the caucuses will, I expect, have some questions for you. Welcome to the committee and thank you for coming.

[*Translation*]

Ms. Teri Kirk (Vice-President, Public Policy and Government Relations, Imagine Canada): Thank you, Mr. Chairman, members of the committee.

My name is Teri Kirk and I am the Vice-President, Government Relations and Public Policy, Imagine Canada. I am pleased to make this submission on behalf of Imagine Canada and the 13 other agencies listed on page one.

Our purpose in so doing is to draw the committee's attention to the sector's views on the impact of Part I of the bill which concerns the administration of grants and contributions, as well as of Part 3, which concerns the contracting process.

[*English*]

I'm going to divide my comments into three parts. I'd like to start with a brief overview of the community non-profit sector and of Imagine Canada. I'd then like to address four issues in the bill that are of interest to our sector: grants and contributions, procurement, sector infrastructure, and a government accountability framework for the sector. Finally, I'd like to take a minute to express the sector's appreciation for several recent initiatives.

The community non-profit sector is quite large and complex. Included in your materials is a pictogram; the sector is often depicted as a pyramid. You'll see that at the top of the pyramid there are about 161,000 incorporated organizations in the sector; 80,000 are non-profits, and another 80,000 are registered charities. The difference is that registered charities can issue tax receipts for donations. There are close to another one million unincorporated organizations existing in Canada at any particular time. They rise up to support victims of crime, for example, or to host events in communities. Forming the base of the community non-profit sector, there are about six and a half million Canadians who volunteer their time, representing about 30% of Canadians.

I've also included a breakdown of the types of activities the sector participates in. I'm sure that individuals around the table are very active in their communities and will find this of interest. You'll note that about 50% of the organizations forming the community non-profit sector are involved in sport, religion, and the delivery of social services. You get a sense of the size of the sector when you see that hospitals, universities, and colleges together represent only 1% of the sector, whereas organizations delivering social services are about twelve times the size of our national hospitals, universities, and colleges. In terms of its economic strength, the sector employs over two million Canadians. In terms of paid employment, this makes it larger than the manufacturing sector, and it accounts for about 7.8% of GDP.

Imagine Canada is the largest intermediary organization in the sector and has over 1,100 members. It was created about two years ago as the result of a merger of the Canadian Centre for Philanthropy and the Coalition of National Voluntary Organizations to provide one strong national voice for the sector.

Imagine Canada is a bit unique within the community non-profit sector in that it works closely with business and government as well as the sector itself to support community-based organizations. It works with business through our imagine caring companies program. This is a program whereby companies commit to giving 1% of their earnings before taxes back into the community. All of Canada's large banks and the leaders in the oil and gas sector such as EnCana, and leaders in telecom such as Bell Canada, are involved in the program. As you can imagine, committing 1% of their pre-tax earnings into the sector represents a very significant amount of money.

Let me turn now to the four issues in the bill that I'd like to bring to your attention. The first relates to grants and contributions under part 1 of the bill. I would just like to underscore the extent to which the flow of Gs and Cs are of paramount importance to the sector. Federal government grants and contributions are frequently the single largest source of funding for many of these organizations, and across the board they account for 7% of all funding into charities and non-profit corporations.

The web of rules associated with compliance under federal Gs and Cs unduly strains the capacity of these organizations and imposes an administrative burden that is often wholly disproportionate to the amount of the grant or contribution or the capacity of a typical recipient organization to comply with. Examples of this are legion.

We support the government's commitment to recalibrate the administrative demands under the federal G and C processes and to focus more on outcomes, and we support the striking of the blue ribbon task force under the accountability action plan.

With respect to procurement, the sector supports the inclusion of fairness, openness, and transparency in respect of procurement under part 5 of the act, but we echo the views of umbrella groups representing small and medium-sized enterprises in expressing concern that the proposed consolidation of the government's purchasing power will tend to result in contracting practices that greatly favour large enterprises over small and medium-sized businesses and small and medium-sized organizations. We are concerned that indeed such a level of consolidation might in fact breach the fairness principles to be enshrined in the act.

The third point relates to what I've called sector infrastructure. That is really the capacity of organizations to sustain themselves over time and to undertake activities such as long-range planning, facilities maintenance, investment in information technologies, and even paying directors and officers insurance to attract the boards and to carry out the community service programs that are at the heart of what the community expects them to do.

While we very much applaud the efforts to streamline the flow of grants and contributions, to ensure that the principles of fairness are maintained under procurement, and to see that small and medium-sized enterprises and organizations are reflected, these really represent improvements or fixes to current funding regimes that have become very short term and constrained and do not address the long-term stable funding needs of the sector. The result has been a very continual erosion of sector infrastructure.

We are asking that government consider, in addressing grants and contributions, that the need for longer-term and more stable funding models must apply.

We recognize that long-term funding for our sector is probably beyond the scope of the Federal Accountability Act and the action plan of this committee, but I will include some recommendations at the end of my comments about some alternative measures we would ask the committee to consider.

Finally, I would like to raise the merits of a government accountability framework vis-à-vis this sector. In 2001, efforts were made along that line; the government and the sector signed the accord between the Government of Canada and the voluntary sector, which led, in turn, to the adoption of two codes of good practice: a code on funding and a code on policy dialogue. Together these three documents form an effective government accountability framework for our sector.

Nevertheless, the documents were voluntary in nature. Service Canada serves as an example of one that has very much taken up and observed this accountability framework, whereas other departments have virtually no knowledge of, or real willingness to comply with, the accord and codes.

So we are asking that this government reassert its commitment to an accountability framework between the government and the sector. We think it can be quite easily done by taking the existing accord and codes and perhaps updating them somewhat as required, and reissuing them as part of the accountability action plan.

Let me conclude my comments with two compliments and several recommendations. We'd like to compliment the Government of Canada on its striking of a blue ribbon task force on grants and contributions under the action plan and on the enshrining of the principle of fairness in respect of procurement under the act.

Our recommendations are as follows: in respect of grants and contributions, we recommend that the Government of Canada recalibrate the burdensome impact on the community non-profit sector of the web of rules embedded in the federal grants and contributions process and refocus on outcomes that are more consistent with the sector's mandate to its donors, to its volunteers, and to the communities that depend on them.

We would ask that the government ensure implementation of the recommendations in the Auditor General's most recent report of May 2006. In chapter 6 of that report she addressed the need for streamlining of grants and contributions.

Finally, we would ask that the government empower the blue ribbon task force to broadly address the need for long-term funding as well as fixes to the grants and contributions process.

● (1540)

On procurement, we recommend that the government enshrine the fairness, openness, and transparency provisions, but be cognizant of potential inconsistency in consolidating procurement and whether that is consistent with the principles of fairness vis-à-vis SMEs and SMOs.

On sector infrastructure, we encourage the committee to put forward some recommendations that the issue of longer-term and more stable funding is required if we're going to have a vibrant community non-profit sector. We do have one of the strongest sectors in the world, but it has been very significantly eroded over the last decade with the erosion of long-term funding models.

Recommendations that you may wish to consider include striking a parliamentary committee with a mandate to look at the long-term funding issues; establishing an endowed national foundation, similar to perhaps the Wild Rose Foundation in Alberta or the Ontario Trillium Foundation, that could supplement the grants, contributions, and contracts regime with a national infrastructure funding program for the sector; implementing the Auditor General's report; and ensuring that the blue ribbon task force mandate is sufficiently large to address the longer-term funding issues.

Finally, as to the government accountability framework, we ask that the government adopt the accord between the Government of Canada and the two codes of good practice, and reissue them on behalf of the Government of Canada as a whole, as part of Treasury Board guidelines.

Those are all my comments. I welcome any questions you may have.

● (1545)

The Chair: Thank you, Ms. Kirk. You've given us a very detailed package, and I know members of the committee will have some questions.

The first person is Mr. Owen.

Hon. Stephen Owen (Vancouver Quadra, Lib.): Thank you very much for your presentation.

When the Auditor General appeared before us a couple of weeks ago, she commented on the provision in the Accountability Act that would extend the jurisdiction of her office effectively into the voluntary sector dealing with grants and contributions to government. I'd like to get your view on that. She was a little concerned about it from a resource point of view—consistent with comments she made in the past on concern about the amount of reporting that first nations have to do, that we ensure this is a streamlined process and doesn't just add further burden to a complex system.

So I'd like to get your view on whether the reach of her office would extend into the voluntary sector—if that is troublesome, or how that would combine with streamlining the reports you have to give.

I'm also very interested in your views on long-term funding. It can be multiple-year funding, but it can also be funding against certain criteria that are assessed annually but well before a termination date—sort of an evergreen funding process that could be confirmed with enough lead time, so people could plan properly and, if necessary, give proper notice to employees and such, which is always a very difficult thing when you're funding year to year.

I'd like to get your views, and a little more on that funding timing issue.

Ms. Teri Kirk: Thank you.

In respect to the Auditor General, we clearly support the need for the Government of Canada to have a strong audit function in respect to auditing its own practices. I think the concern of the sector is that we're already, frankly, subject to multiple audits under the grants and contributions processes. Sometimes the grants are multi-departmental: there may be a Heritage Canada component that supports volunteerism, for example; or there may be an Industry Canada program that supports consumer protection. With these very small organizations, it's helpful to understand that 46% of them have under five employees and their ability to sustain multiple audits is part of the problem and not really part of the solution we would see. So our representations are about fewer administrative demands on the organizations so that they can focus more on helping people in the communities and not have the personnel who are trained to do that filling out forms in the office all day.

In terms of long-term funding, this is a really a very critical issue for our sector. For many of you who are active in your communities and have served on these boards, you will understand that the human resources cycle you refer to is an in-and-out-the-door policy; grants end and three months later they get restarted again and people have to be terminated and rehired. It does interfere with the ability of these organizations to have effective human resources planning.

There are five or six areas where the lack of long-term funding really impacts on these organizations. I'll give you one very practical example. It's in the area of insurance. By definition, organizations in our communities that are out there delivering summer camps to disabled children or providing shelters for battered spouses and for homeless people are doing high-risk things with a high-risk clientele, and they're not able to do that unless they can have insurance to cover their staff and their volunteers. With liability insurance rates rising by 25% and none of the grants and contributions and contracts necessarily including provision for insurance, it becomes impossible for many of these organizations to carry out the very services that we would like them to in dealing with higher-risk clientele.

The same applies to directors' and officers' insurance. In order to be a not-for-profit corporation or a charity, you must have a board of directors. If I approach any of you about coming onto the board of an organization and advise you that there's no liability insurance and that you will be personally liable for any acts or omissions of that organization, or any of its staff, the likely response of most individuals is they are not going to serve on that board. This is one of the repercussions of the lack of infrastructure funding and long-term funding, that the organizations have trouble attracting the qualified people to their board who they need in order to comply with their legal obligations.

● (1550)

[*Translation*]

The Chair: Ms. Lavallée.

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert): Good day, Ms. Kirk. I'm pleased to meet you. Before I get to the crux of the issue, I would like you to clarify a few things for me.

First of all, you have drawn up a nice table giving a breakdown by activity sector. Do you have a similar breakdown for your agencies by province? For example, how many of your agencies operate in Quebec?

Ms. Teri Kirk: Thank you very much for your question.

Data is in fact available with respect to the province. We do like to collect a significant amount of data.

[*English*]

It's one of the things with long-term funding that we would like to have, an improved capacity to collect data. I can tell you in general that levels of volunteerism in Quebec are a little bit lower, frankly, than in the country as a whole. It seems to be perhaps that government is a little bit more involved in delivery of services more directly and tends to employ people more to do things that in other parts of Canada are done by voluntary organizations. So there is a slight difference, and I'd be pleased to follow up with you on some of the data.

[*Translation*]

Mrs. Carole Lavallée: Could you tell me approximately how many agencies are members of Imagine Canada and what percentage of them are from Quebec?

Ms. Teri Kirk: Imagine Canada has approximately 1,100 member agencies, 12% of which come from Quebec. Overall, there are about 200,000 agencies operating in this sector, over 20% of them from Quebec.

Mrs. Carole Lavallée: The Government of Quebec has made available to community agencies a broad spectrum of grant programs that are very well managed. In fact, Quebec is known for its range of social, sport and recreation organizations, as well as for its diverse development initiatives. Community agencies offer many social services. Community life in Quebec is truly quite developed.

Given that social services fall under provincial jurisdiction, we feel that the same holds true for community agencies. In view of what the Government of Quebec has to offer, I fail to see what kind of federal grant program you could provide. In fact, to my way of thinking, the few programs that are available are not very useful.

● (1555)

Ms. Teri Kirk: At the provincial level, grants are service oriented, while at the national level, they are more policy oriented. Insurance is one example. We are working with Heritage Canada to develop a national policy on insurance accessibility. However, at the provincial level, more specific programs are in place. Overall, we get approximately 30% of our funding from the provinces, and approximately 70% from the federal government.

Mrs. Carole Lavallée: It's clear in my mind that helping community agencies such as yours is a provincial government responsibility. I'm trying to see the connection between your presentation and Bill C-2. I feel the link is very tenuous. You seem to be more concerned about your agency's lack of long-term funding.

What is the connection between our study of Bill C-2 and the request by your agencies for long-term funding?

Ms. Teri Kirk: Any area can be both a federal and a provincial responsibility.

[*English*]

For example, with respect to small and medium-sized enterprises, is that a subject of provincial jurisdiction? Perhaps, but we have in the federal government a lot of national policies and programs to deal with almost every sector of the economy, at Industry Canada and so on.

The not-for-profit community sector is a very large sector—it's larger than the manufacturing sector in terms of paid employment—and includes hospitals, universities, colleges, health organizations, and is a very critical aspect of a vibrant country. Canadians identify our charities and voluntary organizations as the number one contributor to quality of life in Canada. So we do need a national policy and national assistance to maintain our community organizations in Canada.

The Chair: Thank you.

Mr. Martin.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Chair.

Thank you, Mrs. Kirk. It's nice to see you.

I do certainly take your point that social work, if you can call it that, doesn't lend itself to administration by grant to grant to grant. I certainly know of some of those smaller organizations, non-profits, with maybe five people, where one person is pretty much full-time applying for grants, filling out forms, applying for next year's funding, etc. It really isn't practical.

When did you start to notice this trend away from stable, long-term funding towards the program-by-program funding that we see so typically today?

Ms. Teri Kirk: It's quite detailed, frankly, in the submission, but generally speaking, it began occurring when there was tremendous concern across Canada in both federal and provincial governments about deficit reduction. It was an area, then, where long-term funding was basically cut and it was moved to very short-term project-based, heavily audited—

Mr. Pat Martin: So really, you could say it was part of the program review that the Liberals undertook in the 1990s, etc.

Ms. Teri Kirk: Exactly right.

It dates back to about 1992, in that period, and it occurred at both federal and provincial levels, really irrespective of the nature of the government. It was really part of the deficit reduction era, when there was a tremendous, as we would suggest, over-correction and move toward all of this highly unstable financing that simply creates a tremendous waste of energy and a diversion from the core functions of serving Canadians in their communities.

● (1600)

Mr. Pat Martin: That's a very good way of putting it.

Is there anything about Bill C-2 that gives you cause to believe it may exacerbate that problem? It's certainly the main motif of your brief, or your presentation today. Is there anything we can do within Bill C-2 to address that, or is there anything you are particularly concerned about in Bill C-2 that we may want to trim?

Ms. Teri Kirk: Thank you for asking that.

We feel supportive of the bill. Really, the two issues that are of concern are the enshrining of the fairness principle...and we think that's a very good thing to do, but again, we just want to draw to your attention that there seems to be an initiative going on in government, independent of the bill, to consolidate the purchasing power and consolidate procurement exercises. So we do support the provisions in the bill there.

Again, the issues with respect to Gs and Cs are really under the action plan and not the bill, and are with the blue ribbon task force. We think it's an excellent task force. We're pleased to see the representation on the task force and we hope the work of the task force will be implemented in the new year.

Mr. Pat Martin: I'm not quite clear on how the procurement changes will affect non-profit organizations like yours. Why would that have an effect on you?

Ms. Teri Kirk: As I said, our sector receives about 7% of funding from government. Around half of that is in the form of grants and contributions and the other half is in the form of contracts for services. Our organizations, like United Way, Volunteer Canada, or John Howard Society of Canada , apply through MERX, like small and medium organizations, to deliver contracts, and frankly, Canadians indicate that they prefer charitable organizations. They trust them more than government to deliver these services in their communities. So SMOs, as we sometimes call them, are quite comparable to small and medium enterprises now in applying for contracts and becoming service delivery agents for government. Therefore, policies that tend to create long-term, ten-year vendors of record that favour large enterprises would make it virtually impossible for our smaller community organizations to apply.

Mr. Pat Martin: Thank you.

The Chair: Go ahead, Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I want to begin by addressing the follow-the-money component of the Accountability Act by pointing out that it will, in the long run, lead to fewer encumbrances imposed on groups that receive grants and contributions. Audits and audit functions, if they're done properly, actually reduce the amount of paperwork that needs to be accomplished. For example, Revenue Canada reduces the amount of work taxpayers have to do by conducting periodic audits. If there were no such thing as an audit, every single taxpayer would have to file every single receipt for every single filing they make, but because we have an auditor who moves randomly, the taxpayers have to assume that they should file honestly.

The same goes for the kinds of groups that you represent. Giving the Auditor General the ability to follow the money in the rare instances where she has detected a problem means, in the long run, that the government will not need to impose as many administrative burdens on the groups you represent.

The previous Liberal government brought in place a bible of new...actually, a bible would be too modest, because it was far thicker than a Bible; it was more like a Talmud of rules. I have groups all over my constituency who talk about the enormous amount of administration they have to do simply to file for a grant or a contribution.

Do you agree with the approach of the Accountability Act, which is to increase the strength of the audit function while reducing the massive administrative burden imposed on your organizations by the previous government?

● (1605)

Ms. Teri Kirk: Absolutely. The spirit of what you've articulated is highly consistent with what we're presenting to you today.

To the extent that it's hard for recipient organizations to comply, it is extra hard for recipient organizations in our sector to comply, because they're very small. They hire people who are specialized in delivering front-line services, often to high-risk individuals, and are not necessarily very expert at filling out all the forms. They often don't have the financial software packages. They are being asked to complete audits and processes using financial software they don't have, let alone computers.

So it is an area of tremendous concern to our sector, and certainly the spirit of what you articulate is exactly consistent with our views.

Mr. Pierre Poilievre: I'd like to cede the remainder of my time to Ms. Joy Smith.

Mrs. Joy Smith (Kildonan—St. Paul, CPC): Thank you.

Thank you for your presentation. It is very insightful and gratifying to see Canada's community non-profit sector so alive and well in our country.

There is one question I do have. As you're probably quite aware, this bill is not intent on putting more rules on the public service, but rather to enforce the rules that are there and to make things more seamless. From your experience and from what is coming into being right now, can you comment on how this would support the non-profit sector in a very meaningful way?

You made comment earlier in your presentation that you did support the bill. Perhaps you could elaborate on that.

Ms. Teri Kirk: I'll declare, if you promise not to hold it against me, that I'm a lawyer, and so I'm at ease, shall we say, that sometimes the real test of a law is in its application. So the spirit of the language is something we're extremely comfortable with, and really the test will be, over time, the extent to which these words are given meaning. That's why we are very pleased to see an accountability action plan, which accompanies the bill, and the striking of a committee whose mandate would be to go and breathe life into these words.

We look forward to working with the committee. The sector is extremely supportive that the committee exist and the quality leadership there.

The test will be the extent to which the grants and contributions committee can come back with some very meaningful changes. Fixes to just the flow of grants and contributions is important, but if government wants to be seen to be successful in really dealing with the 10- to 12-year demise in funding to the sector and the enormous erosion of infrastructure, it will have to look more broadly than just at fixing grants and contributions and look at some longer-term funding solutions.

I've thrown out a few ideas. I think it's appropriate for a parliamentary committee. We haven't had a parliamentary committee on this important sector in decades.

I happen to like the idea of a foundation that takes funding outside of government, to a certain extent, that might be endowed through consolidated revenue but be a maple leaf kind of foundation that mirrors, to certain extent, the Trillium Foundation or the Wild Rose Foundation, that could complement grants and contributions and contracts over at PWGSC by providing some stable national funding for the sector.

The Chair: Thank you.

The Liberal caucus has five minutes.

Mr. Alan Tonks (York South—Weston, Lib.): I think that's me, not the whole caucus.

I certainly have a question, Ms. Kirk. Thank you very much for being here.

Ms. Kirk, several months ago, HRDC, as it was known at that time, went through a process of reassessing contracts with community-based organizations. It was a real schmozzle. On page 12 of your document—the accord and codes—you relate all the things that came out of that process to improve it: more streamlined administration, improved call for proposal process, a fairness adviser, a fair practices resolution mechanism, a joint steering committee, and an undertaking to publish an annual public report on consistency with the accord and codes.

Regarding your recommendations at the end of your report under grants and contributions, procurement, sector infrastructure, and government accountability, it seems to me that if there was a generic application of the accord and codes within the context of those improvements, most of your recommendations would be covered. You state, and I quote from your report here: "However, "take-up" of the Accord and Codes across the Government of Canada has been inconsistent at best."

I guess mine is a systemic question. How can we make sure this framework, through the Accountability Act, is distributed right across government departments?

● (1610)

Ms. Teri Kirk: Yes, we are supporters of the accord and the codes. A tremendous effort was put into negotiating these a number of years ago. They were signed off by the Prime Minister of Canada, not in a partisan or narrow way, but to commit the Government of Canada and the sector. Service Canada does provide an example of an organization that has lived and breathed everything that people anticipated. But they are voluntary. If you did a survey of deputies and ADMs and program directors, I think you'd find that very few use the accords and codes in that way.

Our recommendation is that the accord and codes be adopted at the Treasury Board level, which is responsible for guidelines that govern administrative procedures for the government as a whole, instead of it being up to individual departments, and that it become part of the government's accountability framework under the action plan so that the funding practices and policy dialogues would move forward.

Mr. Alan Tonks: Is that what you mean, under grants and contributions, by streamlining applications for it as agreed by Treasury Board? Is that your recommendation?

Ms. Teri Kirk: No. The issue about the accord and codes is under recommendation 4, which is the accountability framework. What we're really saying is that we agree with the spirit of the act, that there should be an overall accountability framework. It deals with issues such as the government not going forward with policies for the sector without consulting with the sector.

The government doesn't have to start from scratch here. There are some very good documents in place that are being used and are working well.

So let's have Treasury Board sign off, demonstrate that the new government is equally committed, and reissue them government-wide.

Mr. Alan Tonks: Such as the accord and codes.

Ms. Teri Kirk: Exactly.

Mr. Alan Tonks: Okay. Thank you very much.

Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Tonks.

And thank you, Ms. Kirk. You've given an excellent presentation. We appreciate your coming and giving us a different view.

The committee will take a short break while we prepare for the next witness.

Thank you.

● (1610)

(Pause)

● (1615)

The Chair: I call the meeting back to order.

We have two groups before us this afternoon that I will introduce. We have the Public Affairs Association of Canada: Elaine Flis, who is the president; and Chris Benedetti, who is the past-president. We have the Canadian Council of Chief Executives: the executive vice-president, who is David Stewart-Patterson; and the vice-president, regulatory affairs, and general counsel, John Dillon.

The committee welcomes you and we look forward to your presentations. Each group will give a brief presentation, and if you've been sitting here, you have seen that there will be questions from each caucus. So thanks again. We look forward to hearing from you.

Ms. Elaine Flis (President, Public Affairs Association of Canada): Ladies and gentlemen of the committee, good afternoon, and thank you for the opportunity to speak to you today.

I'm Elaine Flis, president of the Public Affairs Association of Canada. My colleague is Chris Benedetti, the association's past-president.

The Public Affairs Association of Canada is a national not-for-profit organization founded in 1984. PAAC's growing membership represents a cross-section of the many disciplines involved in public affairs, including policy development, government relations, communications, opinion research and public relations.

I want to say first and foremost that the Public Affairs—

The Chair: Just a second.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Excuse me for interrupting, but could you possibly speak a little more slowly to allow the interpreters to keep pace with you?

● (1620)

[*English*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): You're speaking too quickly for the translator.

Ms. Elaine Flis: Oh, am I? This is my first presentation. *Pardonnez-moi.*

The Chair: I do the same thing to Mr. Sauvageau. Both languages are going on, so please speak as slowly as you can. Thank you.

Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC): On a point of order, if this is the precise text of what you're going to be saying, maybe a copy of this could be given to the translator.

Ms. Elaine Flis: I actually only brought an English version. I'm not sure if.... It's up to the discretion of the chair.

The Chair: They are excellent translators and they will do their best.

Ms. Elaine Flis: And I will do my best at speaking slowly.

The Chair: Thank you very much.

Ms. Elaine Flis: The Public Affairs Association of Canada is a national not-for-profit organization founded in 1984. PAAC's growing membership represents a cross-section of the many disciplines involved in public affairs, including policy development, government relations, communications, opinion research, and public relations. I want to say first and foremost that the Public Affairs Association of Canada supports the spirit of the Federal Accountability Act because it's all about transparency and accountability, which are cornerstones of ethical behaviour.

Our association recently developed a statement of ethical principles for our members, because we stand in favour of ethical conduct in all facets of our work. So yes, we support the spirit of the legislation, yet we would like to offer constructive suggestions concerning the letter of it.

Lobbying—or government relations, as we prefer to call it—is not the unsavoury activity that many in the news media have made it out to be, any more than politicians are as villainous as the press often imply. Government relations specialists are not just hired consultants, and they don't just work for large wealthy corporations. GR people are vital for not-for-profit organizations as well, and to help volunteer advocates in grassroots organizations present their cases to government.

It is important to bear in mind that government can be complex to the point of confusion to those not experienced in its workings. That is why it takes a seasoned professional to present a case to government in the course of public policy development.

Most people accept that those who present a legal case before a court need the services of a lawyer. They should not try to do it themselves. Similarly, making a case before government for non-profits and grassroots organizations, as much as for big companies, also requires professional expertise. This expertise should be facilitated for such organizations, not denied them.

Certainly our ethical elected officials want to, and should, listen to both sides of an argument prior to crafting public policy. That is why we're here today. And since public officials cannot be experts in all fields, listening to professionally prepared presentations on all sides is vitally important if public policy is to truly reflect public interests.

With these things in mind, I must draw the committee's attention to a few areas of concern we have with the legislation in its present form. Some of its provisions, intended to enhance transparency, in fact create unintended problems.

Consider the additional filing requirements for people lobbying government. They would have to file on a monthly basis the names of senior public officials with whom they met, the date of the communication or meeting, and many other particulars. By taking transparency to this extreme, the legislation will impose a competitive disadvantage on some organizations due to the high cost of hiring administrative people to deal with this. Worse still, it might encourage some people to try to circumvent an onerous process and thus create an atmosphere of disrespect for the law.

If the Commissioner of Lobbying is to contact present or former senior public office-holders to verify the information provided, and then post these responses on its public Internet-based registry, the result is a similar set of unintended problems. The reason is that it makes the process cumbersome for staff who would have to follow the same process as lobbyists just in case they're asked for information, even though technically they don't have to file information as lobbyists do.

Again, this creates an unintended and onerous burden of administration and time. This may be burdensome to the large and wealthy corporations often associated in the public mind with lobbying, but to grassroots advocacy it will be destructive and debilitating. Grassroots advocacy, by its nature, is the communication between individuals and their elected officials. In particular, volunteer advocates for not-for-profit organizations, such as ones focused on medical research, could be driven away from this socially useful work, fearing that these sweeping regulations will make lawbreakers of them.

The new filing requirements represent the first of two main pitfalls we see in the legislation. The second concern is well-intentioned but potentially harmful restrictions on who may work in government relations. As it stands, the legislation says that no individual shall work in GR during a period of five years after the day on which that person ceases to hold a senior public office.

● (1625)

To newspaper readers eager to believe that recent government office-holders would wield some kind of unfair advantage, this sounds good. To people familiar with the making of good public policy, alarm bells should ring.

The reason for this is that to work effectively in GR requires familiarity with the public policy process. Again, the valid comparison is with the work of lawyers: not just anyone is qualified to argue a case before a court. To forbid those who recently graduated from public service from using their fresh skills in GR for five years is akin to preventing new law school graduates from practising law for five years.

At one level, it can only ensure that fresh skills become stale before they can be put to use. Yet there is a more important argument against this provision. Government relations work is a career that many good people work toward. By telling dedicated and skilled people that government service will disqualify them from that work for five years, the prime accomplishment will be to steer them away from government service, which cannot be good for government itself or the public interest in general.

Ladies and gentlemen, in both of these areas of concern, onerous filing requirements and the five-year prohibition after government service can be addressed without altering the legislation's prime goal of increasing accountability and transparency. The guiding principle is simply that if something is not really broken, it need not be fixed. Filing requirements should not be changed in order to alleviate public fears of secret lobbying, fears that are unfounded. Nor can anyone expect the five-year restriction on lobbying to serve the development of good public policy, when it will only discourage participation by the very people who have the most to contribute.

If there is to be a restriction on lobbying after government service, it makes sense only with regard to the files a person worked on while in government, or perhaps to the specific ministry in which she or he worked. Better still would be to preserve the current requirements in both these areas for the sake of facilitating, rather than hindering, the work of grassroots advocates and for the sake of encouraging the recruitment of good people to government service.

Thank you for listening.

The Chair: Thank you.

Mr. Stewart-Patterson.

Mr. David Stewart-Patterson (Executive Vice President, Canadian Council of Chief Executives): Thank you, Mr. Chair.

I appreciate the opportunity to come and join you today. This is a very complex piece of legislation, but it's one that's very important as well.

The members of the Canadian Council of Chief Executives, for those who aren't familiar, are basically CEOs of large companies operating in Canada. As such, I think our members understand very well that good governance matters in the public sector and in the private sector alike. Good corporate governance provides a competitive advantage in attracting investors and attracting talented people and thereby drives stronger and more sustainable growth in shareholder value.

Similarly, good public governance provides a competitive advantage to the country, in attracting people in investment within a global marketplace, and also in helping governments deliver better value to citizens and taxpayers. This is why our organization has been involved, deeply engaged, on governance issues for more than three decades. We were active participants in the great national debates involving the Constitution and parliamentary reform. I think we were the only business organization to appear before a committee of this House to support the reform of the financing of political parties, when that bill was in front of the House, and we've certainly been champions of stronger rules and voluntary efforts in improving the standards and practices of corporate governance.

Let me begin, therefore, by congratulating the government for moving quickly and decisively to address what I would describe as a crisis of public confidence. The proposed act before the committee includes a wide range of important measures. I would commend, in particular, the strengthening of the powers of the Auditor General and the role of the Ethics Commissioner, as well as the creation of a parliamentary budget officer, and an independent body to review the public appointments process.

But I want to take you back to 2002, when the response to the corporate governance crisis in the United States was the Sarbanes-Oxley Act. It did reassure investors by providing tough new rules and penalties, but it was highly complex and hastily drafted and it created months of headaches for regulators and a continuing very high cost of compliance for companies.

Canada took a more thoughtful approach and came up with a system that remains fully compatible with the U.S. rules for companies like our members, which are often cross-listed, but at the same time it provided a much more flexible and responsive environment that was better suited to the needs of the smaller cap companies that make up the bulk of our financial markets.

Today, I'd like to suggest we're seeing some important parallels between issues of corporate and public governance. In both cases there are real failures and fundamental issues of lost trust that have to be addressed. But as with Sarbanes-Oxley, we would ask whether the political desire to move quickly may lead to an excess of new rules that may, in time, prove counter-productive. I'd remind you that in the corporate sector, governance rules are aimed at protecting investors. At the same time, they do impose new costs, costs that come right off the bottom line. What's more, if executives spend too much time talking with the lawyers and the accountants instead of growing a business, the end result is not to serve the interests of shareholders.

Now, no one questions the need to repair the flaws in public governance exposed by the sponsorship scandal, but as in the corporate sector, new rules, new internal controls, all will add significant new fixed costs, even as they reduce opportunities for fraud.

I'm also worried about whether these new measures, as a whole, could affect the culture of government. Could they lead to an obsession with obeying the rules and avoiding mistakes that, in turn, could become a serious break on innovation and efficiency? There is more to delivering the best possible value to citizens than simply preventing fraud.

Let me add one final concern. Public servants, however well qualified and well intentioned, do not have a monopoly on good ideas. Effective government involves a healthy exchange of ideas with people outside government. My own organization's experience is that this exchange is often initiated by government officials themselves, who want input on the state of an industry or the likely impact of a policy change that's under consideration. The new act, however, is going to impose much more intrusive record-keeping and reporting, both by anyone who talks to senior officials in government and de facto by officials themselves in order to provide a check.

I want to make it clear that I'm not arguing against the idea of making sure that the process of lobbying government for gain is transparent and above board. We really only have one major concern on that front, and that is the question of whether the level and speed of reporting that will be required could lead to the unfair release of commercially sensitive information.

● (1630)

The new rules, however, also would appear to affect the activities of a vast array of organizations who engage government for the purpose of influencing public policy, and doing it in ways that they believe will be good for the country as a whole. The vast majority of these organizations already maintain a high level of transparency with respect to their public advocacy, and I'm worried that the new compliance burden may prove to be especially daunting—as my colleague here has suggested—for smaller non-governmental organizations. If the compliance procedures are burdensome enough to discourage dialogue, the result could be a government that is more isolated from citizens and less likely to draw on the country's collective wisdom to drive innovative public policy solutions.

This is an important bill. It addresses an urgent need to restore public trust, and Canada's business leaders fully support its goals. At the same time, our own experience with the crisis of corporate governance suggests it is very important to think through all of the implications of complex legislation like this, as you are doing today.

I'll now turn it over to the committee for questions.

The Chair: Thank you, sir.

Ms. Jennings.

[*Translation*]

Hon. Marlene Jennings: Thank you very much for your respective submissions.

Mr. Stewart-Patterson, you made two comments in reference to the Sarbanes-Oxley Act. You note the following on page 1 of your submission:

> It reassured investors by providing tough new rules and penalties, but also was hastily drafted and highly complex, creating months of headaches for regulators and continuing huge compliance costs for companies.

You further noted on page 2:

> But as with Sarbanes-Oxley, we would ask whether the political desire to move quickly may lead to an excess of new rules that may in time prove counter-productive.

We've heard from Ms. Flis and from other witnesses who have preceded you about some of the restrictions resulting from the changes to the rules affecting the volunteer sector that receives government contributions. These changes are beginning to impede their work and to reduce the level of services volunteer agencies can provide.

Experience has shown that over the past 15 years, for example, it has taken Parliament 200 days on average to adopt a bill with this number of provisions and with such sweeping implications for other acts. The aim of the government is to guide this bill through all stages in the House, if not in the Senate, in under 40 days.

Given the bill's complexity, do you feel that we are giving ourselves enough time to ensure that any changes adopted will not ultimately prove counter-productive?

● (1635)

[*English*]

Mr. David Stewart-Patterson: I would say that precisely because the issues are complex, it's important to take the time to get it right. I don't dispute the urgency of addressing the concerns the public has, but again I draw on our experience with the issue of corporate governance. The fact is that legislators in the United States, in the spring of 2002, were under a great deal of public pressure to act quickly, so when they went back to their constituencies in the summertime and talked to their constituents they would have an answer when asked what they were doing about Enron. However, the result of that was an act that was badly drafted in many ways. It was imprecise and in some places even self-contradictory. There were simple concepts, simple ideas, that weren't fleshed out or thought through.

One example that comes to mind is the requirement that audit committees include at least one financial expert. Financial expertise on the audit committee sounded like a good idea, but nobody had thought what it was going to take to define that. If I recall correctly, the Securities and Exchange Commission had to work with a committee of some of the brightest minds from 25 of the biggest law firms in the United States, and they spent six months grappling with that one question—how to define that. There were issues such as these: How much expertise is enough? Is it different for companies of different sizes or in different businesses? Does somebody who accepts a designation as a financial expert get exposed to greater legal liability? There were all sorts of things that hadn't been thought through in the drafting of the act.

As I look at what is before this House, it's an important act and addresses a real issue that is urgent, but it addresses an awful lot of issues. As we've been saying, and as some of the other witnesses you've already heard have suggested, I'm not sure that all of the potential consequences have been thought through. The result may be unintended consequences that might not serve the best interests of the country.

Hon. Marlene Jennings: Ultimately what you're saying is that you think this committee should take the time to go through this piece of proposed legislation thoroughly and give enough time to the witnesses to be able to thoroughly explore those aspects of the bill that concern the sector they're representing in order to ensure that there are no unintended consequences and that the bill really does achieve what it's setting out to do, which is to restore public confidence in both the government apparatus and the private sector, whether it be for profit or not for profit.

If you were being told that the government wants this bill reported out of committee probably within the next seven to eight working days, what would be your reaction?

Mr. David Stewart-Patterson: I think I've made our feelings clear. Because this is important, it's important to get it right. Given the complexity of the issues that are being addressed and some of the mechanisms that have been put on table but not fleshed out, I would certainly encourage this committee to take as much time as it felt productive to deal with any of the question marks or uncertainties that may be raised.

Hon. Marlene Jennings: If you had a chance to go through this bill, at least for your sector, I would encourage you to point out specific areas that you believe need to be fleshed out, or you may have amendments you wish to propose. Please feel free to forward them to the chair via the clerk, so that we can look at them in depth.

Mr. David Stewart-Patterson: If I may, Mr. Chair, the concern isn't so much about what's said, but about a lack of certainty concerning what's there and what it means.

The issue of reporting requirements has been raised. Again, I don't look at that primarily from the viewpoint of transactional work, because we don't do that; we deal strictly in the public policy sphere. But it's not clear.

My apologies, Mr. Chair, if I'm extending into someone else's time.

But for instance, what are the boundaries on that? It's obviously clear that if one individual goes to a senior government official to talk about a policy issue, this is a reportable meeting. If it involves a group of people under the umbrella of a single organization, does that require one report or a report by each individual in the organization who takes part in the meeting? If more than one government official takes part, does it require a separate report for each official, or is a single one enough?

What happens if you extend that to consultations by government itself? Recently I took part in a pre-budget consultation involving the Minister of Finance. It was at the minister's invitation and involved 17 organizations, if I recall the number correctly. Would each of us be required, in a consultation initiated by government, to file a report?

More broadly, there might be a policy conference involving hundreds of people at which senior officials or ministers speak because policy is being discussed and different points of view presented. It is an arranged event but might not be public. Does that make it reportable for every individual in the room affected by the provisions of the bill? It's not clear.

● (1640)

The Chair: Thank you.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Good day to you, Ms. Flis, Mr. Stewart-Patterson and to all of your associates.

When you or other witnesses tell us that Bill C-2 isn't perfect, the Conservatives seem to be rather insulted, because they were convinced that this bill was a perfect as the ten commandments. When you say that we need to take time to ensure that we have a sound piece of legislation, we agree entirely with you. However, both the NDP and the Conservatives accuse us of employing stalling tactics.

Ms. Jennings was commenting on the fact that between 1988 and 2000, a total of 14 bills introduced contained over 300 clauses. The average time required to examine these bills was 200 days. Today, we're being asked to deal with this bill in about 40 days. What's worse, there is no possibility of even reviewing the act. We have proposed an amendment which we hope will be approved. The government is so confident of having produced a perfect bill that it did not even include a provision requiring a review in five or seven years' time. I think that's a dangerous direction to take. I hope that our Conservative colleagues will, at the very least, be willing to hear our views on requiring a review every five years.

I'd like to follow up on Ms. Jennings' earlier comments. You mentioned the Sarbanes-Oxley Act adopted in the United States in 2002. Other countries have enacted accountability legislation. Suppose we were to do a survey today that put the level of trust of the Canadian public at “x”. To determine whether or not the act has achieved its stated aims, that is whether it has restored the public's trust, we would need to do another survey two or three years down the road.

Has the U.S. legislation achieved its stated objectives? Do Americans now claim to be satisfied and to trust Mr. Bush and his government?

[*English*]

Mr. David Stewart-Patterson: I think what that illustrates is how difficult it is to regain public trust once it's lost. Certainly that's our experience in the corporate sector, where the fact is that there were real abuses. Those abuses had to be addressed both by legislative and regulatory action, which took place, but also by a much stronger focus on governance issues in the media and a much stronger focus amongst institutional investors at the board of directors level and at the management level.

We've had four years of experience now in dealing with that. I don't think anybody would argue with the fact that significant progress has been made; the laws are stronger and are being enforced more rigorously. Governance practices themselves at a company-by-company level have continued to improve, with a process of continuous improvement going on. If you look at annual reports like the ranking of governance practices in *The Globe and Mail*, you see companies working year after year to improve themselves in terms of the practices of good governance.

But I think it is fair to say there is still a lot of mistrust of business leadership and that this is very much a work in progress. Certainly, nobody I know in the business community is saying the job is done in terms of corporate governance. I think the crisis of public governance is more recent, and therefore, whatever bill is passed by this Parliament, there's still going to be a lot of work to be done, and it will take a long time to rebuild public trust.

● (1645)

The Chair: Excuse me. I just wanted to make it clear to the Public Affairs Association of Canada that we're not leaving you out, so if you have any comments to make, feel free to jump in.

Mr. Chris Benedetti (Past President, Public Affairs Association of Canada): Thank you very much for the opportunity.

Pertaining to the question, and not to repeat much of what has been said, I think it's important to make two points. One has to do with the administrative complexity and the time required to actually assess the bill. As a practitioner in the field, I can tell you that most of the people who are government relations practitioners are actually small independent businesses. Many of us are actually sole practitioners in the field.

As it currently stands, the amount of time it takes on the administrative side to abide by the rules presently in place is certainly justifiable. In our view the rules are detailed enough to ensure that in the work we do, the reporting required and the transparency needed are already done in the reporting we do at present.

As it stands, from our vantage point, even the resources contained within the office of the lobbyist registrar are such that there is a significant backlog of registrations currently being processed. So if you can imagine, by the time somebody takes a look at what we now have to disclose or provide, we're often required to submit the next iteration of whatever the reporting requirement is.

On the second point in terms of accessibility to government, our view is this. We're quite happy to hear that the government is considering looking at how decisions are made in government and looking at ways to make those more accountable, but our fear is that the bill in its present form looks primarily at access points to government. We certainly believe or are aware of some of the accountability legislation in other jurisdictions, where quite often what is looked at is how you can make government more accessible to people and thus make it more transparent, so that those decisions that government makes can be more just and more in the public interest.

Our fear is that this legislation looks too heavily at the access points themselves. Our view is that it is fundamentally the incorrect place to be looking in terms of what makes government transparent and accountable.

The Chair: Madame Lavallée, you'll have to wait until the next round.

Mr. Martin.

Mr. Pat Martin: Thank you, Mr. Chair, and thank you, witnesses.

If I could begin, please, with the comparison of the Federal Accountability Act and the Sarbanes-Oxley Act, it makes for an interesting juxtaposition. I'm glad you drew that parallel for us. I certainly do agree with your point that for both public and private institutions there's a crisis of confidence amongst the general public. Where we part somewhat is that Sarbanes-Oxley was introduced as a swift dramatic reaction. It was symbolic as much as practical, I think. Something had to be done. The reaction to the corporate world here, the corporate community in Canada, is that we would prefer voluntary compliance to ethical guidelines rather than the rigidity of Sarbanes-Oxley. That's the message we had from your boss and others.

I can tell you, I used to work for an international union and we had $40 billion in our relatively small union pension fund that we managed on both sides of the border. And white collar crime became a blue collar issue very much amongst the beneficiaries of our pension plan. So I disagree with you partly in the tone and the content when you make the case that perhaps we're doing here what the Americans did with Sarbanes-Oxley and that they were going over the top. That's the message we got from the Liberals. The immediate reaction to this bill was that it really wasn't that bad; we don't have to go so hard on this; we don't want to imply that we were a bunch of crooks. Well, that's the tone I'm getting from your reaction. Maybe you're underestimating how horrified Canadians were at both the Liberal scandals and the corporate community's malfeasance.

The rules we've put in place here don't come close to Sarbanes-Oxley. I was reading that Kenneth Lay would have walked away free had he been charged here in Canada under our rules, whereas he's going to be led away in handcuffs in the United States.

You raised the issue of independence of auditors. Why is it that in Canada the auditor of a major corporation can also be selling tax advice and other financial services to the same company? To me, if I were a pension trustee, I would say, don't invest in that company because there is a clear conflict of interest. But you're willing to allow that to.... I'm not questioning your right to criticize the Federal Accountability Act as being too stringent, but I certainly take it with a grain of salt, because your own institutions haven't gone very far to satisfy Canadians fears.

● (1650)

Mr. David Stewart-Patterson: If I may, you raised a number of issues. I want to make it clear that I'm not suggesting that the Federal Accountability Act be watered down. I'm suggesting we make sure it's effective. I'm saying take the time to get it right.

Similarly, I don't want to overemphasize the direct comparisons between Sarbanes-Oxley on the corporate side, because it was a U.S. law, and what is going on in terms of public accountability here. But that said, if we look at the Canada-U.S. comparisons, Canadian legislators and regulators looked at what Sarbanes-Oxley had done; they looked at the implications and the fact that the law that was drafted in the United States was unduly burdensome on smaller companies; and they said, well, we've got an awful lot of smaller companies in Canada, so we'd better make sure that our rules reflect the realities of our marketplace and not just automatically copy what they're doing in the United States.

The second point I'd make is that on both the legislative level and the voluntary level, Canadians have gone further than the Americans in some respects. I refer to practices like the splitting of the positions of chair and chief executive, which was not addressed by Sarbanes-Oxley and which wasn't even on the agenda. The Americans consider splitting those positions to dilute leadership. They consider it bad practice. Canadians have said no, we think that's important, and at company after company that has been happening.

So the overall point I'm trying to make here is that Canada has unique circumstances. We're not Americans; we do things our own way. And certainly that's the position our organization advocated on the corporate governance side. All I'm suggesting here is not on the substance of the bill, but let's make sure we've thought it through and done it right, and that it meets the needs of Canadians, and that it deals with the very real concerns Canadians have.

Mr. Pat Martin: Also keep in mind that we have a very narrow window of opportunity to do this at all.

The Chair: Excuse me, Mr. Martin. Mr. Benedetti has some comments.

Mr. Chris Benedetti: Thank you very much.

I have just one point, actually.

Certainly we agree with the notion of voluntary guidelines. Last year the Public Affairs Association adopted a statement of ethical principles that applies to all our members from coast to coast to coast. We're quite pleased that the uptake of those ethical principles has been quite good in our industry, and we've been working very well with other provincial governments to bring up to date other lobbyist registry systems to ensure a good amount of cooperation and synergy between government interest in lobbyist registries and accountability and what the industry is doing on a self-imposed basis.

We certainly believe that by working together, we can meet the interests of all parties involved.

Mr. Pat Martin: What are the consequences of violating those voluntary terms and conditions?

Mr. Chris Benedetti: The statement, as it now stands, is certainly a living document. Our end objective is to look at some form of accreditation that would have real penalties associated with it. As it stands right now, non-compliance with the statement means expulsion from the industry association. Beyond that, we have no other mechanism to actually force compliance.

Mr. Pat Martin: Then you wouldn't mind if we legislated more realistic penalties.

Mr. Chris Benedetti: We would certainly be interested in working with government on a series of rules that would make sense from both an industry and a government standpoint. We're certainly interested in making sure everybody in our profession abides by the rules, and we're quite happy to abide by lobbyist registries and other systems of accountability that make sense.

Mr. Pat Martin: That's what everybody says, but it falls apart in practice.

The Chair: Thank you.

Mr. Poilievre.

Mr. Pierre Poilievre: I will build on Mr. Martin's point.

We've had a lot of people before the committee who say they love the Accountability Act; they just don't like how it applies to them. We find that very interesting.

You will all be glad, also, to be reminded that we've been talking about an accountability package for two years now, since the Liberal sponsorship scandal was exposed by the Auditor General's report in the very beginning of 2004. We're now moving into mid-2006. So yes, there has been plenty of discussion. It has gone on and on. There is no knee-jerk reaction in this country; if anything, we're moving far too slowly.

You'll also be very pleased to know that this committee, by the end of this week, will have had a total of 70 witnesses. We will have had 45 hours of witness testimony and can anticipate probably another 45 hours' worth of review on the amendments through clause-by-clause. I'm sure you will be very impressed with the volume of work that's going into this particular bill.

On your particular concerns, though, about filing requirements, we've had other lobbyists before this committee who said it was too cumbersome to have a filing requirement. They, of course, say they're not worried about lobbyists, but are worried about these mom-and-pop shops that are somehow going to be encumbered by these rules.

I have never met a single small business in my riding, or a single charity in my riding, that has said they couldn't get by without their lobbyist—not one. We're not really talking about mom-and-pop charities and small businesses, are we? We're really talking about big enterprises and big lobby firms—most of which, by the way, do these filings anyway, every single day. They even have software designed to do these filings. They do it because they want to bill their clients. Every 15-minute phone conversation is recorded. They have no problem putting those into their invoices, but when it comes to reporting it to the public and keeping it out in the open, all of a sudden it's a huge encumbrance.

I want to know why. Maybe you can explain the contradiction there.

● (1655)

The Chair: Ms. Flis.

Ms. Elaine Flis: Thank you very much for the question.

I want, in my response, to address a couple of things that have been said around this table.

It's fabulous that you've taken so many hours to hear from 70-odd witnesses.

I'd like, though, at this point, to bring in a personal experience. Prior to being a consultant, I actually worked for three years for a not-for-profit organization, the Juvenile Diabetes Research Foundation. Prior to that I worked for the Canadian Diabetes Association for two and a half years, in the government relations area. When I think of that sector specifically, one of my concerns—one that I'd really urge the committee to consider—would be to talk to those types of organizations.

Part of my mandate in my last job was to build a national grassroots program. It was an MP contact program, bringing the actual constituents to talk to the members of Parliament. For the average individual, that is actually a very nerve-racking experience; a lot of training is involved from the staff person at the charitable organization. When I also look at filing requirements, staff resources in those types of organizations are slim. I urge the committee to actually take a look at some of those organizations and how the filing requirements would actually impact on them. I do know, based on my experience, that it would be cumbersome.

Mr. Pierre Poilievre: If there is no one else, I'll continue with my questioning.

Mr. John Dillon (Vice-President, Regulatory Affairs and General Counsel, Canadian Council of Chief Executives): I just want to add a brief point, if I might. With respect to your question about the filing requirements, just to make it clear, our organization does not lobby on behalf of individual members. We only lobby with respect to public policy that we feel would benefit the membership more generally.

I have talked to a number of small not-for-profit organizations, and I was at a meeting with Treasury Board officials just a couple of weeks ago at which many of them were present and said they are worried about the burden of these filing requirements. But I think the bigger issue for all of us is the fact that because these senior officials are actually going to have to keep a record of it as well, because the Commissioner of Lobbying may follow up with them to confirm, a number of us are concerned that it will actually put a chill on these kinds of discussions with government because they just don't want the bother to have to deal with all these paper burden requirements.

We think more of these meetings and more discussion between government officials and the vast array of organizations is important.

Mr. Pierre Poilievre: And we can meet until we're blue in the face, but ultimately what Canadians want are some results here.

First of all, I've never had a single constituent who has come into my office—and I hold about 15 meetings a week with constituents—say that this is an intimidating experience so they need a lobbyist to help them do it. And I've never met anyone who has said to me that it would be that difficult, if you were a paid lobbyist, to write down a record that you met with a politician, a public office-holder, and to simply submit it to the lobbyist registrar.

I'm a public office-holder myself. I'm going to be the one who has to uphold the law on my end, and I can't see how it would be so difficult to look through my schedule every month and ask myself which 10 paid lobbyists did I meet with, and are they up on the website?

You make it sound like these filings are going to be giant documents. They're not giant documents. You're just recording that you met with a politician, and you did it for this reason and at this time, for this number of minutes. That's really all you're being asked to do here, and I don't see how that is such an enormous encumbrance.

Maybe you can shed light on it.

● (1700)

The Chair: Mr. Stewart-Patterson.

Mr. David Stewart-Patterson: Perhaps I can come back to the example of a policy conference, whether it's organized by a non-profit group or a consultation exercise organized by the government. If you have a large number of people in the room whose responsibilities include dealing with government, is it the intent of the government that all these individuals be captured by that? If you come and speak to that at all, do they have to register that?

Mr. Pierre Poilievre: No.

Mr. David Stewart-Patterson: Is it clear in the bill that is the case?

Mr. Pierre Poilievre: All those matters are going to be resolved by regulation, as is normally the case with any legislation you pass. Regulation deals with those sorts of details.

Very clearly, the incidental contact is specifically dealt with in the bill. If you look at the Accountability Act, we deal with matters of incidental contact. So that is going to be dealt with.

I frankly think these are questions designed to confuse the debate, because the bill is very clear and the rest can very easily be dealt with by regulation, which is very often the case when you pass legislation.

The Chair: Time is up, Mr. Poilievre.

I'm going to give Mr. Benedetti the last word.

Mr. Chris Benedetti: I thank you very much for the question. I think it speaks to the heart of quite a bit of misperception when it comes to the true professional practice of government relations.

There seems to be at least the inference from some quarters that the practice of government relations is very much a one-sided affair. Government relations, in practice, is a very reciprocal activity where government and stakeholders work together in the hope of coming to good policy, good programs, and good initiatives.

Without clarity in terms of whether or not to record when a meeting is arranged or whether somebody from the government might call us to arrange a meeting, who establishes that contact, when the contact is established, whether or not it's a face-to-face meeting, whether or not it's a conference call, a conference, without that kind of detail really the question speaks to a degree of disclosure that is truly onerous.

The Chair: Did you have a comment, Mr. Dillon? We're well over time here.

Mr. John Dillon: Thank you, Mr. Chair.

I just want to make clear that, in my reading of the legislation, it does not make it clear. The notes that accompany it say incidental meetings will be dealt with by regulation, but it's a standard rule of legal interpretation that the regulations can't contradict the law. So if the law generally says all such contacts must be recorded, then those are the rules that people have to follow.

The Chair: Do we have unanimous consent that Madame Lavallée has another seven minutes?

Okay, you have seven minutes.

[*Translation*]

Mrs. Carole Lavallée: Thank you.

I'll put my question as quickly as possible. As you will see, it shouldn't be too difficult

The Accountability Act was drafted—and it's stated clearly in the Prime Minister's press release—to restore the trust of Canadians in their government. However, aside from some of the measures in the act which are rather positive, the legislation is being fast- tracked, with the government seemingly more concerned about dealing with public perception than with the real issues. Correct me if I'm wrong about this.

Can you identify for me two or three of the measures in Bill C-2 that will result in some real changes and that will help to restore the public's trust in government?

[*English*]

Mr. David Stewart-Patterson: My short response would be that there is no one silver bullet that's going to restore public confidence. Confidence and trust, as I said earlier, once lost, can be very hard to restore. It will take time; it will take a number of measures and a lot of dedication.

What I'm trying to suggest is that it's important not only to be aware of unintended consequences but also to focus on the purpose of good governance, which comes back to meeting the needs and expectations of citizens and making government as efficient as possible.

That's why, if I can again draw a parallel with the private sector issue, one of the changes in governance requirements included in Sarbanes-Oxley and in Canadian legislation is the notion of personal accountability—in other words, the personal certification by chief executive officers and by chief financial officers with respect to individual company reports.

If I can summarize quickly, Mr. Chair, the expectation and legal requirement for a CEO is now clear: not only does a report have to fully and fairly reflect what's going on in the company, but everything said in that report must be true. Nothing may be left out such that leaving it out might make what is said misleading; the person certifying must be fully aware of all material facts; there must be processes in place to make sure that person is fully aware of all material facts; and that person must certify that they've checked those processes and reported any deficiencies.

That is a very simple measure. It was included in Sarbanes-Oxley, it was included in Canadian law, and it was fully supported by our member chief executives. I ask myself, if similar provisions had been in place in the public sector, whether they might have changed the outcome of the events we've seen with respect to the sponsorship issue, for instance. I don't know, but I put it to you as a question for consideration.

There is work involved in that certification. It involves CEOs spending a lot of time making sure they can properly attest, because there are significant penalties attached to that certification. That's not an approach that has been pursued to date on the public side. Is it something worth considering as we're talking through a complex bill? What does it take to restore public confidence, restore public trust?

As I say, there are many things in this bill that I think will help and are important, and I would encourage members of this House from all parties to support it and move this bill forward. At the same time, I think it's important to recognize that no one bill, no one provision in a bill is going to solve the problem, and therefore it's important not only to do everything possible to get this bill right, but also to remain aware that there will be more work to be done, no matter in what form this bill may pass.

● (1705)

The Chair: We have time for a brief question from Mr. Murphy.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Thank you, Mr. Chair.

When I was appointed to the scrutiny and regulations committee, I was told it was sort of a non-wanted committee. Now I realize that we're going to interpret the Accountability Act, so I feel good about that.

I feel that we have a problem here when everything is put into dichotomies. If we don't push this bill through—websites say so—we're bad. If we spend 45 hours on witnesses, but in 35 of those hours we as politicians espouse our political bandwagon of the week, that's not really a thorough review of the project.

Finally, if the lobbyists are former Liberal staffers, they're bad and they shouldn't be allowed. But if they're former Conservative opposition staffers, then they're okay. So I want to get away from that dichotomy of good and bad, red and blue—I'll never be blue in the face, Mr. Poilievre, probably red—and hit on a central point, a very positive point, as a road map forward that Ms. Flis brought up, and that is the idea of conflict of interest as determined by other societies. I'll throw it to you because I think you have a duty, as Mr. Martin was really saying, to do some self-policing at a higher gear.

Governments across this country are in partnership with law societies, dental societies, psychologist societies, and so on, and they police their own. But it's a partnership, because the government gives you a private bill and says, go police thyself. It doesn't work perfectly, but lawyers get disbarred and get criminal charges brought against them, etc.

I think this may be a way to go. As you may know, with conflicts of interest in psychology and law societies across this country, if you have knowledge of a client's business and then go to work for the other client, that's a no-no. It's very similar here.

● (1710)

The Chair: This is supposed to be a brief question, Mr. Murphy.

Mr. Brian Murphy: It's a pretty good question.

The Chair: It's a good question, but it needs to be brief.

Mr. Brian Murphy: If a lobbyist was in the opposition office, don't you think that's a good model to follow? If an opposition EA has knowledge of something—he may not have knowledge of everything—should he be precluded from working? Chinese walls, Martin v. Gray—I'm talking to the lawyers here—could it work?

Thank you.

Mr. Chris Benedetti: Thank you very much for the question. I think it raises a good point.

Just to reiterate, the Public Affairs Association, and certainly our practitioners, very much embrace the requirements for transparency and openness. Indeed, in most jurisdictions across the country we have to abide by those rules, as it now stands, and we are certainly looking at ways to work with government to make them better.

One of the concerns we have in going forward is that the spectre of inappropriate behaviour is cast over the entire profession. I can tell you as a practitioner that we embrace any change that will ensure that conflicts and inappropriate behaviour are dealt with, and that the rules of the game are well understood by all parties so we can all work in a field where merit rules the day, and not some sort of inappropriate sense of access. Right now, 99.999% of the industry operates that way in very much of a reciprocal fashion, working with government as a bridge between the public and private sectors. We hope this bill will embrace that as well and will enable us to work more effectively to weed out the bad apples.

The Chair: Ms. Flis, gentlemen, thank you very much for coming. I think the fact that we went well beyond the time shows the committee's interest in what you had to say. We thank you very much.

The meeting is adjourned until six o'clock in this room.

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