

The Impact of the *Lobbyist Transparency Act* and Interpretations on the Non-Profit Sector

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Background

On May 4, 2020, the *Lobbyist Transparency Act* (LTA) came into force, replacing previous lobbying transparency legislation. The LTA contains several laudable amendments which are intended to increase transparency in lobbying in BC. In support of the changes, a new BC Lobbyists Registry replaced the former Lobbyists Registry, also effective May 4, 2020. In the months that followed, the Office of the Registrar of Lobbyists (ORL) adjusted the systems and interpretations of the *Lobbyist Transparency Act*, particularly regarding reporting funding requested and received from governments.

As the Government of BC seeks to engage stakeholders in a vision for the province's future and economic recovery, many organizations in the non-profit and charitable sector are choosing to opt out of engagement processes due to the new administrative burdens on their already impacted operations. These changes were introduced at a time when the sector was adjusting to the financial crisis triggered by fundraising challenges in the pandemic and staff losses in many organizations. The application of these interpretations are resulting in a significant gap in knowledge for decision makers regarding community needs and the innovative policy solutions the sector is well-positioned to advance.

This gap is revealed in reported lobbying activity. Registered activity in BC has been on the decline since March 2021, when the legislature's spring sitting began. This is in stark contrast with the federal, Ontario, and Toronto registries — which all reported a significant increase in registrations and lobbying activity throughout the past year, with the bulk of those increases attributed to pandemic-related engagement.

Organizations in the non-profit and charitable sector are created for the purpose of advocating and caring for the communities and people they serve and are critical to the lives of people in British Columbia. As the sector continues to serve on the frontlines of ongoing frontline emergency response in B.C., it is critical that we address both the additional burden and the increased need to engage government on critical policy issues. Our four organizations are deeply concerned that unless changes are made, vital community voices will be missing from the important conversations to come about pandemic recovery, disaster response, economic prosperity, and other key issues. **Board Voice** members are non-profit community social service organizations, and **Vantage Point's** members represent a province-wide scope of not-for-profits serving communities in multiple sectors. **United Way British Columbia** and **Vancouver Foundation** are the two largest funders outside of government in BC. Together, we believe the work of non-profits and charities has never been more critical than now.

We would like to collaborate with the Government of British Columbia to identify and ameliorate any unintended consequences resulting from interpretations of the LTA. To highlight the significance of these impacts on the not for profit sector, we have identified a number of case studies for your review.

Examples of Increased Administration

Canadian Cancer Society

The Canadian Cancer Society is a national charity with a mission is to eradicate cancer and enhance the quality of life of those living with cancer. Their activities relate to improving cancer prevention policies, programs, and support services for those living with cancer. Their work requires engaging and partnering with governments across Canada, including the Government of BC.

Their organization has substantially changed since the pandemic due to significant financial losses that required them to lay off approximately 40% of their staff across Canada in 2020. The introduction of the changes to BC's Lobbyist Registry within this same period has impacted their administrative burden during a time of great pressure and need for cancer patients in the community during a health crisis where cancer treatments are delayed.

The additional administrative duties required to meet the new BC registration requirements have:

- Added a minimum of 25 hours per month for data collection, updates, and entry of the over 135 monthly funding requested and received across Canada;
- Resulted in consideration of an FTE dedicated to this reporting at a time when they are rebuilding their program teams as a priority;
- Required establishing an entirely new reporting system to meet monthly obligations to remove outdated information and enter new requests and received funding amounts on a schedule outside of how financial systems are built;
- Significantly reduced their capacity to support their mission on behalf of the patient community.

Charity X

Charity X is a large multi-service organization with 200 employees and multiple funders. Funders include a number of different social ministries in BC. Regular communications are considered essential to keep the MLA representing the charity's riding informed as well as the cabinet ministers responsible for social issues that the charity serves, such as domestic violence, brain injury, social housing, and the ever-changing needs of low-income seniors, families and children.

Like many non-profits, this charity has a long history of being cautious around advocacy, as it has only been in recent years that the Canada Revenue Agency has allowed charities to move away from strict limitations on the amount of time spent on advocacy without putting their charitable status at risk. Much of the advocacy that Charity X does is raising awareness of issues, rather than seeking to change a specific law, policy, regulation or process within government. Raising awareness is not considered lobbying for the purposes of reporting, yet this charity is nervous of what it fears is a "fine line" separating it from lobbying. However, envisioning the administrative workload of reporting all activities aimed at raising awareness as lobbying has caused Charity X to consider giving up that work all together.

Charity X is also daunted by the registration questions as they do not understand how to define “government funding” for the purposes of reporting, nor are they certain whether the coalitions they belong to around poverty, homelessness, and children’s issues actually constitute “coalitions” as defined by the LTA. Uncertain and fearful of making a mistake, they are engaging less with government — and as a result, essential information about the state of social health in BC communities is not informing government decisions.

Please note that Charity X has shared their story with us and asked to remain anonymous.

United Way British Columbia

More than ever before, BC communities need help addressing critical social issues. Working in Central and Northern Vancouver Island, Lower Mainland, Thompson Nicola Cariboo, Southern Interior, Trail and District, and East Kootenay, United Way British Columbia exists to drive positive impact and lasting change. By strengthening vital connections and delivering resources and support for the people who need it most, they aim for a healthy, caring, inclusive community.

United Way BC conducted a series of 12 regional consultations held across BC. These consultations were comprised of local non-profits and charities spanning the province, including a high number of organizations based in rural BC, which have no capacity to adjust to the interpretations of the LTA.

These consultations revealed, particularly in smaller organizations, reluctance in engaging with their elected local officials due to the increase in administrative requirements to comply with the LTA. For those who were already engaging with government, the administrative requirements were met with a lack of resources – both human and capital – which has ultimately led many non-profits to disengage from communicating with government.

Charity Y

Charity Y is a small non-profit that doesn’t want to be named due to the lobbying requirements that may follow. They submitted the following observation: “We don't engage in lobbying as traditionally understood and are very reticent to be labelled as a lobbying organization, but the new LTA defines lobbying so broadly we have no choice but to stop engaging in certain activities.”

Please note that Charity Y has shared their story with us and asked to remain anonymous.

Proposed Solutions

We are eager to collaborate with government to work on solutions that respect the intent of the legislation — as well as role of the office of the Registrar of the Lobbyists, and supports their mandate without impeding the capacity and advocacy requirements of our critical voice.

1. Priority Action

a) **Initiate a review of the *Lobbyist Transparency Act* and its interpretations**

- Due to the disproportionate burden imposed on smaller non-profit organizations by the implementation of the *Lobbyist Transparency Act*, the decision is being made by many of these important organizations to not engage the Government of BC at this critical time in addressing pandemic and recovery issues.
- After a year of the LTA coming into force, these issues continue to persist for some of the province's most vulnerable and under resourced voices.
- As such, we propose that the Government of BC pursue a review of the *Lobbyist Transparency Act* to evaluate its efficacy, identify any undue consequences, and ultimately improve the Act and its interpretations. The goal of the review would be to ensure the Act is maximizing transparency of lobbying activity in BC without hindering the ability of important sectors, such as the non-profit sector, to engage with government.

2. Interim/Immediate Actions

a) **Reduce the frequency required to report government funding**

- The requirement for organizations to report government funding updates each month has created undue burden at a time of immense pressure.
- Since most financial departments operate by their organization's fiscal year, it is challenging for many organizations to obtain the information that is required on a monthly basis to compliance with the LTA.
- The federal registry requires the same scope of government funding be reported (all jurisdictions), but only requires that information be updated annually, after the organization's last completed financial year. Further, any funding expected to be received during the current fiscal year must also be disclosed.

Solution: *Align the government funding reporting requirements with those of the federal registry of lobbyists, such that organizations must report funding received in whole or in part by any Canadian or foreign government, including any municipal, provincial, territorial, regional, or state government, in the last completed financial year any funding expected to be received during the current financial year. Aligning the BC Registry's government funding disclosure requirement with the federal requirement will maintain the same scope of transparency without hindering the ability of important sectors to engage with government, chiefly the non-profit sector.*

b) Avoid inaccuracies by either removing or clarifying the requirement to report government funding requested

- The term *government funding* has a generally-accepted meaning for non-profits, yet a very different meaning under the LTA — which uses the term to describe funding that is not bound by contract or grant requirements. This confusion leads non-profits to believe that they must report all government funding they have requested, rather than the less common form of government funding that comes with no strings attached.
- Non-profit organizations understand that there is a broad requirement to report any and all funding requested, which discourages them from registering and impedes their efforts to keep government informed. Thinking that they are required to report all government funding requested dilutes the quality of what is being reported within the registry, which runs counter to the goal of transparency.
- Without a clear understanding of what constitutes government funding, charities are reporting all funding requests out to government — a task that requires working across multiple departments that are engaged in fundraising and program delivery, creating a significant administrative burden to comply. This burden also applies to any smaller organization without adequate administrative resources.

Solution: *Address the confusion with a very clear definition — ideally, a different term entirely — for the kind of government funding that must be reported. Align the government funding reporting requirements with those of the federal registry of lobbyists, such that organizations must report funding received in whole in part by any Canadian or foreign government, including any municipal, provincial, territorial, regional, or state government, in the last completed financial year, and/or any funding expected to be received during the current financial year. Aligning the BC Registry's government funding disclosure requirement with the federal requirement will maintain the same scope of transparency without hindering the ability of important sectors to engage with government, chiefly the non-profit sector.*

c) Remove unnecessary reporting requirements

i. *Political Contributions*

- The reporting of political contributions is currently required in monthly updates.
- However, all contributions to political parties in BC are already publicly reported through Elections BC. In addition, while only individuals would have contributions to report under BC's political contribution laws, organizations must still complete that section even though it would be illegal for them to have made a contribution.

Solution: *Remove prompt to report any political contributions made by eligible individuals from the registry for organization registrations.*

ii. Social Media

- The *LTA* currently requires that registrants report all communication directed at public office holders, including social media posts on Twitter and Facebook.
- However, this is an inefficient requirement in terms of transparency since all social media is already on public record. The result is only net-negative for non-profits as it further contributes to unsustainable administrative burdens.
- As a result, some not-for-profits may choose to opt out of engaging with government on their social media platforms rather than risk compliance issues.
- Not only is this reporting requirement duplicating what is already publicly available information, but it is also negatively impacting the ability of not-for-profits to advocate to advance their missions and provide essential services to British Columbians.

Solution: Remove the requirement to report social media directed at public office holders from monthly returns.

d) Provide clarity on the definition of coalition for the purposes of the LTA

- Charities may belong to coalitions around particular social concerns, such as those committed to addressing homelessness or poverty, or to improve livelihoods for low-income families. Some of these coalitions have hundreds of members.
- These are not coalitions as defined under the *LTA*, but charities newer to this process may be unaware of this and will assume that as part of the registration process, they will need to put forward the names and information of all members in their social-issue coalitions
- This uncertainty stops many of them from registering, which in turn deters their advocacy work.

Solution: Clarify what is meant by coalition under the *LTA* — which are not the kinds of coalitions that charities typically are members of.

e) Update the Guidance for Not-for-Profit Organizations document to utilize language directed at not-for-profits, for whom a number of terms mean something different.

- Not-for-profits interpret a number of terms differently than does the *LTA*, as highlighted in earlier points.
- Their confusion and fear of increasing their already heavy administrative burden is causing them to cease their vital advocacy activities with government.
- Non-profits are on-the-ground “experts” in social care and community well-being, and their lack of participation in advocacy denies government the chance to learn from these very important voices

- Charities are understandably wary of advocacy activities because of past punitive actions by the Canada Revenue Agency. They need time and guidance to understand how to define and sort their advocacy efforts now that they are required to report certain activities as lobbying.

Solution: *Co-develop guidance documents and outreach with the non-profit sector so that non-profits understand exactly what the LTA requires of them. This non-profit-focused language can be used in the registration form to ensure organizations feel confident and clear in their interpretation of what is required of them.*

Conclusion

Our four organizations represent a significant portion of the non-profit sector in BC. We are eager to collaborate with government to identify issues, develop responses, and communicate among our members and partners to ensure that vital community voices are heard by decision makers as we develop a roadmap for the future of BC. We would welcome an opportunity to speak with officials in more detail at your convenience.

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About Our Organizations

Board Voice

Board Voice is a non-profit providing peer-to-peer support, advocacy, and connection for volunteer boards and senior staff of BC community non-profits and charities that provide the vital array of community social services aimed at well-being, inclusion, social health and connection for every British Columbian.

United Way British Columbia

United Way supports healthy, caring and inclusive communities by strengthening vital connections that support people in need. Representing the six regions of Central and Northern Vancouver Island, East Kootenay, Lower Mainland, Southern Interior, Thompson Nicola Cariboo, and Trail and District, UWBC serves a population of more than 4 million people, with a focus on kids and youth, seniors, poverty, mental health and food security.

Vancouver Foundation

Since 1943 Vancouver Foundation has worked to build healthy, vibrant, equitable, and inclusive communities. We steward philanthropic funds from individuals, corporate donors, and governments — as well as endowments from charities themselves — through a permanent investment fund that is currently valued at \$1.4-billion. The grants we make from the income of this permanent endowment make Vancouver Foundation the largest non-government funder of charities in BC.

Vantage Point

Vantage Point convenes, connects, and equips not-for-profit leaders in BC with the training and other supports they need to be successful. Our vision is for BC's not-for profit sector to be a thriving community, where organizations mindfully engage talented people and draw on a spirit of abundance to achieve their missions.