



Notice N° 2009-01

April 27, 2009

This notice is given and published by the Québec Lobbyists Commissioner in accordance with Section 52 of the *Lobbying Transparency and Ethics Act* (R.S.Q., c. T-11.011).

Subject: Lobbying activities carried on within the context of work of an advisory committee instituted by a public authority and the application of paragraph 10) of Section 5 of the *Lobbying Transparency and Ethics Act*.

Website: www.commissairelobby.qc.ca

The contribution of persons with expertise in specific fields is often solicited within the context of advisory committees, which may be composed both of public office holders and persons representing enterprises, associations or other non profit groups, among others.

The purpose of this notice is to determine the circumstances in which the *Lobbying Transparency and Ethics Act* (hereinafter called “the Act”) applies to communications made by a representative of special interests called upon to participate in the work of an advisory committee, the creation of which is provided for or pursuant to a law or results from an administrative decision of a public authority contemplated in the Act.

As a general rule, the purpose of the lobbying activities carried on with a public office holder regarding the making of a decision contemplated in Section 2 of the Act must be registered in the registry of lobbyists. However, paragraph 10) of Section 5 of the Act stipulates that it does not apply to any submission made in response to a written request from a public office holder.

Thus, the Act does not apply to communications made by a person who participates in the work of an advisory committee, even if these communications have the purpose of influencing the decision-making of the institution in question, when they are solicited by a public office holder in writing. This writing may take various forms: letter soliciting such participation, act of appointment of the member of the committee, notice of invitation to a meeting, agenda, etc. Moreover, the writing must allow precise identification of the nature of the mandate entrusted to the advisory committee and the matters that will be discussed in the course of this committee’s work.

Since this is an exception, however, the committee's mandate and the scope of the related documents must be given a strict interpretation for the purpose of application of the Act.

The other communications made by the person who participates in the work of an advisory committee, to the extent that they qualify as lobbying activities within the meaning of the Act, remain subject to its application:

- if they are made outside the framework of the committee's work;
- if they concern a matter which is unrelated to the committee's mandate or the agenda of a meeting;
- if they seek to influence the purpose or scope of the committee's mandate or the contents of an agenda and no formal and explicit request to this effect has been made by a public office holder.

The large number of advisory committees and the importance of the mandates assigned to them have a considerable impact on the decision-making processes. Out of a concern for transparency, it is important for public office holders who are the object of lobbying activities by members of such committees to ensure that they comply with the provisions of the Act and the framework defined in this notice. Government and municipal institutions should also evaluate the expediency of publishing on their website the list of advisory committees they have created, the mandate of these committees and the status or names of the individuals who are members.

André C. Côté
Lobbyists Commissioner