

Canada's lobbying and ethics laws a sad joke that favours corporations over ordinary people

By [Duff Conacher](#) | [Opinion](#) | January 19th 2023, National Observer



Duff Conacher, co-founder of Democracy Watch, says proposed changes to the rules that govern lobbyists are a step in the wrong direction. Photo by Nick Iwanyshyn / Canada's National Observer
Canada's lobbying and ethics laws are a sad joke. Loopholes and fatal flaws in the laws governing lobbyists at the federal level are tilted to favour big businesses with deep pockets.

Federally, lobbyists are governed by the Lobbying Act and Lobbyists' Code of Conduct and federal ethics rules spelled out in the Conflict of Interest Act, MPs' and senators' ethics codes and the public servants' code. Along with weak rules in the Canada Elections Act, they permit levels of donations and loans to political parties that are much too high, giving lobbyists an unethical, undemocratic level of influence over political parties and politicians.

Overall, the system permits cash for access and influence through a secret, [legalized bribery system of unethical, biased favour-trading](#) between politicians and big businesses. This is not to say every federal political decision-making process is undermined by politicians and officials trading favours with lobbyists. But it is true the Canadian system lacks transparency and is vulnerable to corruption, serious conflicts of interest and political decisions that protect the private interests of big businesses instead of the public interest.

The Supreme Court [ruled in 1996](#) that government ethics-related laws and codes must set high transparency and integrity standards and be strictly and strongly enforced or Canada will not be a democracy. More than 25 years later, we are still far from meeting the Supreme Court's standard.

The loophole-filled, flawed federal rules:

1. Allow for secret, unethical lobbying, mainly by big business lobbyists
2. Allow cabinet ministers, their staff, top government officials, MPs and senators all to participate in decisions they and their family members can profit or benefit from in secret
3. Do not even cover the staff of MPs and senators

Only one of the loopholes is usually mentioned in articles about the Lobbying Act — the rule that allows an employee of a business to lobby in secret without registering as long as they don't lobby more than 20 per cent of their work time. The House ethics committee unanimously called for that loophole [to be closed 10 years ago](#) and [again in June 2022](#), to no avail.

But there are other huge loopholes the committee continues to ignore. Businesses often lobby regulatory agencies about the enforcement of a law or regulation — none of that lobbying is required to be disclosed. Many businesses also lobby for tax credits, but in a [highly questionable enforcement policy](#), the commissioner of lobbying ruled the credits are not a “financial benefit” (even though they clearly are) and, therefore, that lobbying also does not have to be disclosed.

No one is required to register and disclose their lobbying if they are not paid for it. Hired-gun “consultant” lobbyists can sign contracts that state their clients are paying for advice. This leaves the lobbyists free to lobby on their clients' behalf, in secret, for free. This loophole also allows [unpaid board members](#) and retired executives of businesses and other organizations to lobby in secret.

[Another loophole](#) is that anyone can secretly lobby senior officials in any federal political party and they can pass on the lobbyist's demands to their party's politicians.

Canada permits levels of donations and loans to political parties that are much too high, giving lobbyists undue influence over political parties and politicians, writes @duffconacher of @DemocracyWatchr. #opinion #cdnpoli #lobbyists

Even if a person is required to register their lobbying, only oral, pre-arranged communications they initiate with office holders are required to be disclosed.

Emails, letters and texts can be kept secret, as can any communications initiated by the office holder (except about a government financial benefit other than a tax credit).

If you can exploit a loophole so you are not required to register your lobbying, then the ethics rules in the Lobbyists' Code don't apply to you, and you can do favours for politicians you are lobbying or will lobby, like fundraising and campaigning for them.

Even if you are a registered lobbyist, the code, together with a loophole in the MP and senator ethics codes, legalizes lobbyists giving MPs the [gift of unlimited sponsored travel](#), and other loopholes allow all federal politicians to accept gifts from friends, even if they are lobbyists.

Incredibly, the federal commissioner of lobbying, who is supposed to ensure ethical and transparent lobbying, is [currently proposing to weaken key code rules](#) in ways that will allow for even more unethical favour-trading between lobbyists and parties and politicians.

The loopholes in federal lobbying and ethics rules also allow politicians and officials to leave office and start lobbying federal politicians and government officials the next day, in secret and unregistered. The so-called "five-year ban" on lobbying in the Lobbying Act only applies to registered lobbyists.

The much-too-high political donation and third-party spending limits in the Canada Elections Act are additional layers in this smelly layer cake of unethical federal political decision-making. They allow people who can afford it to [buy influence by donating](#) up to \$3,350 annually to each party and its riding associations, and wealthy individuals and lobby groups [to spend more than \\$500,000 supporting parties](#) during election campaigns, up to \$1 million in the couple of months before that and an unlimited amount between elections. Banks, which are regulated by the federal government, are also allowed to [buy influence by making unlimited loans](#) to parties and candidates.

Who pays for all this spending? We do, as every business adds a bit to the price of every product and service, gouging us to pay for their lawyers, lobbyists and political donations and gifts. And none of this business advocacy spending that happens between elections is required to be disclosed (unlike in the U.S.).

To level the lobbying playing field, at least business advocacy advertising should be banned. There is a [simple, very low-cost, innovative method](#) used successfully in the U.S. that Canada could adopt, requiring big businesses to facilitate citizens joining and donating millions of dollars to citizen advocacy groups to watch over every industry sector.

Finally, Canada's federal ethics and lobbying watchdogs are handpicked by the cabinet through secretive processes that the Federal Court of Appeal [has ruled are biased](#). Not surprisingly, they often roll over like lap dogs and fail to enforce the few effective rules that exist. They are also allowed to make secret rulings, and so can relatively easily cover up any situation that may embarrass the ruling party.

The key question is: will a critical mass of MPs in the current minority government situation work together, finally, to pass a bill to close all the loopholes that allow for secret, unethical lobbying and political decision-making? It's time to decrease donation and spending limits to democratic levels, require businesses to facilitate citizens banding together and raising money for public interest advocacy, and strengthen enforcement of these key democracy laws.

Quebec has led the way, closing many of the unethical and undemocratic loopholes in that province. Now the rest of Canada must clean up its political decision-making processes and follow suit.