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# The Lobby Monitor

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Vol. 8, No. 1

October 15, 1996

## Challengers for Ch. 11

With NAFTA challenges enjoying sudden popularity these days, there's disagreement over the opportunities for lobbyists and lawyers. *See NAFTA, page 2.*

## And the Winner Is...

The race for the job as the Liberal leader in Ontario has piqued the interest of a number of movers and shakers at the federal level – what's the appeal? *See Lobbyists, page 3.*

## US Election Muddying Satellite Signals

The FCC's decision on the satellite issues between Canada and the US seems to have entered stationary orbit. *See Satellite, page 3.*

## MMT is Still Going and Going

Pro-MMT forces are about as close to the ropes as you can get, but one association is not prepared to quit until the ink is drying on the final draft of the legislation. *See MMT, page 6.*

## No Quarter Asked?

Health Minister *David Dingwall* has something to say about the tobacco sponsorship lobby and intellectual property, but who knows what it means? *See Tobacco, page 7.*

**Also included in this issue: Registrations, page 4, Registration Notes, page 5, and the reorganized Chretien government, page 8.**

### Registrations In This Issue

#### **Client Firm List**

Aquatex Corporation  
Assoc Pub Serv Fin Admin-APSFA  
Autopass  
Blue Water Bridge Authority  
Buffalo&Ft Erie Pb Bridge Auth  
Cdn Imperial Bank of Commerce  
Cdn Office Products Assoc  
Cdn Professional Sales Assoc  
Cdn Steel Serv Ctre Inst  
DST Corfax Systems  
Int'l Bridge Authority  
Marine Trades Assoc of BC  
Nat'l Assn Fleet Administrator  
Objectform Inc.

Packaging Assoc of Canada  
Recreational Veh Dealers Assn  
Richter Holding Partnership  
Telesysteme National Inc  
Templeton Res & Invest Mgmt  
The Canadian Creators Coalit'n  
Unilever Canada Ltd  
Zurich Canada

#### **Lobby Firm List**

AlphaLINK  
Association House  
C.E.F. Ganesh Corporation  
CAI Corporate Affairs Int  
Corporation House Ltd (Ott)  
Donald Jarvis Consultants

Dworkin Communications  
Goodman Phillips Vineberg  
GPC Govt Policy Cons (Ott)  
Knight & Company  
Robertson Rozenhart Inc.  
SAMCI (Ott)  
Stikeman, Elliott (Tor)  
The Capital Hill Group (Ott)

## NAFTA's Chapter 11: Part 2

A story in the previous edition of *The Lobby Monitor* (vol 7, issue 22) has stirred up some controversy. The issue was concerning how the expropriation of property provisions of Chapter 11 of NAFTA might eventually impact on the trade lobbying industry.

Our report noted the continuing role of the lobbyist in trade matters but suggested that companies had a new route to settle trade disputes. That route, via the expropriation of property provisions of Chapter 11, might not depend on bringing an administration on board to the same, or any, extent.

But the mere suggestion that Chapter 11 could result in less work for advocates by replacing the long drawn out trade disputes that generate so much work for the lobbying community, drew objections from some of our readers.

Keeping in mind the personal stake in the matter of most of those voicing views on this matter, it must be said that the contrary argument has merit.

### So Where's The Lobbyist Role?

"The simple fact is that government would rather switch than pay," says lawyer **Barry Appleton** of **Appleton and Associates**. Author of *Navigating NAFTA: A Concise User's Guide to the North American Free Trade Agreement*, Appleton says that any Chapter 11 challenge begins with the filing of the claim. He concedes that the actual tribunal process is indeed legalistic and would be handled by trade lawyers, but that a full six months goes by before such a hearing. That six months is when the advo-

cate's unique abilities can be put to full use. "Where you can convince a government how NAFTA applies to a case, you're going to be that much more effective in your campaign," says Appleton.

Trade veteran **Simon Reisman** says the lobbyist role is obvious. "Where there's a chance to change policy, that's where lobbyists fit."

Other sources point out that Chapter 11, section 18 actually calls for the settlement of the claim through consultation and negotiation. "The Ethyl case's documents just give a general idea of what is their argument. The following six months call for the negotiation phase and while a lawyer could do the job, a lobbyist might have more success," says one trade specialist.

Appleton says that a mistake many people make is to ignore how NAFTA actually works in practice. "Most of the stuff is underneath the actual provisions. There's subtlety involved which is where you can use a lobbyist's skills."

### Impact of Chapter 11: More Arguments

Just as there is conflicting opinion on what Chapter 11 challenges might mean for the lobbying industry, what Chapter 11 might mean for trade disputes is a point equally contested.

"All provincial capitals will be involved. There's as much chance that provincial action will conflict with Chapter 11," says Appleton, describing the growth potential of the Chapter 11 challenge.

Reisman points out that more trade actions will give rise to new opportunities, and

suggests one group likely to gain. "The lawyers [with specialties in this area] obviously have a market in these areas."

To explore this vision of the Chapter 11 challenge further, the lawyer/lobbyist hybrid seems a perfect fit. "The individual would need experience in litigation, as well as experience in government to understand how these officials are thinking," says one trade source. "The lawyer/lobbyist might be able to understand if the case is credible. Remember, the federal government has very good trade advice and would understand if there was a chance of success. Throwing down the gauntlet won't necessarily help your campaign."

While most commentators agree that the Chapter 11 provisions could be exploited more, most are realistic about the applications of the mechanism. "To bring it as an initial volley is some pretty strong medicine," says one trade lawyer. "You have to feel that the Canadian judicial system won't serve you – the Pearson Airport situation is a perfect example of that, but it's a rare case."

Another source suggests that whether it's good or bad for the lobbying industry, all this attention might still be misguided: "I don't think it's a growth industry. It's a last resort. To bring a Chapter 11 challenge is to basically get ready to leave the country."

Stay tuned for yet more comments. Email [jrainford@arcpub.com](mailto:jrainford@arcpub.com) or call John Rainford at (613)230-3029 with any additional thoughts.

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# Lobbyists Dust Off Political Hats

The best lobbyist is one that is always a few steps ahead of the game. That thinking applies when we're talking about an issue, a crisis, or political connections. The Ontario Liberal Leadership battle is making hardly a ripple in the media, but while it may look like small potatoes versus the federal scene, the wise lobbyist understands how the two political arenas connect with one another.

Ottawa advocates are getting involved in the Ontario campaign, and are rumoured to have some intriguing motivations.

## Why Stick Your Nose in a Provincial Campaign?

"All Ottawa lobbyists are looking to set up or enhance their Toronto offices," says one Queen's Park insider. "More decision making is happening at the provincial level which is why there is so much interest."

That thinking would suggest that Ottawa lobbyists are looking to support the

expected winner. But just as in a good lobbying campaign, intentions are not always so obvious.

The accepted front runners of the campaign are **Dwight Duncan**, M.P.P. for Windsor-Walkerville, and **Gerard Kennedy**, M.P.P. for York South, the former executive director of the **Daily Bread Food Bank**. Neither of these candidates, however, are pegged as the one with the Hill support. **Joe Cordiano**, the MPP for Lawrence and cousin of Toronto MP **Tony Ianno** is the one that is said to be so popular around town.

"It's not that he is pegged to win," says one lobbyist. "But supporting him could be very important in building relationships with the Toronto ethnic communities. Those ethnic communities can be very important when it comes time for nominations of federal candidates."

The support of an Ontario candidate can be important in brushing up on the skills that

will be fully employed in the coming election year, and can be an important step in the position of a party player on the federal scene.

Among the lobbyists said to be supporting the Cordiano campaign, **Herb Metcalfe** of **The Capital Hill Group**, **Jamie Deacey** of **Association House** and **Mark Resnick** of **Parallax Public Affairs Inc.**

The only Ottawa candidate, **Dalton McGinty**, who might have expected more local backing, is reported to have only the support of people from **Gowling's**.

But while many lobbyists are getting involved, the strategy is not universal. One Liberal lobbyist says he's not supporting any of the candidates. "They're all such little fish. I don't see the advantage to getting involved. Whoever wins will be looking for friends anyway."

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# Satellite Signals Paused in D.C.

It's hard to imagine that a campaign with so many dimensions, so many powerful interests and so much money at stake has struck some kind of lobby equilibrium, but that's what appears to have happened in the satellite allotment case.

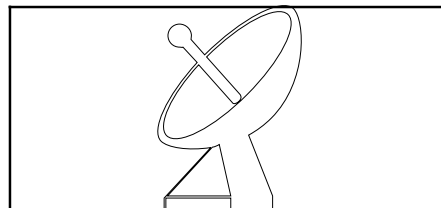
The **FCC** is still mulling over the application from **TCI** and **Telquest** regarding the launch of DTH satellites into Canada's two remaining slots capable of reaching the North American market. The exploratory negotiations regarding some kind of reciprocity compromise have been put on hold. And lobbyists on both sides say that everyone is standing pat, monitoring the scene for any sign of change.

## Triggers to Renewed Action

"There are no dates on the horizon like September 15," says **Larry Shaw**, DG of

Telecommunications Policy at **Industry Canada**. The September 15 date was suggested as a target date for a decision by **TCI** and **Telquest** in the hopes of launching their service by Christmas.

Those involved with the battle for Canada's satellite spots suggest that the trigger to the scene won't come until November. "I think the situation is really awaiting the outcome of the US election," says one telecom lobbyist.



But **Telesat's** relationship with its US partners can't wait that long. "If there isn't a decision by the election, **TCI** will need other

plans. They may decide to launch one of their satellites into another slot and store the other one," says **Telesat** spokesman **Paul Bush**.

Still others point to the international negotiations regarding satellite policy in January and February. But in contrast to a common opinion heard in recent months, the degree to which such international negotiations will guide Canadian policy is now in question.

As one source says, "People in the industry are starting to work hard to understand what kind of agreement the US and Canada can arrive at. How the policy landscape develops over the coming months will determine what action the lobbyists involved might be able to explore, and what new players may emerge."

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# Registration Notes

## Bridging the Tax Issue

Under the guidance of *David Angus* and *Steven Dover* of **The Capital Hill Group**, a coalition of Bridge Authorities has launched a campaign to prevent local municipalities at the international crossings from changing the property tax structure for the Bridges. The **Blue Water Bridge Authority**, the **International Bridge Authority** and the **Buffalo & Fort Erie Public Bridge Authority** have all signed with Capital Hill in an effort to get their message to the federal and provincial levels of government.

*Dan Elash* of Blue Water says that while all international bridges are not governed in the same manner, the tolls are already supporting a number of facilities at the border crossings, including buildings for Customs, Immigration and Agricultural officers, which are provided at no cost to the federal government.

"Municipalities don't understand where the toll income goes," says Elash,

who says additional municipal taxes would mean that the tolls would have to be increased.

*Neal Godby* of the International Bridge Authority says that the exemption from property tax for his bridge has been in effect since 1960 and is to end in 2000, when the bonds for the bridge are paid off.

"Our intention is to achieve policies that reflect that international crossings are an integral part of federal and provincial transport," says Godby. "We would prefer to see the structures independently assessed" rather than taxed in the same category as other structures.

## Object the Effort

*Steven Jast*, *Howard Silverman* and *Douglas McConnachie* of **Techsortia CAI Corporate Affairs** are registered for **Objectform Inc.** Jast says that their job is to work towards introducing Objectform to the major government players with the intention of promoting Objectform's technology. Also on the agenda is to line up opportuni-

ties with some of the financiers, help with marketing strategies, and explore research and development and international market grants. Some of these will be through federal government programs like FORD(Q), PEMD, CBNC, and IRAP.

## Improving the Odds

**Templeton Research & Investment Management** is not going to be missing any tricks. It retained *Herb Metcalfe* and *Steven Dover* of **The Capital Hill Group** to give it an inside window on how Ottawa operates.

"We want to increase our political awareness," says *Charles Sims* of Templeton. "We're trying to get a fix on how Ottawa functions and what's going on." While this education process continues, Capital Hill experts will be providing monitoring services of key areas such as OSFI, Finance and Revenue Canada.

## Tidying Loose Ends

*Graham Hardman* of **Corporation House** has registered for the **Recreation Vehicle Dealers Association of Canada**. There are still a few outstanding GST issues which concern the association, however Hardman says he registered to back up colleague *Doug Wurtele*, who has been looking after the RVDAC for some time.

Another registration for Hardman and for *Ronald Lefebvre* is for the **Canadian Steel Services Centre Institute**. Hardman says the registration was a formality, since he assisted the CSSCI in arranging an annual meeting between them and a few government officials, with no particular issues emerging.

**The National Association of Fleet Administrators** has also taken advantage of the Hardman-Lefebvre team, signing them on to monitor issues surrounding alternative fuels and energy policies. Hardman says his client is interested in the principles, and that they will be keeping an eye out for them.

**The Lobby Monitor is published  
22 times a year by ARC Publications,  
a research, communications and publishing company  
63 Sparks Street, Suite 800, Ottawa, Canada K1P 5A6  
Phone 613-230-3029 Fax 613-237-9617  
E-mail: arc@arepub.com  
Subscription: \$519 per year plus GST.  
Editor & Publisher: Dr. John A. Chenier  
Managing Editor: Ms. J.A. Fulton  
Contributing Editors: J. Rainford  
Net Site Manager: K. O'Malley  
http://arcpub.com**

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"We registered in case we have to organize meetings," adds Hardman.

### All in the Packaging

**Larry Dworkin** of **Dworkin Communications Inc.** is registered for the **Packaging Association of Canada**. He says there are a broad range of issues, including environmental, regulatory, enforcement, trade and taxation issues, still to be resolved. Dworkin notes that a great deal of imported products do not meet labeling requirements, and the federal government appears not to have the resources to tackle the problem. Harmonization and ISO standards are also big issues, especially with the volume of packaging that crosses the border into the US, says Dworkin. While there is currently no legislation affecting the industry, efforts to standardize seem to be emerging from the

Taskforce on Packaging run through the Department of the Environment.

### Keeping Tabs

**Brian Linklater** of **Alphalink** is registered for the **Canadian Office Products Association**. According to COPA spokesman **Jim Preece**, Linklater is providing general monitoring services in the areas of bankruptcy and insolvency, consumer packaging and labeling and tariff and trade issues.

"This industry is not heavily involved in lobbying, but we are keeping an eye on things in case anything specific comes up," says Preece.

### Association Notes

**Ron Portelli** and **Rebecca Last** of the **Canadian Environmental Industry Asso-**

**ciation** are busily engaged in an internal review of the Canadian Environmental Industry Strategy. The review is taking place in an interdepartmental committee, and the CEIA is hopeful that its concerns will be addressed. Also in the works is collaboration with the **Business Council on National Issues** on a study on greenhouse gas emissions and capital stock turnover. The study will be presented to provincial and federal ministers at their upcoming joint meeting on climate change. And if that's not enough, the association is advising Environment Minister **Sergio Marchi** on the itinerary and activities for the upcoming trade mission to South America in early December.

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## Last Gasp for MMT

In an apparent last ditch effort to stay the process of the legislation banning the use of MMT in Canada, the **Canadian Petroleum Products Institute** commissioned a study to provide data suggesting that MMT is not the harmful additive many say it is. CPPI is hoping the data will cast enough shadow to stay the legislation for further study before the government proceeds in this fashion. It has presented the findings to **Environment Canada**, the **Canadian Council of Ministers of the Environment**, the combined Energy Ministers of the ten Canadian provinces, and an interdepartmental committee struck to examine the issue.

While there has not been an official response to the CPPI's study, there is cautious optimism that enough interest will be generated to support an impartial study performed by an outside contractor acceptable to all players.

### Lack of Enthusiasm

Sources at Environment Canada, however, are less than impressed with the data so far, and suggest that it is far too early to say

one way or the other if the data supports CPPI's claim or not.

"The legislation is going forward, and the government will respond to any information provided if it is relevant," says **Frank Vena** of the Transportation Systems Branch at Environment Canada, who adds that what they have seen so far is not likely to change anything.

"It's not surprising that new vehicles perform well," says Vena, noting that the study involves 300 mostly new cars. He adds that since it is the long term affects of MMT that are in question, it is premature to speak to the data.

**Mark Nantais** of the **Motor Vehicle Manufacturers Association** isn't troubled by the study at all.

"The work they've done proves nothing, and isn't going to change our intentions or the government's," he says confidently. "It does not directly refute that MMT damages [on-board diagnostic systems]."

Nantais says that they are in a watching mode, but that the MVMA will not be chang-

ing its activities or its efforts to get the legislation passed, which he expects will happen in the not too distant future.

### The Next Frontier

While the fight for MMT as a gasoline additive is just about over except for **Ethyl's** Chapter 11 NAFTA challenge, the next frontier is the battle over sulphur content. **Dr. David Johnson** at **McGill University** is part of the scientific exploration of the additive, and chairs a number of technical panels evaluating vehicle compatibility with the chemical, the social and economic impacts, and the scientific validity of its inclusion in the formulation of fuel. If there is an example of "getting the science right first" this might be it.

A source close to the MMT struggle says that "if MMT had been approached like sulphur we wouldn't have hit the political tailspin that we did."

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# The Minister Said What?

The Health Minister has two major problems on his desk, the drug patent review and the tobacco sponsorship, issues that enjoy the attention of the biggest lobbies in town. Though patent matters are in the hands of Industry Minister *John Manley*, and Justice Minister *Allan Rock*, who will have lots to say about the legality of any tobacco legislation; Dingwall and his department are still key players. As a result, the minister's statements on the situations tend to attract a lot of interest. While some statements have had obvious intentions, the motivations of others are less overt. In both cases, however, as one lobbyist recently noted, the minister has presented a top, and those involved haven't stopped spinning it ever since.

## Characterizing the Tobacco Lobby

In private meetings or off-the-record chats, it's not rare to hear some harsh terms when people describe the lobbying scene. But when the Health Minister chose a post-QP scrum to characterize the lobby on tobacco sponsorship as "vicious" and "personal," more than a few ears perked up.

"The minister has been feeling a lot of behind the scenes pressure on the issue. He obviously is trying to bring it more into the

open and alert people to the fact that he is feeling this every day," says one lobbyist.

Since he made the statements, Dingwall has refused to expand on what he might have meant. Sources suggest, however, that he likely is referring to the tactics of the tobacco industry and arts community to rally support against the Health Minister. Dingwall is anxious to move ahead with sponsorship legislation in the Fall session.

"There's been a lot of lobbying cabinet colleagues," says one source close to the minister. "[Dingwall's] in tough 'round the cabinet table."

Those in support of the tobacco sponsorship ban recognize the minister's call for help. "We see we have to turn it up a notch. We have to ensure the minister can sell the issue politically," says one lobbyist. "We need to show his cabinet colleagues that he can bring a large political constituency with him on the issue, that's our key to success."

The sponsorship issue has reportedly been to the social development committee and is moving through the cabinet pipeline. Sources suggest that the fight might be more about cabinet support of the principle of the legislation than an introduction this Fall.

## Tantalizing Hints in the Drug Battle

The minister's statements at a recent PMAC gathering regarding intellectual property rights have been portrayed as a simple crowd pleaser by the CDMA and as promising sign by those on the other side. The "watching state" of the drug lobby obviously watches for just such statements. But what do such statements really mean so early in a campaign?

"Sure it was crowd pleaser," says one lobbyist. "But the minister is a lawyer and former health critic, I have to imagine that he would reflect carefully on anything that he was saying."

Other lobbyists, however, suggest that all Dingwall did was reiterate a self-evident point, and hardly went out on a limb to expose his orientation. But how do you explain the attention the remark received?

"Everyone is trying to figure out how the issue fits with election timing," says one lobbyist. "Theoretically the hearings [beginning on Feb. 1] could be out of the way in a couple of weeks, or they could take a year in a protracted process. Any hints as to what the government intends to do is going to be get intense scrutiny."

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## Coming Up In Committee

The **Standing Committee on Canadian Heritage** is holding hearings on the controversial **copyright** issue until November 7. The hearings will be used to develop recommendations to the government on copyright legislation, which will be presented before the House rises for the winter break.

The **Standing Committee on Health** is holding hearings on the **Review of Policies on the Misuse and Abuse of Substances** until June 1997.

For those organizations that need to closely monitor the hearings, ARC Publications presents *The Committee Monitor*.

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