



Issues Arising from Improper Communications with Electors

Round Table Report

March 2013

Introduction

In the 18 months since the May 2011 general election, troubling information has been revealed regarding alleged improper communications with electors during the campaign. In some constituencies, it appears that automated and live telephone calls were used to provide false and misleading information on voting locations, to annoy voters or to otherwise attempt to interfere with their vote. By August 2012, some 1,400 complaints had been received by Elections Canada regarding specific occurrences of improper or fraudulent communications.

Understandably, these events have generated a great deal of public outrage, and they have raised important questions about the integrity of how federal elections are conducted in Canada. As Chief Electoral Officer Marc Mayrand noted before the House of Commons Standing Committee on Procedure and House Affairs on March 29, 2012, if these issues “are not addressed and responded to, they risk undermining an essential ingredient of a healthy democracy, namely, the trust that electors have in the electoral process.”¹

In the days following the election campaign, the Commissioner of Canada Elections launched an investigation into these complaints to establish exactly what went on in the days leading up to polling day, to identify the perpetrators of this alleged fraud and to take the necessary actions. The result of this investigation will, of course, be critical to the restoration of public trust in the system, but it cannot be the only response to the events that have come to light. As investigators attempt to identify Pierre Poutine² and bring him or her to justice, decision-makers have a responsibility to examine whether any changes to the legislative and regulatory frameworks that govern elections could enhance enforcement of the rules and prevent abuses from occurring in the first place.

¹ www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5486526&Language=E&Mode=1&Parl=41&Ses=1

² “Pierre Poutine” is the pseudonym used by the initiator of the robo-calls received in the constituency of Guelph, Ontario, to purchase a mobile telephone and arrange for the automated calls to be placed. The apparent aim was to direct certain voters to the wrong polling station on Election Day.

In support of that objective, the Chief Electoral Officer committed to submitting a report to Parliament by March 2013 on how best to regulate communications with electors in the context of rapidly evolving technological capabilities and of privacy concerns. A 2012 Elections Canada discussion paper³ highlights the following issues in weighing the options for reform:

- In the 21st century, how should we govern the use of technologies to foster electoral participation while preventing abuse of these technologies?
- Beyond punishing those responsible for such abuses, what legislative, policy or regulatory changes should Parliament consider to ensure these technologies are deployed appropriately and to the benefit of citizens?
- To what extent and by what means should political parties be held accountable for preventing such abuses?
- What is the ideal balance between the privacy of electors, on the one hand, and the right of parties and candidates to use certain means to engage electors, on the other?
- What enforcement tools would assist in investigating deceptive communications made during elections?

In addition to consulting registered political parties directly on the content of the discussion paper, Elections Canada partnered with the Institute for Research on Public Policy (IRPP) in holding a round table to seek experts' views on these issues. This report summarizes the proceedings of the round table.

The Round Table Process and the Report

The day-long round table discussion was held in Montreal, Quebec, on December 5, 2012. The IRPP, a national, independent, nonpartisan think tank, acted as a neutral convener and facilitator for the event. Using the Elections Canada discussion paper as a starting point, the round table brought together policy experts and practitioners for a frank exchange on the best advice the Chief Electoral Officer can give Parliament as it considers potential reforms. The round table did not consider the specifics of the allegations that have surfaced or dwell on the events of April and May 2011. Rather, experts were asked to reflect on how the Canadian electoral process could be improved.

The IRPP designed the round table agenda and selected the participants in collaboration with Elections Canada officials. Care was taken to ensure that a breadth of expertise and views was represented around the table – specifically with regards to knowledge of the current legislative and regulatory frameworks that govern elections; current practices by political parties in the use of information and of information and communications technologies (ICTs); data collection and privacy issues; marketing research; and democratic institutions. The group also included participants with knowledge of the American political environment in order to compare it with the Canadian experience.

To ensure everyone had an opportunity to contribute meaningfully to the discussion and encourage all participants to speak freely, the group was kept small and the event was held under the Chatham House

³ *Issues Arising from Improper Telecommunications with Electors*. www.elections.ca/res/cons/tele/pdf/tele_e.pdf

Rule. The discussion was on the record but not for attribution, and participants took part as individuals and not as representatives of their organizations.

The agenda⁴ focused on the following key questions:

- How are political parties currently using technology to contact voters?
- What challenges does communicating with electors pose for public policy, in terms of both legitimate and illegitimate forms of communications?
- Where is technology going, and what might that mean for how political parties communicate with electors in future?
- How can Elections Canada and the Parliament of Canada best respond to the events that have been uncovered since the last federal election, and adapt to uses of ICTs in constant transformation?

This round table report was prepared by IRPP President Graham Fox, who facilitated the discussion. The IRPP wishes to thank sincerely the following individuals for their contributions to the discussion:

- Colin Bennett, Professor, Department of Political Science, University of Victoria
- André Blais, Professor, Department of Political Science, Université de Montréal
- David Coletto, Chief Insight Officer, Abacus Data
- Kenneth Cosgrove, Associate Professor, Department of Government, Suffolk University
- Tom Flanagan, Professor, Department of Political Science, University of Calgary
- Wally Hill, Vice-President, Public Affairs and Communications, Canadian Marketing Association
- Luc Juillet, Jean-Luc Pépin Research Chair and Director, Graduate School of Public and International Affairs, University of Ottawa
- Anke S. Kessler, Professor, Department of Economics, Simon Fraser University
- Carissima Mathen, Associate Professor, Faculty of Law, University of Ottawa
- Andrea Rosen, Chief Compliance and Enforcement Officer, Canadian Radio-television and Telecommunications Commission
- F. Leslie Seidle, Research Director, Institute for Research on Public Policy
- Daniel P. Tokaji, Robert M. Duncan/Jones Day Designated Professor of Law, Moritz College of Law
- Lori Turnbull, Associate Professor, Department of Political Science, Dalhousie University
- Konrad von Finckenstein, former chairman, Canadian Radio-television and Telecommunications Commission

While the report is tremendously enriched by each participant's contribution, it does not attempt to reflect every point expressed by every participant. Rather, it aims to highlight the main points that were raised over the course of the day, the areas of agreement and disagreement among participants on the issues they discussed, and the degree of consensus on certain recommendations. Responsibility for the summary and the recommendations therefore remains that of the IRPP. It should also be noted that the

⁴ See appendix 1.

structure of the report mirrors that of the agenda and the flow of the discussion, which explains why certain ideas or proposals for reform are referred to more than once in the report.

How Are Political Parties Communicating with Electors Today? A Look at Current Practices

The round table session began with an exploration of how political parties currently communicate with voters. From the outset, participants distinguished between legitimate and illegitimate communications with electors, and stressed the importance of that distinction for this debate. Indeed, Canadian political parties communicate with voters in a host of ways and for many purposes – some of which provide benefits to not just that particular party but also the system as a whole.

With regard to legitimate communications, parties use live calling for voter identification and outreach, as well as for fundraising. Unlike their American counterparts, which tend to contract those functions out to other groups, Canadian parties tend to carry out these types of calls themselves. Live calls are used also for polling purposes (usually conducted by outside agents) and for telephone town hall meetings with party leaders, senior spokespeople and local officials. Automated calls, which are often contracted out and whose use is on the rise due to the falling price of such calls, are mainly used for voice message drops to remind supporters of meetings, events and polling locations; interactive voice response polling; and push polling.⁵

Illegitimate communications include live and automated calls used to send out false information about voting to certain electors; annoying or aggressive calls attributed to another candidate or party; and calls used to jam an opponent’s switchboard. It is this type of communication that has been the focus of media attention since news of the illicit calls in Guelph was first reported by the *Ottawa Citizen* a little over a year ago. And while participants acknowledged that the events that have been exposed in Guelph and other constituencies are indeed cause for serious concern, the policy questions at issue go well beyond the misuse of ICTs, and even the legitimate use of ICTs by political parties requires a new policy response to keep up with technological advances.

Thus, Elections Canada would do well to ensure that its response to the “robo-calls scandal” is not just a reaction to the illegitimate forms of communication that have been uncovered, but also a consideration of the consequences of legitimate uses of communications technologies by political parties. Indeed, before decision-makers consider any specific legislative or regulatory changes, they must take care to define very precisely what it is they are trying to fix.

⁵ Polls designed to deliver a message through the questions themselves rather than elicit a genuine response.

Illegitimate Uses of ICTs to Communicate with Electors

Dealing first with illegitimate communications, there was a strong consensus among participants that the first challenge to be considered is how broad the response should be. There is a risk that the problem will be cast too narrowly or, alternatively, that the problem will be overstated. As an illustration of a policy response that is overstated, one participant with expertise in the uses of ICTs in politics noted that, as landline phone use decreases, parties will naturally turn to other technologies to reach voters, and robo-calling may become less of an issue with each passing election. A policy response that is cast too narrowly to only address the specific events that occurred in 2011 may not be an effective tool to regulate these activities in future elections as party workers turn to new technologies. In this context, the participants supported a suggestion made in the Elections Canada discussion paper that decision-makers should take a longer view of these issues and consider communications technologies in a broader sense.

The second challenge in dealing with these communications is one of logistics. Participants noted that in any communication with voters, the calls are often organized by the central party, but sometimes the candidates' campaigns are also involved, as are any number of outside organizations and contractors. The efforts of the different groups are not always well coordinated or well documented. When these communications tools are abused, therefore, it is not always clear who is involved and who is responsible. Round table participants agreed that these activities need to be better documented at the outset, and the system must require that more information be retained for longer periods by a number of actors (political parties and telecommunications firms, in particular), so it is available after an election campaign in the event of an investigation.

The final challenge is to deal with the negative impact on public trust of these relatively rare incidents of alleged wrongdoing. It would be a mistake to ban all automated telephone calls (which can serve many positive purposes during a campaign) because of what we have learned. But it would also be a mistake to dismiss the impact of even one instance of wrongdoing on the public's perception of electoral integrity. As one participant observed, once a deceptive practice is in the public domain, many citizens will come to believe that there is fraud, even where there is none.

In sum, participants agreed that illegitimate communications with electors are a cause for serious concern and reflection. The events of April and May 2011 have shone the spotlight on the deficiencies of the current system, and changes are needed. But participants also agreed that, if we only deal with illegitimate communications with voters, we will have missed a critical opportunity: the regulatory system must be updated to keep up with how parties gather and hold information about voters and communicate with them. This is true even where legitimate communications with electors are concerned.

Legitimate Uses of ICTs to Communicate with Electors

Turning to legitimate communications with electors, participants agreed that no Canadian political party's voter contact techniques have reached the level of sophistication that was displayed by the Obama campaign last fall. Nevertheless, they are paying attention to what is going on south of the border, and they are learning fast. Not that long ago, the smallest unit of analysis to allocate scarce voter contact resources was the small city block or apartment building. Based on data analysis, the density of potential voters would determine where resources would go. Increasingly, though, parties can produce a more detailed picture of their pools of potential voters and tailor their messages to those

targets, rather than waste time and resources talking to others. As parties continue to develop their ability to combine data sets and create more complex voter profiles, decision-makers would do well to ensure the legislative and regulatory framework keeps pace.

It must be noted that most participants agreed that data gathering by the parties is a good thing, as it allows them to better reach their supporter base. But advances in voter contact techniques raise serious privacy protection and data management issues. As parties get better at merging data from different sources to build individual voter profiles, policing the use, storage and protection of that data will become increasingly important. Participants agreed that we need to consider extending privacy regimes to political parties. Party databases often contain sensitive personal information, as it becomes increasingly difficult to separate personally identifiable information and non-identifiable information. A few participants observed that the Privacy Commissioner of Canada is receiving more complaints, but the Commissioner does not have jurisdiction to enforce privacy protection measures. Moreover, parties are not bound to abide by specific standards, nor are they required to have privacy policies. In fact, even more than the abuses of telecommunications, it was the threat of data breaches that worried some participants the most. Many of the existing privacy regulations do not apply to political parties: for instance, if a campaign worker leaves unencrypted data on a park bench or in an airport lounge, it is not at all clear that those affected by the data breach would have any recourse.

That said, participants also expressed concern about simply extending to political parties the rules that apply to private organizations. The system has placed a premium on the ability of parties to engage the individual. And while individuals may be nervous and suspicious about parties holding personal information about them, as consumers they increasingly expect that parties will already know something about them when they call. Rather than limiting the type and quantity of information that can be gathered by parties, proposals might focus instead on regulating how the information is used and kept.

Thus, participants agreed that it would be a mistake to be as restrictive in the political domain as we are when it comes to consumers. Elections Canada should recommend a principles-based approach to privacy protection, as this approach would adapt better to changing technologies and would reflect the reality that political communication is different from marketing. As we consider how to improve regulation of these activities, we must not lose sight of the salutary effects of technology for democracy and what technology might contribute to increasing turnout. As one participant put it, “notwithstanding the desire I share to restrain the deplorable tactics here, I worry about using a sledgehammer to swat a fly.”

Participants also noted that, even where communications are legitimate, problems may arise from errors in the data sets, and these errors could be compounded if databases are merged. Many referred specifically to internal “do not call” (DNC) lists as an instance in which the number of lists held and managed by different groups makes it difficult to ensure that all members of a given campaign or political party, at all levels, use up-to-date and accurate lists. This difficulty is even more acute if one factors in the short duration of election campaigns, which does not allow a great deal of time for information to be updated and shared with all the players involved.

While a strong majority of the participants were in favour of political parties being allowed to contact voters by telephone, it must be noted that one participant argued strongly in favour of an outright ban on telecommunications with electors. This participant argued that such a ban was in place in Japan and in Germany, for instance, and given that voter turnout rates in those countries are higher than those in

Canada and the United States, the ban could be implemented here without much risk. Overall, however, participants felt it was a good thing that parties are becoming better at contacting their supporters. In the view of most participants, therefore, reforms should not stifle political parties' ability to engage people in politics. The difficult task for Parliament and Elections Canada is to develop a framework to encourage that contact, while anticipating problems and supporting the positive effects of voter contact by parties.

Participants also urged decision-makers to ponder the context in which potential reforms are being considered. The purpose of the changes to the campaign finance rules in 2004 was to alter the relationship between parties and organized interests such as corporations and unions. Parties had grown dependent on those relationships for money, and there was growing public concern over the role that money played in shaping political debate. The new system compels political parties to have relationships only with individuals. If parties depend on individuals to fund their activities – a trend that will only be reinforced by the elimination of the per-vote subsidy – we have to expect that political parties will develop the most sophisticated supporter outreach they possibly can.

Similarly, and on a very practical level, we have to acknowledge that political parties are, for the most part, voluntary organizations with limited resources. Many round table participants raised concerns about whether political parties could carry the weight of many additional regulations, in terms of the expertise of volunteers and the financial costs of compliance. To the extent possible, therefore, reform options should account for the additional administrative burden and compliance costs to political parties.

Looking Ahead: Technological Advancements and Implications for Political Parties

Having considered how political parties use ICTs today, participants then turned to how those uses might change in the future. To help frame that discussion, a short time was set aside to consider how technology is evolving, and what that might mean for the conduct of elections and the behaviour of political parties.

Without a doubt, technology is driving the change in how we think about marketing and how we think about running campaigns. For instance, the proportion of marketing spending devoted to mass advertising has declined in recent years, and the “savings” are now being funnelled into research analytics and other marketing communications. That is a major change in consumer-based marketing, and a similar phenomenon can be observed in political marketing. The emerging picture is one in which consumers, enabled by technology, have a much greater ability to control their relationships with brands. This is what consumers now expect in the marketplace, and they will increasingly expect it of their political engagements as well.

Round table participants agreed that this shift must be reflected in how Elections Canada engages with voters and how it determines whether to intervene in this area. Acknowledging the tension that exists between free content and personalization, on the one hand, and concern about privacy and a desire for greater control, on the other, decision-makers have to be very careful how they intervene in these areas. As technologies become more established and entrenched, it will be less risky for government to

step in with more prescribed solutions. But as we are dealing with technologies in rapid transformation, decision-makers must be mindful of the law of unintended consequences.

Technological advances have strong positive and negative effects on the system's ability to police parties' communications with voters. On the one hand, technologies enable individuals or groups to hide their tracks, masking identities and the origins of telephone calls. As the "Pierre Poutine" episode has aptly demonstrated, using technologies such as robo-calling is cheap and easy, and it is very difficult to enforce the rules after the fact. On the other hand, with enhanced prior disclosure and data retention provisions for the use of such technologies by parties and their agents, using technology for positive purposes may well turn out to be the most promising way to disrupt fraud and crack down on the enablers of fraud.

Enforcing the Rules and Preventing Abuse: An Assessment of Potential Measures

When participants were asked to consider these issues in terms of the advice they would give the Chief Electoral Officer, many went back to first principles. As one participant put it, we are faced with two types of behaviour: the legitimate and the fraudulent. The goal with respect to legitimate communications is to foster relationships with voters. We want to see the adoption of legitimate forms of communications. When required, Elections Canada must step in to regulate and enforce, but always with an eye to distinguishing between intentionally bad behaviour and sloppy practices. The objective with respect to fraudulent behaviour, of course, is to deter: to respond to instances of harm and impose remedies that are meaningful.

Getting the Rules Right

A strong majority of participants were supportive of the proposals to enhance enforcement and investigation powers presented in Elections Canada's discussion paper. Many also supported increasing the disclosure requirements of political parties – including electoral district associations – to encourage more transparency. In this regard, it was noted that Elections Canada and the Canadian Radio-television and Telecommunications Commission (CRTC) have complementary mandates in these areas. It would be wise for these organizations to collaborate on finding solutions and to ensure that their respective regulations are well aligned. A few participants also agreed with the notion of increasing the number and/or the severity of the types of punishment for wrongdoing.

Many participants added a word of caution, however, to their support for punitive measures. First, it should be noted that, in most instances, one would hope that any changes would act as a deterrent, rather than a punishment. After all, it is difficult for any system to devise rules that will govern the behaviour of those who have already decided not to follow the rules. Moreover, one should carefully consider the consequences of increasing the number of types of wrongdoing, which will almost inevitably lead to more offences being reported. In this case, as the objectives are to restore public confidence and demonstrate the system's ability to crack down on offenders, it may be a desirable outcome. There may be some benefit to showing that offenders are being found. On the downside, we should be mindful that the public might see increased reporting as proof that the problem is more widespread than it actually is, or that it is increasing when it is not.

Considering the issue of proactive enforcement, many participants argued for increased public education to ensure that voters know, for example, that only Elections Canada can inform them of a polling location change, and that such information is never provided by telephone. As one participant put it, how can we better equip voters so they can protect themselves against fraudulent communications? Still on the topic of public education, another participant recommended that Elections Canada officials consider how they communicate with electors, what information they pass along, and what mode of communication they use. To tailor messages, drive the vote and meet their goals, political parties are benefiting from the latest research in behavioural analysis; the regulator should do the same.

Encouraging Compliance

Some participants pointed to evidence that, in addition to getting the rules themselves right, ensuring that the actors understand those rules may strengthen compliance. It is worth looking into implementing a positive agenda that engages with various actors and creates a common culture, in contrast to a strict regulatory regime. This is particularly important when considering the number of volunteers and employees a political party brings on board and trains during the course of a short campaign.

Participants also discussed the merits of “opting in” versus “opting out” when it comes to do not call lists, and whether DNC lists could be part of the solution. On this point there was no real consensus. Some argued that extending DNC provisions to political parties should be considered as part of a package of measures, while others raised the concern that DNC lists would be difficult to enforce. Others argued that, in light of the unique role that political parties play in the democratic process, it may not be desirable to give voters the opportunity to “opt out” of receiving information about elections (or, perhaps worse, make them “opt in”), and that this may in fact contravene the *Canadian Charter of Rights and Freedoms*.

With regards to data management, it was suggested that the rules should restrict access to political party databases, make reporting of breaches mandatory, and hold the parties themselves accountable for any abuse.

A few participants reminded the group of a basic factor: whatever the specific remedy being considered, technology is not on trial. The challenge is to ensure the system can distinguish between legal, acceptable practices, and fraud. The core problem is not technology; it is vote suppression. Thus, the specific communications method used in a particular incident should not matter. As one participant put it, “it’s not about what happens based on opt-in or opt-out. If someone is setting out to commit fraud, they’re not going to care about the opt-in or opt-out systems. You need to develop a framework that will limit fraud and abuse and breaches of privacy as technology develops over time. Elections Canada has to come up with a measured and principled response that is about more than robo-calls.” In support of that statement, one participant usefully identified three distinct harms that are at issue: vote suppression; annoyance of voters; and protection of voters’ privacy. When thinking about potential reforms, it will be important to ensure the package addresses each one of these factors and involves all relevant regulators.⁶

⁶ For example, participants agreed that the “annoyance of voters” type of harm would likely be most effectively regulated by the CRTC rather than Elections Canada.

The notion of compelling parties to adopt a “mandatory voluntary” code of conduct also received widespread support, as it corresponded with the group’s view that the chances of success will be greater if the focus is on proactive solutions as opposed to reactive enforcement measures. As one participant observed, “once elections are over, the damage is done.” In essence, political parties would be asked to develop their own codes of conduct and commit to them publicly. If a party refused, or if a proposal proved unsatisfactory, the Chief Electoral Officer would then impose one on that party. In support of this approach, one participant noted that there is a strong likelihood that parties would come up with a solution that would suit their purposes and meet public expectations, because “there is the guillotine above their head. They have a real incentive to work it out. I think this would be a way to solve it in a very practical way, and also it allows the actors to come up with a solution, rather than to impose one top-down.” Co-regulation, rather than legal compliance, would be the operating principle.

In the end, participants returned to the original challenge of defining the problems. Because of the lack of information about what actually transpired, no one knows for sure whether we are dealing with one person who decided to go rogue, or an organization. There was agreement among a majority of participants that, without evidence of rampant abuse, the policy response should be swift but targeted. An overhaul of the entire system is not warranted at this time. But participants insisted that any response must deal with the “public trust” issue; the breach in trust alone should be enough to compel decision-makers to treat these matters seriously. “Tinkering at the margins” simply will not do. Finally, a few participants noted that these events have brought to light a number of reforms relating to privacy protection and transparency that Canada should adopt.

Beyond Legality: Political Culture and Civic Responsibility

Having weighed the merits of various proposals to tighten certain regulations, increase certain powers and change certain rules, participants acknowledged that there were limitations to any response that considered only legislative and regulatory reforms. Indeed, if the only prism through which political tactics are assessed is one of strict legality, political actors will always be on the lookout for loopholes, and the bar will be set ever lower with each campaign. Apart from reforming the rules, how can the system reinforce notions of fair play and civic responsibility as regulators of behaviour?

Launching the discussion, one participant set out to estimate the level of public knowledge of the robo-calls scandal and its impact on public perceptions of the electoral process. In this view, the scandal’s significance does not lie in its details or its specifics: most Canadians probably do not know very much about what happened. Rather, its power comes from the fact that it has become a symbol – the latest chapter in a series of events that date back years and have slowly but effectively eroded public confidence in the system.

Participants agreed on the likelihood that no citizen, if asked, would condone the actions of Pierre Poitine, and that there will be a high price to pay for anyone found guilty of wrongdoing. The reputations of political parties are therefore paramount: as one participant put it, “most people are cynical to start with and like to believe the parties are guilty. If there is any evidence of wrongdoing, citizens assume that everyone in the party must be to blame.” What’s more, it was argued, these sentiments are held strongly not by just those who follow politics but also by the vast majority of citizens, for whom democracy and fairness are strong values. Thus, the role of Elections Canada in responding to the scandal and restoring public trust will be crucial: as an organization, it has more

legitimacy than political parties, interest groups and the media. It is important, therefore, that the agency maintain its impartiality, and that it lead *and be seen as leading* reform efforts before the next election. In this view, a tangible achievement early on would be a powerful symbol and would reassure the public that someone is in charge and that something is being done.

A number of participants suggested that the media, in light of the role they have played in bringing these issues to light, have a supporting role to play in the restoration of public trust. Others added that certain policy organizations, advocacy groups and labour unions should be brought into this debate, as many of them are increasingly carrying out auxiliary functions (in volunteer training, fundraising, outreach and getting out the vote) on behalf of parties. Many participants emphasized the critical importance of Elections Canada's role in educating participants in elections – whether political parties, the media or third parties – on the process itself.

In responding to the scandal, Parliament would do well to consider a package of reforms as a whole, rather than specific measures in isolation. Legislators would also do well to keep in mind that this is not the first time that a political scandal has rocked Canadian politics. While the response must be serious, participants cautioned legislators not to fall into the trap of manufacturing a golden age. In fact, the situation has probably improved steadily over the last several decades. Nevertheless, a perception that things are getting worse can be corrosive, even if it is wrong. Finally, achieving an all-party consensus on the reforms would be a potent symbol of change that would have a salutary effect, and it is something parliamentarians should consider very seriously. That said, those initiating specific proposals should not confine themselves to what they think will pass in the House of Commons. Decision-makers should be compelled to review not just what can be done in the immediate aftermath of the investigation, but also more ambitious measures. Even if the measures are not adopted today, future events could transform what is impossible today into the possible.

Finally, as public perception is a part of this issue, it will be critically important that Elections Canada communicate with Canadians about what it is doing and how the reforms are progressing. Instilling a sense that the situation is in hand will be almost as important as the reforms themselves.

Concluding Remarks: Parting Advice for the Chief Electoral Officer

In the final session of the round table, the discussion focused on the advice participants would like to convey to the Chief Electoral Officer. In no particular order, the following key points were made:

1. As serious as these issues are, decision-makers would be wise to tread lightly. Take care to define accurately and precisely what it is we are trying to fix, and test reform proposals against that definition.
2. Take advantage of the opportunity to get ahead of the curve: address the shortcomings in enforcement provisions that have been brought to light by recent events, but also deal with the issues that arise from legitimate communications with electors, specifically transparency, data management and privacy protection.
3. Make proactive measures a priority – they are likely to have a bigger impact on behaviour than will reactive measures, and they will prove useful when offenses occur.
4. Compel political parties to negotiate, adopt and make public a voluntary code of conduct, and impose one on them if they fail to do so.

5. Make sure those who regulate the activities of political parties learn as much about voter contact techniques and emerging technologies as the parties do.
6. Put privacy concerns about the use of personal information on the public agenda, perhaps in collaboration with the Privacy Commissioner.
7. Ensure that the reforms that are proposed do not unduly restrict the ability of parties to engage electors.
8. Emphasize Elections Canada's public education role.
9. Differentiate between addressing the fraud that has been made easier by technology, on the one hand, and reforming the regulatory framework to adapt to technological change, on the other.
10. Consider the proposed changes in the broader context of party financing and democratic renewal.

Participants agreed that the starting point of any reform initiative must be to gain public trust. Specific measures should be assessed in terms of how they can contribute to regaining that trust. Therefore, Canadians should be further educated on the electoral process, Elections Canada's role in it, and the manner in which Elections Canada would communicate with them if the need arose. Moreover, reform proposals should be formulated in anticipation of the next technological innovation, not in response to robo-calls. "Robo-calls" as a tool will not be the issue for much longer – the important consideration is "What can be done to figure out what will come next?"

Participants were strongly in favour of parties continuing to be allowed to contact voters. The matter of whether opt-in or opt-out provisions are legitimate remains unresolved. Do political parties have a right to contact voters, or do individuals have a right to free themselves from such contact? That issue is certainly worthy of more reflection and discussion.

Finally, if one were to devise a work plan for policy reform, it would be useful to look at it in two phases. The first – changing the disclosure requirements, closing loopholes, preventing security breaches with the party databases, and a code of conduct for political parties – could be acted on rather swiftly. The second – the role we expect political parties to play in elections in the future, how much freedom from regulation and oversight will be appropriate for them in that role, and what level of consent they will be required to get from voters for certain specific activities – is perhaps more contentious and certainly more forward-looking.

In the end, participants agreed that addressing the future was as important as investigating the past. They expressed their appreciation for being given the opportunity to contribute to the consultation, and wished the Chief Electoral Officer every success as he considers the advice and recommendations he will bring to Parliament.



**ISSUES ARISING FROM
IMPROPER COMMUNICATIONS WITH ELECTORS**

ROUND TABLE DISCUSSION

Wednesday, December 5, 2012

**Neufchatel Room
Marriott Château Champlain
Montreal, Quebec**

Agenda

8:00 – 8:30 a.m.	Continental Breakfast
8:30 – 8:45 a.m.	Words of Welcome (Graham Fox, IRPP)
8:45 – 8:55 a.m.	Opening Remarks (Stéphane Perrault, Elections Canada)
8:55 – 9:15 a.m.	Setting the Scene
9:15 – 10:15 a.m.	Group Discussion
10:15 – 10:30 a.m.	Break
10:30 – 11:00 a.m.	“Looking Ahead: Where Is Technology Going, and What Will It Mean for Our Politics?”
11:00 a.m. – 12:30 p.m.	“Enforcing the Rules and Preventing Abuses: An Assessment of Potential Measures”
12:30 – 1:30 p.m.	Lunch
1:30 – 3:00 p.m.	“Beyond Legality: Political Culture and Civic Responsibility”
3:00 – 3:45 p.m.	Wrap-Up Session

APPENDIX 2 – FULL LIST OF PARTICIPANTS



ISSUES ARISING FROM IMPROPER COMMUNICATIONS WITH ELECTORS

ROUND TABLE DISCUSSION

Wednesday, December 5, 2012

Neufchatel Room
Marriott Château Champlain
Montreal, Quebec

Participants

Policy Experts

Colin Bennett	Professor, Department of Political Science, University of Victoria
André Blais	Professor, Department of Political Science, Université de Montréal
David Coletto	Chief Insight Officer, Abacus Data
Kenneth Cosgrove	Associate Professor, Department of Government, Suffolk University
Tom Flanagan	Professor, Department of Political Science, University of Calgary
Wally Hill	Vice-President, Public Affairs and Communications, Canadian Marketing Association
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