

THE MUTTART FOUNDATION

Review of the Consultation Process

18-19 May 2022

Banff, Alberta

A Summary of the Discussion

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The Muttart Foundation hosts periodic consultations on voluntary sector regulatory issues. These sessions are intended to promote an exchange of ideas and to develop a fuller understanding of the concerns of both sector groups and government regulators. The May 2022 consultation marked the Foundation's fiftieth. The focus was on the consultation process itself, including what has made this process work, what the Foundation and others can learn from it, whether it should continue, and considerations for improving future sessions. Any remarks included in the report are intended to reflect the discussions. No undertakings or commitments from either regulators or sector participants are expected or made, notwithstanding any of the wording in the Report.

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A Summary of the Discussion

ROUNDTABLE INTRODUCTIONS

What keeps you coming back?

This session began with a round of participant introductions. Those in attendance had been to several consultations over the years, so they were asked to share what motivated them to keep coming back.

Many see the consultations as providing a safe, non-threatening environment for constructive dialogue between the regulator and the regulated. The consultations create an opportunity to think openly and critically about the issues, get to a common understanding of those issues and listen to a range of perspectives, opinions and positions. Personal agendas are kept out of the room. The conversations are honest and stimulating, giving participants the space to agree or disagree respectfully, while not imputing motives.

The process of having no pre-determined agenda and no pressure to come up with outcomes or decisions has been particularly effective for coalescing around new ideas and avoiding tunnel vision. It enhances the capacity of participants to think laterally and provides opportunities for them to change their opinions. Each person is seen as having a contribution to make and having enough time means that participants can look at the issues in a deeper way. It increases understanding and leads to new insights, capturing the nuances and seeing the various perspectives to a problem or issue. There is intentionality to the process, the scope of the issues is narrow enough to tackle and the approach to dealing with the issues is proactive, when most of the time our default mode is to be reactive.

Many participants also value the consultation process as a unique learning and professional development opportunity. It helps them to learn about the regulatory process and how other international jurisdictions address similar issues or challenges. The process also provides access to legal and other professional expertise, especially important since many from the sector have no legal or accounting training or background.

The building of networks and relationships between the sector and the regulator and between individual participants has proven invaluable. It has opened doors at the Canada Revenue Agency (CRA)- they are now seen to be more approachable and conversely, the regulator has

an opportunity to connect with sector leaders and representatives and get to know them better. For the lawyers, it's an opportunity to connect with their peers in both charity and trust law. It's also an opportunity for CRA to connect with Finance. Overall, this process has led to the development of trusting relationships and enhanced capacity for being better advocates on both sides of the equation.

From the regulator's perspective, the consultations also provide an appreciation of the sector's diversity, deepens understanding of the impacts of any proposed changes and helps to shape interactions, without the concern of getting co-opted. It allows the regulator to bring its own questions to the table. It truly informs policy development and regulatory change at CRA. It is also an opportunity for learning, especially about how sub-sectors can be differently affected by the rules. Regulators tend to work in a vacuum, so this process is useful to connect with the sector.

From the perspective of lawyers, this process informs their practice, increases their understanding of the 'why' of regulations and has helped to change their perception (and that of their clients) of an inaccessible regulatory structure.

Academics can at times feel isolated from the sector and regulator, so hearing the inside/real views informs both their research and teaching.

When it comes to impact, many participants commented on the fact that these consultations have had a direct impact on policy formulation and changes to charity law. Incremental changes in policy or regulations can and have had a big impact on charities, and some issues have moved from the regulatory to the legislative realm.

“It has allowed us to sand off the edges off regulations that didn't work and make it better for both the regulator and the sector.”

What is your one takeaway?

Participants were also asked to describe one key takeaway from their experience in being a part of these consultations. This is a summary of the comments received. They generally echo the reasons for which participants keep attending these consultations.

- There is no comparable approach to doing public policy. Moving policy forward is challenging but this process has proven effective in doing so.
- This is about consultation not confrontation, which is of great value in an era of increasing confrontation and polarization. How ideas are expressed is as important as what is expressed. Discussions are civil, respectful and constructive.
- While there are different perspectives, there is a desire to bridge divides and reach consensus.
- This is a true opportunity to think outside the box.
- Allowed for an improved understanding between the regulator and the sector participants. The regulator better understands and is more sensitive to the sector's issues and challenges.
- As regulators, we can agree to disagree and not feel obliged to act in a given way.
- Relationships get forged and these contacts prove invaluable over time.
- Guidelines and changes to policies get written as a result of these consultations. There is conversation not only about what gets written but how it should be written.

- It takes expertise, time and trust to deepen understanding and get to good policy and regulations.
- Charity law is very high level and conceptual, leaving much to the discretion of the regulator so getting regulators to sit with fair minded sector people with experience leads to thoughtful guidance and improved regulatory behavior.
- This provides an opportunity to reflect on the underpinnings of the law and its evolution over 400 years.
- This process should not work, based on the rules of ‘good’ consultations (ie. representation, diversity, a clear agenda, etc.) but it in fact does work very well.

“No harm will ever come from people of good will talking around a table”.

HISTORY OF PROCESS

Bob Wyatt:

In late 1996, the Muttart Foundation was exploring the possibility of funding Community Economic Development (CED) projects. This was problematic given some CRA restrictions. The Muttart Board of Directors asked the Executive Director (Bob Wyatt) to try and find some answers to the challenges and restrictions.

Bob Wyatt set up a meeting with the Acting Director of the Charities Division (Carl Juneau) and one of his colleagues (Judy Torrance). The question posed to Carl Juneau was “can the CRA change the restrictions in order to allow funding of community development?” – and the response was “no”. Carl Juneau went on to explain that there were areas of Community Economic Development that the CRA didn’t understand. The ultimate purpose of CED appeared to be at times “charitable” and at times “private benefit”.

Bob Wyatt then asked if the CRA would be open to bringing content experts together, along with CRA representatives, to further discuss and Carl Juneau agreed to that approach. It was further determined that the discussion would be open and that participants would not be “penalized” in any way for sharing examples, etc.

Bob Wyatt then contacted Gordon Floyd from the Canadian Centre for Philanthropy – to discuss “how” this might happen.

Carl Juneau:

In the early 1990’s, the CRA consultations were limited and consisted of inviting 6-8 charities (using their own resources) to inform them of what the CRA was doing, what was upcoming and then to ask a few questions of the invitees. There was no financial capacity to do policy development and the tools available were limited (focus groups and surveys). Most survey questions were add-ons to general surveys.

Gordon Floyd:

Gordon had been with the Canadian Centre for Philanthropy (CCP) for about 3 years and was responsible for policy and regulatory requirements. CCP had about 1,200 members and all were charities. Most charities didn’t trust the Charities division of CRA.

Muttart was a key funder of CCP and Carl Juneau seemed to be semi-reasonable. At CCP, there was very little knowledge about Community Economic Development.

Bob Wyatt:

The first step was to go back to the Muttart Foundation Board and request the funding to undertake the consultation. The Board agreed.

Several teleconferences were held to determine who the invitees would be. A long list of 40 names was developed and 20 were invited; 19 agreed to participate. The meeting was held in Montreal and was facilitated by Peter Faid. We had planned the meeting over 2 days and by noon on the second day; the issues were resolved. Within 6 weeks, the Community Economic Development policy had been completely re-written and included Program Related Investments.

Carl Juneau:

A few observations about the meeting. We felt that we needed people from across Canada and this was the only consultation that provided simultaneous interpretation. We needed to establish a sense of trust. At least one participant kept leaving the consultation to go back to their workplace.

Gordon Floyd:

The trust was established pretty quickly, in large part because of the openness demonstrated by Carl Juneau and Judy Torrance. They made it clear from the start that they didn't fully understand the issues. The session began with participants speaking, in some detail, to their respective experiences and where they were likely operating outside of the current restrictions. Participants were accommodated in a nice venue and were well fed. The regulatory barriers were identified one by one and the participation of the UK and Wales (Lindsay Driscoll) allowed us to consider a different and more trusting approach.

Bob Wyatt:

A post-mortem of the consultation was undertaken. It became clear that we could and should do this again but that it needed to be a Muttart Foundation project (it could not be co-sponsored and therefore be bound by any of the CRA rules). We knew that "who" was in the room would be critical to the ongoing success of consultations.

The second one wasn't as successful; the topic was political activities. The venue wasn't great, and we didn't have all the right people in the room. Nevertheless, the decision was made to continue doing the consultations. Future consultations included lawyers, accountants, and charities – as well as some international guests.

The small steering committee (Carl Juneau, Gordon Floyd and Bob Wyatt) would meet and determine topic and invitees – six to twelve months in advance. Once we determined the topic, the CRA staff would be engaged to write a brief paper on the issues.

Gordon Floyd:

One of the keys to success was the low-key facilitation that kept us on track and got us as close to conclusions as possible. The social aspect of the consultations has been as important as the

more formal aspect. Dinners and receptions have allowed for informal conversations and networking and have helped to build trust.

Bob Wyatt:

The Muttart Board has reviewed the consultations to determine its ongoing role of funder and convenor and has always concluded that the consultations were valuable. The topics are often not related to Muttart's funding interest; Muttart is interested in creating the environment for the discussion to take place.

Consultations were held in several cities (Montreal, Calgary, Quebec City and Banff). The Banff location allows for participants to "stay in the room" and the Muttart Foundation has been able to negotiate rates that are now difficult to match (in any other location).

Each Director General (and each Policy Director) of the Charities Division has been supportive of the consultation process. The success has continued to be related to: having the right people in the room, leaving agendas at the door, ability to discuss in a safe environment, and the ongoing cooperation with CRA and Finance. Equally importantly, the issues discussed at the consultations weren't viewed only as the sector's issues but also as the government's issues.

Gordon Floyd:

The participant selection process has included ensuring that charity lawyers participate. CRA has the ability to ask for a potential participant to not be invited (without any further explanation).

Q&A/CLARIFICATION CONCERNING THE HISTORY

Question: Has there been any pressure to make the process more visible?

Response: Initially, the concern was that if this process became known, CRA might be invited to participate in a variety of consultations. The issue related to these consultations becoming political was also of concern. A few years ago, a request was made through Freedom of Information for the reports of the consultations to be made public. The anonymized reports are now published on the Muttart Foundation's website.

Comment: There can be some discomfort in terms of diversity of perspectives (representation); stakeholders will be asking "who" is the CRA speaking to?

INTERNATIONAL PERSPECTIVES

England and Wales

- Tried a 2-day event several years ago that included Charity Commission, sector representatives, and charity lawyers to discuss charity law. Was held in a castle. It didn't work – because:
 - Wrong people were in the room
 - 2 leading QCs, members of House of Lords
 - Level of debate was superficial
 - No facilitator: several participants dominated the conversation

- Not enough preparation
- Another example held by Charity Commission was a consultation on “religion”; it was well prepared, well facilitated, had good representation, and yielded good outcomes.
- Last example also held by Charity Commission to discuss international agencies; high trust level existed, and the discussion was productive and led to revised guidance.
- Would NOT work today because:
 - Relationship is different
 - Trust is not there
 - Engagement visits are no longer happening
 - Choosing participants would be difficult (i.e., charity lawyers are competing)
 - We are not as good at listening
 - We would require a funder
 - Meetings tend to be more aggressive
 - Pandemic has made communication more difficult
 - Many issues are people issues (i.e., conflicts on Boards) as opposed to legal/regulatory issues
- It should be noted that this kind of engagement depends on the posture of the Charity Commission and how it interprets its role- as a friend to the sector or in a policing role.

Australia

- Pre-2000: we didn't have a sector; wasn't “invented” until mid-90's
- Peak bodies didn't see their commonalities
- Late 1990's government started contracting and introduced a goods and services tax (GST)
- The sector was brought into the tax system
- Sector organizations required registration
- Small minority party paid attention to charities and brought amendments to the GST
- A consultative committee including charities was put in place to advise on GST implementation
- Education for charities was needed and new appreciation of charities resulted
- Example: GST on “new” goods vs. “used” goods
- In 2010-2012 a commission of lawyers, accountants and practitioners was formed which morphed into a Stewardship Committee – co-chaired by a charity representative
- Would this type of process work in Australia? It would be challenging because:
 - Would need to be well funded
 - Charity lawyers are competing
 - Siloed Peaks – no overall Peak exists
 - Geographic rivalry/ catholic vs. protestant/ left vs. right divide

USA

- There have been some similar consultations, but context is important
- There are transparency rules related to meetings held with Treasury. For example, names of participants, papers submitted, etc. are made public and frequently accessed.
- Meetings with IRS are usually protected unless they are about legislation. If meetings are convened by the IRS, they are subject to lots of rules and regulations.

- Presenting at conferences is subject to approval and must be paid by government
- Connection is difficult as there is very little communication (unless it is through personal connections)
- In the 1960's, one of the law schools tried this type of process but made some mistakes:
 - Tax law conversation vs. charity law conversation
 - It became a closed-door lobbying effort
- Could this happen in USA?
 - Would have to be a private meeting
 - Government representatives would have to pay their own expenses (Note: CRA and Finance pay their own expenses to participate in Muttart Consultations)
 - There isn't much history about these types of events
 - Sector would have to want to participate
 - Litigation is a huge factor in USA
 - Trust would need to be built

New Zealand – presented by Bob Wyatt

- Tried to replicate Muttart consultation
- Invited Bob Wyatt who was unable to attend
- Process didn't work
 - Allowed the participant invitation to be transferred
 - Cultural difference – 2 house model; caucusing before each topic

COMMENTARY CONCERNING INTERNATIONAL PERSPECTIVES

- The UK holds consultation and conferences, but they don't have the level of detail and engagement that Muttart Consultations have had
- Need to understand “who” the right people are i.e., subject expertise vs. fame
- Important that there is anonymity, Chatham House Rules as this means that there is no ego or personal gain
- Could process work in the USA at a State Level? Likely not as there is the same tangle of rules as at the Federal level
- Three important factors
 - Pleasure – food and location
 - Purpose – greater good, no competition, intent to make the system better
 - People – unique people (Gordon, Carl and Bob) created the process
- Example of USA Academic conference
 - Held in a facility that wasn't great
 - Themes are academic – attended mostly by law professors
 - IRS and Treasury are invited but as observers
 - There is no discussion
 - Press can be there
- Let's be careful not to overplay the fact that this can only work in Canada
- The leadership/contribution of Muttart is critical
- Let's not forget to look at some of the risks (people focussed, political environment, participation, one funder)

- We should also explore those consultations that were less successful as there is value in learning from our mistakes.
- Some academic consultations have had some success (School of Public Policy)
 - 40-50 people
 - ½ day only
 - Each topic isolated
- Have we considered whether the Muttart Consultations have slowed down other types of engagement?
- Would the success of the consultations be enhanced with more participant diversity?
- The choice of topic for discussion is an important variable

SUCCESS AND RISK FACTORS

List of Success Factors

Participants were asked to identify the key factors that have made these consultations so successful over the years. Here is a summary of their answers to this question.

- The quality of the participants: the expertise/knowledge of sectoral participants, lawyers, accountants, academics and international experts and their capacity to leave agendas at the door and engage in dialogue, not debate. Non-transferable invites are a necessary condition to maintain as well.
- Presence of both the regulator (CRA) and Finance
- No expectations for any particular outcomes, no set agenda and no predetermined process
- Neither the regulator nor the regulated are held to account or expected to take any particular actions as a result of the consultation process.
- No enforcement consequences as a result of information that may be disclosed in the process
- Both formal and informal events allow for participants to get to know each other better
- Clear rules of engagement (Chatham House Rule, no comments for attribution, etc.)
- Clear and enforced behavioral expectations: no use of cell phones or laptops, no accepted distractions
- A location away from Ottawa or other cities, which means a sustained presence of all participants, because they are not being pulled away for other meetings
- Length of time of the consultation- helps to build trust between those who know each other well and those who are new to the consultations and allows for time to learn more about the issues.
- Number of participants is about right- most consultations include between 20-25 people
- International perspectives
- Historical memory of the consultations, done via choice of participants who have been involved for many years
- Effective facilitation where everyone is heard
- Pre-readings
- Choice of topic and timing
- Tightness of the topics- they are not broad or meandering which leads to focussed discussions
- Active listening to every opinion instead of speeches
- Personal or organizational agendas are left at the door
- A gracious spirit when there are differences of opinions

- Careful planning and a great host
- A process that yields results
- Established trust, especially between those who come more than once
- Development of a unique culture of engagement, that comes as a result of a mix of all the ingredients, and which contributes to positive outcomes.
- Relentless incrementalism
- Muttart Board support
- Mr. Bob Wyatt
- Good food, a wonderful environment, and three days of time generates a reciprocity of contribution and an obligation to do good work.

List of Risk Factors

Participants were asked to identify the key factors that could put the consultations at risk. Here is a summary of their answers to this question.

- Loss of government participants
- Complacency
- Echo chamber – insufficient diversity of views
- No teaching of next generation in method
- Retirements – no younger leaders
- Muttart staff turnover
- Lack of transparency (real or perceived)
- Real or perceived privileged access to regulators/decision-makers
- Increased inattentiveness of participants owing to technology
- Saturation?
- Loss of middle space for dialogue in society
- Change of federal government
- Bob retires
- Failure to invite new participation and get new perspectives
- CRA and/or Finance are no longer able to participate
- Change of direction or reduced funding by Muttart
- Competition for similar consultations by other organizations forcing CRA/Finance to “choose”

Before moving into the specific recommendations, the group agreed to review the purpose/mandate of the Muttart Consultations.

PURPOSE/MANDATE OF MUTTART CONSULTATIONS

The purpose/mandate of the Muttart Consultations is to create a safe environment so that the regulators and the regulated can discuss charitable law, regulations and policies and the impact of changes. It is also:

- A cross-educational exercise

- An exchange of information that can lead to suggestions for changes without commitment to action
- An in-depth examination of a specific issue
- An opportunity to solve problems and/or identify solutions
- An opportunity for the sector to contribute to solution finding
- An opportunity to test trial balloons
- An opportunity to learn from international perspectives

Several questions were raised to understand the difference between the Muttart Consultations and the current Advisory Committee on the Charitable sector. The following information was provided:

Language from the 2019 Economic and Fiscal update

A Permanent Advisory Committee on the Charitable Sector

The Government is committed to engaging in a meaningful dialogue with charities and ensuring that the regulatory environment in which they operate is appropriate and supports the important work they do. In response to the recommendations of the Consultation Panel on the Political Activities of Charities, as well as the Social Innovation and Social Finance Strategy Co-Creation Steering Group, the Government is establishing a permanent Advisory Committee on the Charitable Sector. Led by the Canada Revenue Agency, the Advisory Committee will be made up of stakeholders from the charitable sector and will provide advice to the Government on important issues facing charities on an ongoing basis. The Government is providing \$4.6 million in new funding over the 2018–19 to 2023–24 period for the Advisory Committee to strengthen the relationship between government and this important sector.

NOTE: The full Terms of Reference of the Advisory Committee on the Charitable Sector are attached to this report (see Appendix).

What are 2-3 areas for improvement/change?

Participants were broken up into smaller groups and asked to discuss any changes or improvements they would propose for the consultation process going forward.

There was a high degree of consensus that these consultations should continue, keeping in mind the critical success factors identified above, but that changes could be made in two broad areas: increasing the diversity of participants and making a few administrative/procedural changes to the overall process as it currently stands. There were also some comments about the need for greater transparency about these consultations in the future and the need to consider succession at two levels- with the Executive Director of the Foundation and with international experts.

Participation and Diversity

A key change that was widely discussed and supported by all in this consultation was the need to increase diversity of the participants in terms of age, race and cultural background, so as to better reflect Canadian society, engage new players and to solicit a greater diversity of viewpoint and opinions. There is a need for greater inclusiveness of age, diversity, experience and continuity, which would mean reaching out to new participants while sustaining a presence of those with expertise and experience.

This prompted a discussion about being able to attract the next generations of sector participants because their priorities lie more with making broad systems change and we may find that the issues discussed and the process used here are not appealing to them. There was also some discussion about whether increasing diversity would imply a need to change the process as well. In the end there was general consensus that new participants can indeed be identified, that there are younger diverse people out there with an appetite and an interest in these discussions, but that some sort of focused outreach and an onboarding process would be necessary to help them understand the unique consultation process, the regulatory framework and the issues and the historical impacts and outcomes of bringing the regulator and the regulated together.

Below is a summary of the perspectives shared by the groups on the topic of increasing diversity at this table.

- The purpose of these consultations is to generate ideas and improve knowledge. We need to train new leaders, practitioners and policy wonks. While the audience for this work is small and limited, it needs to be modernized and opened up.
- Increasing diversity is a process. The federal government is used to dealing with the diversity issue, but it all starts with a stated commitment to diversity.
- Muttart will get value from new perspectives because diversity brings more hats.
- While government consultation processes generally require geographical representation, the Muttart process was never designed that way as it was meant to identify and bring together sector expertise and knowledge.
- There was a suggestion of co-leading some consultation processes in the future, for example, with an Indigenous organization, in an effort to address concerns about being part of patriarchal and colonizing practices.
- If you bring in next generation participants, the process will likely evolve incrementally over time.
- It is possible to get people in the sector who have an interest in regulatory matters affecting charities. We need to test our assumptions about what people will or won't participate in. Start identifying the younger emerging leaders in the sector who are more diverse than the current or retiring leadership. Go to the second level of leadership in large organizations to find new participants.
- From the regulator's perspective, there is a need to diversify participants because what the regulator is hearing from surveys and other processes is at times inconsistent with what they hear here.
- Organizations that advocate/represent diverse communities get many requests to be at different tables. These organizations are often small, with limited resources and engaging in a Muttart process doesn't likely align with their mandates.
- Practices for ensuring inclusion are also changing and adapting. Some organizations are paying honoraria to persons representing marginalized or diverse communities or paying their organization to backfill positions when a representative is away. These would be policy matters for the Muttart Board to consider.
- We need to engage more umbrella organizations to get more reach into the sector.
- We can also broaden participation of staff from CRA and Finance by bringing in people from other levels.
- Suggest we put in place a buddy system between existing and new participants prior to consultations. It would be to help new people understand the process (i.e., about dialogue and search for solutions, not debating or trying to convince). Can there be an

alumni group to serve as a resource and who can be called upon to support new participants?

- Consider shorter commitments for next generation of participants.
- Need to expose the next generation of participants over a period of time. Getting next generation participants to participate will depend on the topics. Can we engage with the sector's next generation leaders about what is of interest to them?
- Foster connections to young charity lawyers
- When it comes to recruiting new participants, the Advisory Committee on the Charitable Sector had over 200 expressions of interest from persons across the sector. This may be a source of new participants for this table.
- The kind of change in participation we are talking about can be done incrementally over time, with the inclusion of a few new diverse participants at a time and not a wholesale change of participants, which would have a negative effect on knowledge transfer and continuity of the process.

Increase Transparency

- Overall expectations for greater transparency in society need to be taken into consideration by Muttart. Perceptions matter and right now the participants don't look very diverse. Muttart could be challenged on this matter and the credibility of the process cast into doubt if it is not seen as being inclusive to a range of persons from different backgrounds and experiences.
- There are also questions around the opulence of the event and whether it can or should be scaled back in terms of location, meals, etc.

Succession

- Bob's knowledge and commitment is key. There is a need for a succession plan within Muttart to ensure continuity of this consultation process, especially if Bob moves on.
- Also need to consider succession of our international colleagues and how they participate. They have been particularly effective because their approach has always been to share, not preach.

Given that diversity was identified by many participants as an important area for improvement, breakout groups were created to help identify "how" diversity could be achieved.

INCREASING DIVERSITY – FULL REPORTS FROM BREAKOUT GROUPS

One of the potential improvements raised was to consider increasing the diversity of the participants. Five breakout groups were asked to consider "how" this could be achieved. All five suggestions are below:

Group 1

- Given that ideal number of participants for engaged dialogue is 20 to 25
 - 4 people from CRA/Finance
 - 5 people from Pemsel and/or those that bring experience and historical context
 - The Executive Director of Muttart (Bob Wyatt)

- It will be important for the Muttart Foundation to make a commitment to increasing diversity
- A target or targets could be established
- Important to keep the existing principles for selection (i.e., align participants to the purpose, the process and the subject matter).
- Once the subject matter is determined – consider diversity of thoughts, ideas, perspectives while also considering age, race/culture, rural/urban, geography, etc.
- There is also a need to think about succession (particularly for those who are generalists and have attended on a more regular basis; the same is true for international guests and government representatives)
- It will be important to define targets and timeframes and assess the progress on a regular basis. Has diversity influenced process? Outcome?
- The group discussed how best to achieve this diversity. One suggestion is to reach out to those who have attended regularly and ask them to reach into their own networks and beyond.
- A commitment to the process will be needed from new participants
- Incremental change is recommended (example – we hope to have 30% diversity in 3 years)

Group 2

- Important to understand that approximately 450 people have participated in the Muttart consultation process.
- Believe that the change to achieve greater diversity needs to be incremental, intentional, and deliberate. It needs to be done carefully.
- Suggest that a spreadsheet or matrix be created; start by identifying who is being invited now, then identify some potential new and diverse participants to add to the matrix. This would then serve as a resource when choosing participants.
- For international guests and legal expertise, we could ask the current participants to help identify others in their field/country.
- For subject matter expertise – consider using the intermediary organizations (Imagine Canada, ONN, CCVO and others) to be a resource and help direct us to a more diverse audience. Academics might also be able to provide names of potential, diverse participants.
- Government representatives could also be invited to consider providing potential, diverse participants
- Incremental change should start now; the more regular participants could act as “buddies/mentors” to new participants
- Consider the Indigenous perspective
- Consider the Quebec perspective

Group 3

- The group first considered “how much change” would be required. Two options were considered 1) continue with the current process and agree to a sunset time; and 2) changing the current process over time. The group agreed to focus on the latter.

- There is currently an element of constant actors (regular participants) – consideration needs to be given to changing the regular participants, over time. Both the Foundation and the regular participants would need to agree, and the regular participants could perhaps participate using video technology to ensure a smooth transition. This would evolve over time and would need to be respectful.
- Consider the strategic use of video technology for presentations, and also for some elements of the international perspective.
- There needs to be recognition that changing the participants will invite a wider range of perspectives. Intentionality is important. There is a need to engage new networks and consider the knowledge of participants, how they listen, how they participate respectfully, etc. Participants will need to respect the spirit of the consultation process.
- Muttart will need to make a statement of commitment

Group 4

- The diversity of the participants will be dependent on the topic of the consultation
- The focus of increasing diversity likely needs to be from the charitable sector representatives
- Consider video technology to achieve greater participant diversity
- Important to maintain regional diversity as well as diversity of thought
- Umbrella groups can be a resource to help identify diverse participants
- Consider the potential for a sub-group of the current consultation advisory committee that would be responsible for recruitment and introduce an interview process for participants (a vetting process)
- There is a wide range of organizations (corporations, government and the voluntary sector) who are recruiting with a diversity lens – they could be approached to help

Group 5

- The group started by acknowledging that there is a group of young/diverse leaders who are keenly interested and policy and who would be interested to participate in the consultations
- Through existing extended networks, a pool of potential participants can be identified and then matched to the consultations based on expertise and experience to the topic of the consultation. The process for this would be distinctive for each consultation.
- There is a need to consider critical mass; likely 3 to 5 newer participants – an incremental change over time
- CRA and Finance could select their own people and might allow others to participate using video technology
- The international guests could be asked for input on potential new participants from each of their respective jurisdictions
- In terms of pace, this group felt that it should start now (just do it)

Administrative/Procedural Issues

Documentation- pre and post

- It would be helpful to have a discussion/issue/position paper prepared in advance to situate the discussion. These can be short, crisp and where applicable, explain the

existing regulation or guidance. Or a position paper could also be more comprehensive to lay out the issues, present scenarios that demonstrate the complexity of the problem, and identify factors and challenges. Scenarios could help to bring into focus the realities of the sector when dealing with regulatory requirements or changes. Such an approach would also help to level the playing field of knowledge among the participants.

- Pre-readings for consultations could be disseminated by someone else to a broader audience
- Post-consultation outcomes should be reported back to participants and perhaps to a broader audience, if the goal is to inform and educate more broadly.

International Perspectives

- International perspectives have proven to be invaluable. Getting even more perspectives would be beneficial to the process.

Hybrid Model of Participation

- Due to the pandemic, the last few consultations have allowed for a hybrid model whereby government representatives from CRA and Finance were able to attend virtually as well as some sector participants or experts who were unable to travel for various reasons. There were varying views on continuing to use a hybrid model in the future. Some felt it would allow for the presence of more junior government representatives at the table as a way to initiate them to the process and transition them to full participation, while allowing the more senior persons to attend virtually.
- More diverse views could be solicited by inviting people to make presentations that could be done virtually.
- Consider flexibility of the format. Should we make it easier for government representatives to participate by having a hybrid model or moving the consultations to Ottawa? Virtual participation is not ideal, but government representatives wondered if this was possible. (It was pointed out that if the meetings were moved to Ottawa, government representatives would be at risk of having to leave to attend other meetings.)
- While there could be value in having persons doing presentations virtually, maintaining in-person meetings is useful for relationship building and has been deemed a critical success factor. These consultations should never be totally virtual.

Facilitation

- Make sure the facilitation process 'manages' the lawyers because their input can sometime be too technical, to the point that other participants can't follow what is being said.
- Use scenarios in the facilitation process, with practical examples from sector organizations. This could engage next generation participants in new ways, without the need for extensive experience or knowledge of CRA rules.
- Other processes could be developed to hear other voices from the sector on some issues- make use of 'practitioners/pracademics'.

Location

- Location matters and while most understand the value of being away from offices for a given length of time, some expressed concerns about the perceptions of the

consultations being held in Banff and that this is potentially a barrier to attendance by government participants.

Scheduling

- Should we change the timing of consultations to be more opportunistic around emerging issues, instead of having it set for May and October each year?
- Can the consultations end earlier to accommodate those who travel from the East? And can we consider a 10 am start for the same reason?

Other Ideas/Questions for consideration

- Can we get more data on the table?
- Can we think about getting other funders on board? What contribution could they make?
- Does size of group matter? Would a smaller group of participants be more conducive to the process?

Further Participant Comments at the Conclusion of the Consultation

As we were not able to do the roundtable exercise of receiving final comments at the end of this consultation, the Muttart Foundation invited participants to share their comments in writing instead. The comments received all spoke to the significant and varied impacts of these consultations over the years.

Below is a summary of the comments received:

- The experience of the consultations had a direct and positive influence on the way the work of the (VSI) Regulatory Roundtable was conducted, and which allowed them to hit the ground running without stumbling around trying to figure out how we would all work together. As for the Technical Issues Working Group, had it not been for my experience with the consultations I would never have come up with the idea for this in 2004. The Muttart Consultations were a model that I could easily adapt to meet a different need. I was really pleased to hear that this working group is still productively working today. Without the influence of the Muttart Consultations, the idea of bringing in secondments to work on religion and fundraising guidelines would not have entered my mind.
- Clearly, the consultations changed the relationship between the charitable sector and the CRA permanently and for the better. While we place, perhaps, more emphasis on the changes to the more formal aspects of the relationship, for me the more important change was our opening the door to the myriad informal contacts that developed and the willingness of the sector to walk through that open door to speak its mind openly and freely. I enjoyed that open relationship a great deal.
- These consultations have provided a better understanding of the challenges and needs of the sector, paving the way for a meaningful working relationship between my office and the Charities Directorate and the opportunity to contemplate and problem solve significant issues.
- I know of no other more effective public policy approach. The concept of bringing people together in a wonderful environment for a few days of frank and candid discussion about public policy is the way we increasingly need to be working in Canada. In these times of increasing polarisation, there is more need than ever to provide opportunities for civil and evidenced-based conversations.

- These gatherings have been hugely important for my own personal and professional development. They have actually supported my career and my journey for over more than 20 years and have helped me be better at my jobs. My learnings and the insights stemming from these multiple conversations have also helped me be a much better Board member. (These consultations) have put me in contact with so many great colleagues who in turn have had an impact on my career and on my ability to succeed.
- Each session provided me insights into many important issues that the sector is dealing with and at the same time, the sessions allowed me to share our views and opinions from the government point of view. This ongoing exchange has attributed to a stronger relationship between the sector and government. In addition, the consultations have generated positive ideas and changes to the regulatory framework.
- The summary of each consultation's outcome made it clear that digging deep into matters from an exploratory and problem-solving perspective with open minds sharing the goal of a vibrant charitable sector really does benefit everyone. And hearing the story of how it all got started from three different angles made me appreciate each one of the "founders" all that much more for the vision, risk tolerance, and commitment they brought to the table.
- I thoroughly enjoyed the consultations, as I always did in the past. The hospitality was excellent as always. I too feel that the relationship between the regulator and the sector is facilitated and enhanced by the Muttart Consultations. If all the other formal consultation mechanisms were kept, and Muttart Consultations were stopped, I would predict that it would only be a matter of time before the relationship more broadly would suffer. The exact formula you use going forward - venue, participants etc. - can always change, but I would not lose the format of frank dialogue and joint and respectful problem solving in a safe space, however it gets modified going forward.

APPENDIX

Advisory Committee on the Charitable Sector

1. Mandate

The Advisory Committee on the Charitable Sector (the Committee) is a consultative forum for the Government of Canada to engage in meaningful dialogue with the charitable sector, to advance emerging issues relating to charities, and to ensure the regulatory environment supports the important work that charities do.

The Committee provides the Minister of National Revenue and the Commissioner of the Canada Revenue Agency (CRA) with recommendations for administering and interpreting the *Income Tax Act* (ITA) and the common law for registered charities and other qualified donees. Members may consult other sector stakeholders to help identify issues and gather input on recommendations.

The Committee may also make recommendations for legislation relating to registered charities and other qualified donees in the ITA. These recommendations will be shared with the Department of Finance Canada (Finance Canada) for consideration.

2. Member composition

The Committee consists of up to 20 members:

- up to 2 co-chairs from the charitable sector;
- up to one “past” co-chair from the charitable sector;
- up to one “transitional” co-chair from the charitable sector;
- the Assistant Commissioner of the Legislative Policy and Regulatory Affairs Branch (LPRAB) of the CRA, serving as the CRA co-chair;
- up to 13 members with experience grounded in the issues facing the charitable sector;
- a representative from the Charities Directorate, LPRAB, CRA; and,
- a representative from Finance Canada.

The Minister of National Revenue appoints members and the sector co-chairs. Members may be reappointed. Should a member not be able to serve their full term, the Minister appoints a replacement for the remaining portion of the term.

All sector members and co-chairs serve two (2) year terms beginning after the Minister of National Revenue announces their appointment. Up to two charitable sector co-chairs may be named. As needed, the Minister of National Revenue may appoint a past co-chair and transitional co-chair who are previous sector co-chairs who serve an additional one (1) year term to support the transition of new sector co-chair(s).

Membership is voluntary and sector members are not paid for their time or services. In accordance with the CRA Travel Policy, members are reimbursed for travel and accommodation expenses to attend in-person meetings.

Representatives from other government departments may be invited as observers or resource people on a temporary or ongoing basis.

3. Roles and responsibilities of members

The roles and responsibilities of members include:

- identifying emerging issues;
- proposing topics for discussion;
- providing input on CRA services, products, administrative policies, and other issues and initiatives that are identified by or presented to the Committee;
- participating in or leading working groups;
- consulting with representatives of the charitable sector and with their own communities on topics raised by the Committee; and,
- contributing to the development of recommendations.

Committee decisions are ideally made by consensus of the members. If consensus cannot be reached, decisions are made by the majority of members. Topics of discussion must align with the mandate of the Committee (see Section 7).

Information shared by members becomes part of the formal and public proceedings of the Committee upon consensus of the members. Member biographies and photographs also become part of the public proceedings.

Members may discuss Committee initiatives with their associations and colleagues unless advised that they should not do so for reasons of confidentiality.

Committee members are not spokespersons for the CRA. Members are selected to bring their knowledge, sector experience, and diverse perspectives forward on issues affecting the charitable sector as a whole, as well as other groups (for example, volunteers, donors, or charitable sector beneficiaries). Members agree not to use the Committee as a means to advance their own personal interests or further the sole interests of the associations they represent. Members agree not to advocate for specific charities, qualified donees, or taxpayers (for example, applications for registration or compliance audits), or to raise cases that are before the courts.

4. Roles and responsibilities of co-chairs

The roles and responsibilities of the sector and CRA co-chairs include:

- ensuring the Committee adheres to its mandate and members fulfill their roles and responsibilities;
- establishing topics of discussion and working groups in consultation with members;
- developing meeting agendas, approving minutes and reports;
- alternately chairing meetings;
- ensuring all members are heard, engaged, and respected;
- ensuring recommendations are supported with empirical data where applicable;
- reporting progress and recommendations to the Minister of National Revenue and Commissioner; and,
- serving as spokespersons for the Committee.

The roles and responsibilities of the sector co-chairs include:

- liaising between the sector members and the Secretariat; and,

- representing the views of the Committee as a whole.

The roles and responsibilities of the past and transitional co-chairs include:

- serving as interim sector co-chairs as needed; and,
- supporting incoming sector co-chairs in their role.

The roles and responsibilities of the CRA co-chair include:

- liaising between the Committee and the CRA; and,
- providing secretariat services to the Committee (see Section 9).

5. Meetings

The Committee meets twice per year in Ottawa, or more frequently if necessary. Members may also meet by videoconference or teleconference. A quorum is required for a Committee meeting to take place. Quorum is met with a minimum of nine members in attendance, including the CRA co-chair and at least one sector co-chair.

6. Working groups

The Committee may form working groups of its current members on specific topics as needed. Working groups are to be chaired or co-chaired by sector members. Working groups determine their membership, meeting schedule, and timeline/mechanism for reporting back to the Committee.

Working groups may consult on an ad hoc basis with subject matter experts, former members, and charitable and public sector representatives.

7. Topics of discussion

The Committee co-chairs propose topics of discussion in consultation with members. In the event of any question arising about whether a topic of discussion will be pursued, the co-chairs together, and/or the Minister and the Commissioner individually, will have the authority to decide whether to include the topic of discussion in the agenda.

The Minister of National Revenue or Commissioner may request that the Committee discuss a specific topic.

The Committee may request information from the Secretariat to inform topics of discussion (see Section 9).

8. Reporting

The Committee reports to the Minister of National Revenue and Commissioner with a summary of its progress and recommendations. The Committee determines a schedule and format for ongoing reporting (for example, annually, bi-annually, ad-hoc).

Summaries of in-person Committee meeting proceedings and reports are submitted to the Minister of National Revenue and Commissioner and made publicly available.

Reports and summaries of in-person committee meeting proceedings are circulated to members for review and approval.

9. Secretariat

The CRA's Charities Directorate provides secretariat services for the Committee, including:

- circulating agendas, minutes, and documentation;
- organizing materials and logistics for Committee and working group meetings;
- processing member travel and expense claims;
- ensuring that all meeting materials and reports are fully accessible;
- attending Committee and working group meetings; and,
- supporting the co-chairs in their roles and responsibilities communicating with the Minister of National Revenue, Commissioner and other stakeholders.

The Secretariat liaises across the Charities Directorate to provide the Committee with information and data to inform their work and recommendations, and conduct research as necessary.

The Secretariat liaises with officials from other government departments, including Finance Canada.