

CPA BENCHMARKS



THE CPA BENCHMARKS AND THE PARLIAMENT OF CANADA – A SELF-ASSESSMENT

Members and Clerks of Canada’s federal Parliament assess their venerable institution against the CPA Benchmarks in the tense parliamentary atmosphere of a minority government.

CPA Canada Branch, in Ottawa.

The Parliament of Canada, and by extension, the Canada Branch of the Commonwealth Parliamentary Association, has long had a strong interest in the development and achievement of benchmarks for Parliaments and Legislatures. The request for the membership of the Branch to undertake a self-evaluation of how well the Canadian Parliament meets the Recommended Benchmarks for Democratic Legislatures was a welcome opportunity to undertake this examination. The participation of Sen. the Hon. Jane Cordy in the October 2006 CPA Workshop on Benchmarks for Democratic Legislatures held in Bermuda provided the catalyst for the Canadian Branch to consider the possibility that such a self-examination would arise in the future.

The process

The Canadian Parliament is bicameral in nature and a review of the Benchmarks indicated that any responses to them should be prepared in a single joint document

marrying both Senate and House of Commons practices. To ensure accuracy in the preparation of the responses, the Executive Committee of the Canadian Branch of the CPA agreed to have the Clerk of the Senate and Clerk of the Parliament, then Mr Paul Bélisle, and the Clerk of the House of Commons, Ms Audrey O'Brien, take responsibility for the initial assessment of how well the Parliament of Canada was or was not meeting the Benchmarks. Their assessment was then forwarded to the Members of the Executive Committee for consideration, agreement and finalization of the document prior to it being forwarded to the CPA Secretariat.

For each of the Benchmarks, we assessed the degree to which our practices and procedures met the Benchmarks, using a 1 to 5 scale, with the following definitions:

- 5 Fully meets the Benchmark
- 4 Partially meets the Benchmark
- 3 Currently developing

- 2 Reviewing potential application of the Benchmark
- 1 No current plan to meet the Benchmark

Where the rating was lower than 5, an explanation was provided, as it was in other cases where it was felt that additional explanation might be beneficial for a better understanding of the rating applied to the various Benchmarks.

Looking at the legislative framework

The exercise undertaken by senior parliamentary staff included a review of all of the relevant legislation pertaining to the maintenance and improvement of the democratic Benchmarks within the Canadian electoral system. The Legislation reviewed included: the Parliament of Canada Act, the Canada Elections Act and the Federal Accountability Act. Over the past 10 years, the Canada



Left: The Peace Tower at the Canadian Parliament in Ottawa;
Below: Wrought iron pedestrian gate at the entrance to the Houses of Parliament.



Elections Act has benefited from several amendments to update it in light of changes in technology and as a means to encourage all eligible voters to be able to cast their ballots in a free and open manner.

Few changes have been made to the Parliament of Canada Act since its adoption in 1985, with the notable exception of the creation of the Office of the Ethics Commissioner in 2004 with the coming into force of the Conflict of

Interest Act. This particular Act also included legislation dealing with the Lobbyists' Registration Act governing the registration of all persons purporting to have access to current and past Members of cabinet and or the political power

CPA BENCHMARKS



bases within Parliament. Its implementation is a concrete attempt to ensure that lobbyists are registered and identified in the public domain and that Parliamentarians are aware of individuals' status as lobbyists and the parties they represent on various issues before Parliament.

These Acts were further bolstered by the adoption of the Federal Accountability Act in 2006 which codifies many of the principles contained in other legislation and acts as a legislative watchdog on the behaviour of both sitting and retired Parliamentarians and senior bureaucrats within the federal government.

Involving Members and Clerks

Following this review of the appropriate legislation, the senior Table staff from both the Senate and House of Commons met to evaluate how Canada measured itself against the Benchmarks as sent by the Commonwealth Parliamentary Association.

Once the initial assessment had been achieved, the results were then forwarded to both Mr Bélisle and Ms O'Brien for a detailed review. During the initial process, there were a number of Benchmarks where the staff felt there was sufficient ambiguity that the Parliamentarians needed to be consulted for their assessment of how well Canada was meeting the established Benchmarks. These points were raised with both Clerks and both agreed that Parliamentarians themselves would need to evaluate the Benchmarks.

It should be noted that unlike many other branches of the CPA throughout the Commonwealth, membership in the Canadian Branch is dependent on an expressed wish on the part of each individual Parliamentarian to join the Association. Membership is based on an annual payment of a membership fee which permits the Parliamentarian (Senator or



Above: A statue of Queen Victoria on Parliament Hill in Ottawa. She chose Ottawa as Canada's capital.

Member of the House of Commons) to be actively involved

in all the CPA activities of the Branch and to have the opportunity to apply for any regional or international CPA events. As membership can exceed 180 in any year, consultations on a topic as important as a self-assessment

on how well the country is meeting the Benchmarks for a parliamentary democracy can be problematic.

Canada is currently experiencing its third minority government in four years, so



Parliamentarians were not available to sit down as a group and discuss each individual Benchmark. Instead, the responsibility for reviewing the assessment was taken up by the 16-Member elected Executive Committee in May and early June 2009.

The draft assessment was translated into French and sent to all Members of the Executive Committee with a request that they review the ratings and, if they disagreed with the assessment, to report their comments to the Executive Secretary in writing by a pre-determined deadline which had been established to permit sufficient time for Members in both Chambers to conduct an in-depth review during their busy parliamentary schedules.

Members only

The Executive Secretary was instructed to prepare a table of the Benchmarks indicating where there was unanimous support and where there appeared to be disagreements in the ratings. The following are the items where the Parliamentarians were requested to provide input and their own self-assessment of how well the Canadian Parliament is meeting the objectives:

1.2.2 Special measures to encourage the political participation of marginalized groups shall be narrowly drawn to accomplish precisely defined, and time-limited, objectives.

On this Benchmark directly related to elections, the Members felt that this particular matter is better dealt with in Canada by the individual political parties rather than being legislated by Parliament or regulated by Elections Canada.

4.1.2 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International

Covenant on Civil and Political Rights.

Benchmark 4.1.2 related to political parties and to party groups and cross-party groups. It resulted in a final rating of 5 where the Parliamentarians felt that Canada has established an atmosphere in which the individual political parties take responsibility for ensuring that both civil and political rights are respected.

7.1.1 *The Legislature shall have mechanisms to obtain information from the executive branch sufficient to exercise its oversight function in a meaningful way.*

7.1.2 *The oversight authority of the Legislature shall include meaningful oversight of the military security and intelligence services.*

7.1.3 *The oversight authority of the Legislature shall include meaningful oversight of state owned enterprises.*

7.2.2 *Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the Public Accounts Committee will be chaired by a Member of the opposition party.*

7.2.3 *Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.*

These Benchmarks all fall under the "Oversight Function" of Parliaments or Legislatures and this area engendered the most discussion among the Parliamentarians during the consultative process. In large part, this may have been a direct result of the pressures of working in a

minority government situation and some political and philosophical disagreements between the government and opposition parties in relation to how well the Canadian Parliament is doing in this area.

8.2.1 *The Legislature shall have the right to receive development assistance to strengthen the institution of Parliament.*

Benchmark 8.2.1 falls under the section on Representational Function and was one of the few areas where Members of the Executive Committee reviewing the ratings were unprepared to provide the top rating. It may be a simple case that most Canadian Parliamentarians do not see a need for their Parliament to be receiving development assistance – but are not prepared to enact legislation to directly prohibit or encourage such assistance.

Preparing a rating

Once all of the comments had been received, a bilingual table of the results was prepared and a final discussion of the results – in particular those ratings where no consensus was apparent – was added to the agenda for the next Executive Committee meeting.

Unfortunately, it was not possible to convene this meeting within the timeframe for the study, so the Members of the Executive were again consulted electronically and asked to provide their comments in writing on those ratings where no consensus existed. Once all of the comments had been included and tabulated, those points where there had been a difference in the ratings were adjusted to reflect the majority opinion of the responses and a final rating was applied.

The final version of the table in both English and French was then re-circulated to all Members of the Executive Committee with a draft motion to adopt both the accompanying letter and the chart

of the ratings for submission to the Commonwealth Parliamentary Association as requested by the CPA Secretary-General. All Members of the Executive Committee agreed with the final version and subsequently, the document was forwarded to the CPA Secretariat. It should be noted that none of the Members who had previously disagreed with the initial ratings were in disagreement with the final ratings resulting from the averaging of the responses received.

A tool for professional development

The CPA Canadian Branch, with the support of the CPA Secretariat, has offered the CPA Canadian Parliamentary Seminar on an annual basis as a form of professional development for newly elected Parliamentarians throughout the Commonwealth. This Seminar not only provides the delegates with the opportunity to meet and exchange best practices in the development of parliamentary democracy, but also presents the Canadian participants with the opportunity to learn from their Commonwealth colleagues. The Benchmarks are a natural extension to this activity.

As the Benchmarks were developed as a self-assessment exercise, the Canadian Branch did not feel it appropriate to consult with the Legislatures of the 10 provinces and three territories which make up the Canadian Confederation. In future, it might be a useful exercise to include all of them in such a self-assessment.

In conclusion, the Canadian Branch wishes to thank the CPA for its initiative in pushing forward on this front. At times, we become complacent about how well we are doing in adapting to change and moving forward on the development of new democratic principles and practices. Undertaking this kind of self-assessment becomes a useful tool in measuring our progress.