



## **Bill C-470 Talking Points**

“Bill C-470 seeks to add two ingredients to charity executive pay: reason and accountability. Salaries would have to be within reason, or the minister could take action in the interests of donors and taxpayers who often have no direct say on how their money is spent.”

- Hon. Albina Guarnieri, Liberal MP for Mississauga East-Cookesville (the bill’s sponsor, before the House on April 19, 2010)

### **Background**

Bill C-470 was introduced by Albina Guarnieri, Liberal MP for Mississauga East-Cookesville, as a Private Member’s Bill.

The Bill would allow the Minister of National Revenue to deregister any charity, private foundation, or public foundation that paid ANY employee more than \$250,000 a year. The \$250,000 would not just be salary, but would include taxable and non-taxable benefits (eg. pension plan contributions, professional association fees, etc.). The Minister would also be authorized to publish the top five salaries with name and title paid by any organization.

It is important to note that the Minister would not be obliged to deregister such an organization, but would have the option to do so.

### **Status**

Bill C-470 received a 2<sup>nd</sup> reading on April 21, 2010 in the House. 280 MP’s voted in favor of it. Just three opposed it. Numerous MPs spoke strongly in favour of the bill.

The bill was subsequently referred to the Standing Committee on Finance. It is unlikely that the bill will see action prior to the summer recess but likely will be acted upon by the Committee this fall.

### **Talking Points**

- AFP supports the concept of transparency and supports language in the bill that would authorize the publication of the top five salaries within a nonprofit organization.
- Charities and nonprofits are committed to transparency. They adhere to rigorous reporting standards introduced in 2009 and report salary information for their ten most

highly-paid employees to the Canada Revenue Agency. CRA already makes this information publicly available.

- In addition, those charities and individuals who are members of AFP and Imagine Canada must comply with those organizations' respective Codes of Ethics.

### *Do Not Cap Compensation*

- However, AFP opposes the imposition of the salary cap proposed in Bill C-470. (In the alternative, if the government seeks to get to the root of those rare instances of wrongdoing, we suggest prohibiting percentage-based compensation, as we provide in greater detail below).
- No other sector has been constrained by government-imposed a salary cap. It seems inequitable to single out the charitable sector. The cap sends a message to the public about how little the government trusts the charitable sector (compared to every other type of field and industry), even though recent surveys confirm that public trust in the sector remains very high (see data point below).
- As it stands now, nonprofit board members and administrators have a responsibility to ensure that their organization's compensation practices are reasonable through good internal management practices. ***These boards are already subject to CRA scrutiny and have a fiduciary duty to make decisions – including those concerning executive compensation – in the best interest of the mission of the organizations.***
- Yet, Bill C-470 would see the federal government limit the autonomy of these boards in a way ***that no other sector faces – even sectors that receive far more public funding both in absolute terms, and as a proportion of their revenue. The compensation cap contained in Bill C-470 essentially undermines all nonprofit boards and says that the boards cannot be trusted to make responsible financial decisions.***
- Charities and their boards need the freedom to make decisions about staffing and compensation that are in the best interest of the communities they serve, and to be held accountable for those decisions through the transparency measures that are already in place.
- Imposing a cap would, in most foreseeable cases, violate legally-binding collective and individual agreements and contracts. Institutions likely would need to go to court to reconcile these issues, efforts that would divert time and resources away from the organization's charitable missions. In the alternative, the organizations might explore options which would meet the requirements of the legislation while effectively diminishing transparency and accountability.
- Public trust in charities and their leaders remains high, countering the suggestion that charities and their staff need to be reined by a salary cap. A 2008 Muttart Foundation survey found that 77 percent of Canadians trust charities, with 78 percent trusting the

leaders of charities. This is a higher level of trust than that enjoyed by, for example, business leaders (70%), lawyers (62%), journalists (65%) or elected officials (45% for provincial, 41% for federal).

- For larger organizations such as hospitals, universities and cultural institutions, it is imperative that they hire talented and qualified staff. These organizations already face particularly high competition for talent, both domestically and internationally. Regardless of their rationale for seeking employment within the charitable sector (compensation, altruistic motives, etc.), potential hires will be wary of entering or staying in the sector if the government makes clear that their services hold limited value and that their upper mobility is restricted by law.
- Once the precedent of an arbitrary salary cap has been created, it would immediately become a political tool that could be manipulated on the whims of legislators and regulators. The cap could be lowered or raised based on political trends, etc. without any regard to the sector and its experience and needs.
- Along similar lines, there is no mechanism for an increase in the \$250,000 cap, so when inflation inevitably renders \$250,000 as a relatively lesser value, (compared to today's standards) how will this issue be rectified?
- A salary cap simply would drive highly qualified individuals out of the charitable sector and into the for-profit world where their careers would not be limited by an artificial, government-imposed compensation ceiling. This could lead to a serious drain of talent from the sector and even from Canada—those who wish to remain in the charitable sector may choose to work instead in the U.S. or other countries where no such compensation restraints exist.

### *Prohibit Percentage-Based Compensation*

- If the government seeks to curb those rare instances of wrongdoing in the charitable sector, AFP suggests that the government instead prohibit percentage-based compensation, as opposed to enacting an arbitrary salary cap.
- AFP prohibits percentage-based compensation in its Code of Ethics. Percentage-based compensation for contributions is defined as any compensation that is based on a percentage (sometimes referred to as a commission) of contributions raised.
- AFP believes that individuals serving a charity for compensation must accept the principle that charitable purpose, not self-gain, is paramount. If this principle is violated and percentage-based compensation is accepted:
  - charitable mission can become secondary to self-gain;
  - donor trust can be unalterably damaged;

- there is incentive for self-dealing to prevail over donors' best interests.
- In addition, percentage-based compensation, however administered, can produce reward without merit.
- AFP holds that percentage-based compensation can encourage abuses, imperils the integrity of the voluntary sector, and undermines the very philanthropic values on which the voluntary sector is based. AFP stands firm with its Standards which prohibits members from working for percentage-based compensation or accepting finder's fees.
- Again, the greatest impact that the federal government could have in curbing potential abuses within the charitable sector is by prohibiting percentage-based compensation, not establishing a salary cap.

### *Conclusion*

- An arbitrary salary cap would have immense negative impacts on the charitable sector, including a dearth of talented staff and resources which will considerably impede the sector's ability to provide services and assistance to Canada's communities. It is an arbitrary measure which will may well have unintended consequences, and we strongly urge you to oppose the arbitrary cap proposed in Bill C-470. Thank you.