



Featured Cartoon



Wow! I really can get cable anywhere.

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Events

April 10, 2018 | Ottawa
**Chief Trade Commissioner
talks International Business
at OWIT-Ottawa/Fasken**



On April 10, Fasken Ottawa, with the Ottawa chapter of the Organization of Women in International Trade (OWIT), hosted a seminar with Canada's Chief Trade Commissioner, Dr. Ailish Campbell, in which Dr. Campbell addressed the current international trade agenda and issues.

The discussion focused on the opportunities for Canadian companies which already operate or are set to expand their operations abroad and/or explore foreign markets. Dr. Campbell shared with the audience government resources available to companies in this regard, including a strengthened trade

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Introduction

Welcome to the 28th edition of *Capital Perspectives: Ottawa's Business Law Update*. This authoritative resource provides legal insight and perspective on the issues that matter to private and public sector organizations operating in the National Capital Region.

Each issue of *Capital Perspectives* draws on Fasken Ottawa's expertise in a variety of specialized areas of law to help our readers make sense of the events, issues and trends that impact their organizations.

In this issue, we look at the CRTC's long-awaited report on the future of programming distribution in Canada, the drive toward greater diversity and inclusion in the workplace, and lobbying pitfalls to avoid for charities and associations in Ontario.

In addition, we recap News and Events, where our staff and lawyers have been winning professional accolades, discussing international business, taking to the stage, rubbing shoulders with Canada's Paralympians, coaching mock trial winners, wearing pink and scoring a big win in a piracy case.

The CRTC's Vision of the Future

The Canadian Radio-television and Telecommunications Commission has released its long-awaited report on the future of programming distribution in Canada in response to the challenges faced by traditional broadcast media from online forms of content. Scott Prescott runs through the interesting and somewhat controversial proposals that are meant to ensure Canada maintains a vibrant domestic market for Canadian programming.

Diversity and Inclusion in the Workplace: Don't Get Left Behind

Women, people with disabilities, LGBTQ2S and racialized Canadians have long been underrepresented in upper management of businesses. And yet, statistics show that companies with more diverse teams better respond to business pressures and are more successful. Judith Parisien and Shannon Kristjanson document the evidence and how organizations can encourage greater diversity and inclusion on their teams.

Is your Charity or Association Inadvertently Lobbying in Ontario?

Many organizations are not aware of their legal obligations under the Ontario *Lobbyists Registration Act*. Kyle Morrow provides an overview to help your organization avoid the legal, financial and reputational risks of non-compliance.

Who is Fasken Ottawa?

Fasken is a leading national and international law firm with more than 700 lawyers and with 10 offices on four continents. Clients rely on us for practical, innovative and cost-effective legal services. We

commissioner service and other initiatives detailed in this year's federal budget.

The Chief Trade Commissioner also shared her perspective and personal experience on women-led international business initiatives, and challenges and opportunities for Canadian women-led businesses.

The audience asked a variety of questions ranging from the implementation of CETA and the current status of NAFTA, to concrete contacts within the government that would assist a business in a particular market.

The discussion was vibrant. The audience was pleased and found the seminar of great interest and assistance.

June 6-9, 2018 | Ottawa
Murder, Deception and Comedy Rule at Annual Lawyer Play



Fasken Ottawa once again took part in, and co-sponsored, the annual Lawyer Play earlier this month. Lawyers Julia Kennedy and Aidan O'Neill, as well as the recently retired Stephen Acker, took on acting roles in Agatha Christie's *The Rule of Three*. This collection of one-act plays includes *Afternoon at the Seaside*, *The Rats* and *The Patient*.



This fundraising project supports the operations of the Great Canadian Theatre Company (GCTC). The play is sponsored by the County of

solve the most complex business and litigation challenges, providing exceptional value and putting clients at the centre of all we do.

The Ottawa office is home to 27 lawyers, of which almost half are ranked as leading practitioners by *Chambers*, *Lexpert*, *Best Lawyers in Canada* and other prestigious and independent publications.

Fasken's team of lawyers in the nation's capital offers broad expertise in the following areas of law: business, communications, labour and employment, litigation, international trade, procurement, anti-bribery and corruption, competition, copyright, accountability and ethics, and white collar crime. We also engage in a number of related areas of practice, including constitutional and administrative law, human rights, official language rights, privacy and government relations. We provide our clients with seamless access to the broad range of professional services that Fasken offers on a national and international basis.

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Featured Articles

The CRTC's Vision of the Future

Scott M. Prescott, Ottawa

The Canadian Radio-television and Telecommunications Commission (the CRTC) released its long-awaited report on the future of programming distribution in Canada. Titled *Harnessing Change: The Future of Programming Distribution in Canada*, the Report provides an overview of the changes that are taking place in the marketplace, with respect to technology, competition and consumer behaviour. It also proposes some legislative and regulatory amendments designed to support the production, distribution and promotion of Canadian programming in the future.

The genesis of the Report was an Order in Council issued by the Federal Government in September 2017, in which the CRTC was asked to address the following three matters:

1. The distribution models of programming that are likely to exist in the future;
2. How and through whom Canadians will access that programming; and

Carleton Law Association and is performed by a cast of local legal professionals. Over the past 19 years, the event has raised a total of \$1.3 million.

The Play also benefits a local charity partner. This year, that partner was Ottawa's **Tungasuvvingat Inuit**. This multi-sector hub and resource centre for Inuit of all ages provides social support, cultural activities, counselling and crisis intervention.

May 9, 2018 | Ottawa

Fasken in the Community with Canadian Paralympics

Fasken is the official legal partner of the Canadian Paralympic Committee, and is proud to provide legal and financial support to the Committee and to its philanthropic arm, the Paralympic Foundation of Canada. Marc-André Fabien, a partner with the Fasken Montreal office, is the current President of the Canadian Paralympic Committee.

On May 9, Stephen Whitehead, Sophie Arseneault and Yves Beauchamp (pictured) were pleased to represent Fasken Ottawa at the Team Canada Celebration Event hosted by the Governor General of Canada at Rideau Hall. They offered a warm welcome to Paralympians, Olympians and coaches, and celebrated their success at the PyeongChang 2018 Olympic and Paralympic Winter Games.



Stephen, Sophie and Yves also represented Fasken Ottawa at a reception on Parliament Hill on June 6, held by The Hon. Kirsty Duncan, Minister for Sport and Persons with Disabilities, to recognize and celebrate the first year of the ImagiNation fundraising initiative of the Paralympic Foundation of Canada.

3.

The extent to which these models will ensure a vibrant domestic market that is capable of supporting the continued creation, production and distribution of Canadian programming, in both official languages, including original entertainment and information programming.

The Report was requested by the Federal Government as part of its broader review of the *Broadcasting Act* and the *Telecommunications Act*, which had been announced in the 2017 federal budget.

[FULL ARTICLE](#)

Diversity and Inclusion in the Workplace: Don't Get Left Behind

Judith Parisien, Ottawa | **Shannon Kristjanson**, Ottawa

In 2017, of the 100 highest-paid CEOs in Canada, three were women and five were named Paul.

It is not a secret that diversity and inclusion are popular buzz words in today's business world. Whether by way of positive or negative encouragement, various companies throughout North America are jumping on board by creating and amending workplace policies. Beyond the powerful public relations benefits, encouraging diversity and inclusion in the workplace can create a more productive workplace environment, attract sought-after talent and bring competitive and financial advantage to a company.

Women, people with disabilities, LGBTQ2S and racialized Canadians have long been underrepresented in upper management of businesses. While this imbalance sparks an ethical conversation about implicitly exclusionary business practices, it also brings forward an underutilized and untapped talent market that brings great added value to the workplace.

[FULL ARTICLE](#)

Is Your Charity or Association Inadvertently Lobbying in Ontario?

Kyle Morrow, Ottawa

The Foundation's goal through the initiative is to ensure that the programs, equipment and people are in place to propel more Canadians with a disability all the way from the playground to the Paralympic podium. Its dream is that no Canadian with a disability will ever face a barrier to participation in sport.

April 11, 2018 | Ottawa
Day of Pink

On April 11, Fasken proudly celebrated International Day of Pink in offices across our firm. Efforts continue to raise funds for local charities that support diversity. The International Day of Pink was started in Nova Scotia when two straight high school students saw a gay student wearing a pink shirt being bullied. The two students intervened, but wanted to do more to celebrate diversity and raise awareness to stop homophobia, transphobia, transmisogyny and all forms of bullying.



Millions of people now recognize the second Wednesday of April each year as International Day of Pink by wearing pink as a symbol of unity to drive social change.

[MORE EVENTS](#)

News

May 8, 2018 | Ottawa
Fasken does it again! Global Mining Law Firm of the Year Award

Fasken's **Global Mining Group** has once again received international

Many for-profit corporations and partnerships are aware of their legal obligation to register their provincial lobbying activities. That being said, many organizations (including charities and associations) are not aware of their legal obligations under the Ontario *Lobbyists Registration Act* (Act). Organizations that fail to comply with the Act may be exposed to potential legal or reputational risks.

Here is an overview.

I. Organizations may need to register

Lobbying must be registered if the lobbying duties of all employees and officers (across an organization) exceed 50 hours in a calendar year. Organizations include the following:

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Cases of Interest

The Federal Court Awards \$5 million in Statutory Damages in Piracy Case

Fasken Ottawa

The Federal Court of Canada recently issued an important decision on Internet piracy and statutory damages under the *Copyright Act: Odyssey v. Ellas TV, 2018 FC 337* (Court File T-2141-15). The court in its decision rendered a significant monetary award payable to the exclusive copyright licensee.

On March 26, Justice Phelan of the Federal Court awarded \$5 million in statutory damages to Toronto-based Odyssey Television, against Chicago-based Ellas TV and Toronto-based Greek World Music and Encore Productions.

The plaintiffs successfully argued that they had the right to operate and distribute in Canada the international content of some of the largest television stations in Greece (Alpha, Mega, and Antenna) via cable television, satellite television and Internet, and that Ellas TV and Greek World Music breached that right by offering and distributing the protected content to their customers, including their online subscribers.

recognition as the 2018 Global Mining Law Firm of the Year by **Who's Who Legal**. This is the 10th time Fasken has won this award and our fourth consecutive win. Fasken has received this award more times than any other law firm in the world!

Winners are selected based upon a comprehensive survey of both general counsel and private practice lawyers at 231 firms worldwide. Only firms and practitioners who have met independent international research criteria are considered.

The key to Fasken's success is experience and having the top talent in the industry. Our founders first got involved in the mining sector in 1890. Since then, we have become experts, maneuvering within the dynamics and cycles of the international mining industry. This award demonstrates our unparalleled reputation in the field.

Partners Virginia Schweitzer and Michael Boehm and associate Yufei Luo of the Fasken Ottawa office are members of our Global Mining Group.

May 10, 2018 | Ottawa
Mocking the Law - In a Good Way

Fasken Ottawa partner Jay Kerr-Wilson coached the Colonel By Secondary School mock trial team to a first-place finish in this year's edition of the **OJEN-OBA Competitive Mock Trials**.



The mock trial competition, organized by the Ontario Justice Education Network and the Ontario Bar Association, is designed to give high school students experience in and exposure to trial advocacy skills and the criminal justice system. Teams are given a hypothetical criminal case and have to prepare both a Crown

In addition to the damages award, the Court ordered the defendants to pay to the telecommunication companies \$50,000 in legal costs.

Both the damages and costs awards represent an unusual amount in the Federal Court, and are reflective of the defendants' misconduct.

The Court described the defendants conduct as "egregious" and "deserving of condemnation." The Court also found that the defendants' position in this proceeding was made up of "blanket or general denials and vague, unsubstantiated allegations which lack(ed) an air of reality."

The terms of an injunction against the defendants, which would be in addition to the damages amount, are pending a further order of the Court.

Peter Mantas, Gerald (Jay) Kerr-Wilson, and Alexandra Logvin with the Fasken Ottawa office represented the plaintiffs in this matter.

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and defense case. Students take on the roles of Crown and defense attorneys, the accused, investigating officers and other witnesses. They prepare opening statements, examinations and cross-examinations and closing arguments. Students are judged on preparation, use of proper procedure and advocacy skills.

This year's scenario involved a Halloween night murder behind a seedy bar. The best friend of the deceased is arrested and is on trial for the murder but there are no eye witnesses and suggestions of a shoddy investigation by police.

The Colonel By Secondary School team (pictured) of Collin Wang, Nicholas Cooper, Angela Chen, Novera Shenin, Carolyn Wang, Thomas Zhang, Jeremy Xia and Joy Liu, supervised by teacher Tricia Leduc, beat out 16 other local teams to capture the championship title. This was the team's second year competing in the competition and Jay's fourth year coaching.

[MORE NEWS](#)

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