

FW: RUSH FACT CHECK - LRC CBN re Energy Bills

From: "Young, Samantha (CAB)" <samantha.young2@ontario.ca>
To: "Hindmarch-Watson, Tim (CAB)" <tim.hindmarch-watson2@ontario.ca>
Date: Tue, 12 Dec 2017 13:38:37 -0500
Attachments: LRC-CBN_ENERGY Bills_DRAFT- v2 - CLB.docx (47.2 kB)

Hi Tim – See below and attached. Cheers.

From: Rabadziewski, Sandra (MAG)
Sent: December-12-17 1:35 PM
To: Young, Samantha (CAB)
Cc: Kulanathan, Nisha (MAG); Soucie, David (MAG)
Subject: FW: RUSH FACT CHECK - LRC CBN re Energy Bills

Here you go!

From: King, Kevin (MAG)
Sent: December-12-17 1:32 PM
To: Rabadziewski, Sandra (MAG); Soucie, David (MAG); Generali, Patrizia (MAG); Phan, Cathy (MAG)
Cc: Kulanathan, Nisha (MAG)
Subject: RE: RUSH FACT CHECK - LRC CBN re Energy Bills

Hi Sandra, please find CLB and Energy edits in the document. Just to avoid any issues with track changes, CLB suggested Legal Risk text is as follows:

Legal Risk

The Ministry of the Attorney General has advised that there is a moderately-high risk that government requiring LDCs and USMPs (utilities) to convey this information in this way would be found to constitute an unjustified violation of the utilities' freedom of expression under the Charter. The right to freedom of expression protects against compelled expression. Therefore a law that requires persons to communicate certain things must be justified under the Charter analysis.

The risk arises because it is unclear whether the objective of advising consumers of the effect of government policy on their electricity bill when it does not directly relate to the calculation of the invoiced amount is pressing and substantial, and because there are likely more neutral and specific means of communicating information to consumers regarding the impact of the Fair Hydro Plan. If more neutral and specific words were used to communicate the information in question, there would be a moderate risk that the proposed amendment would be an unjustified violation due to the uncertainty as to whether it serves a pressing and substantial purpose.

The proposal does not change the legal risks associated with the inclusion of OFHP messaging on consumer's electricity bills in the existing regulation. Moderately high risk means that while it is difficult to predict the outcome since there are good arguments on both sides, a court would be more likely than not to find the amended regulation unconstitutional.

Kevin

From: Rabadziewski, Sandra (MAG)
Sent: December-12-17 1:30 PM
To: King, Kevin (MAG); Soucie, David (MAG); Generali, Patrizia (MAG); Phan, Cathy (MAG)
Cc: Kulanathan, Nisha (MAG)
Subject: RE: RUSH FACT CHECK - LRC CBN re Energy Bills

CO has already followed up on this. Any way we can get comments back ASAP? Thank you.

From: King, Kevin (MAG)
Sent: December-12-17 10:58 AM
To: Soucie, David (MAG); Generali, Patrizia (MAG); Phan, Cathy (MAG)
Cc: Rabadzievski, Sandra (MAG); Kulanathan, Nisha (MAG)
Subject: RE: RUSH FACT CHECK - LRC CBN re Energy Bills

In motion.

Kevin

From: Soucie, David (MAG)
Sent: December-12-17 10:31 AM
To: King, Kevin (MAG); Generali, Patrizia (MAG); Phan, Cathy (MAG)
Cc: Rabadzievski, Sandra (MAG); Kulanathan, Nisha (MAG)
Subject: FW: RUSH FACT CHECK - LRC CBN re Energy Bills
Importance: High

Hi Kevin,

CO is asking for a rush review of this draft pink note on ENERGY's Electricity Bills. Specifically the *Legal Risks* section at the end of the note. Can you ask CLB to review and provide comments ASAP ?

Thanks!

Dave

From: Young, Samantha (CAB)
Sent: December-12-17 10:27 AM
To: Rabadzievski, Sandra (MAG)
Cc: Soucie, David (MAG); Kulanathan, Nisha (MAG)
Subject: RUSH FACT CHECK - LRC CBN re Energy Bills
Importance: High

Hi Sandra,

Attached is an LRC CBN for an Energy Bills item that was deferred from LRC yesterday to full Cabinet tomorrow.

Since LRC, a new Legal Risks section has been added at the end of the note. Seeking Con Law's review a.s.a.p., please and many thanks.

Sam

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