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August 20, 2019

Via email: minister@cic.gc.ca

The Honourable Ahmed Hussen, P.C., M.P.
Minister of Immigration, Refugees and Citizenship
Immigration, Refugees and Citizenship Canada
365 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Minister Hussen:

Re: Expression of Interest Process for Parent and Grandparent Sponsorship

I write on behalf of the Immigration Law Section of the Canadian Bar Association (CBA Section) to recommend that Immigration, Refugees and Citizenship Canada (IRCC) adopt a weighted lottery system for parent and grandparent sponsorship expression-of-interest (EOI) intake. The system we propose would give preferential odds to would-be sponsors who have previously submitted EOIs. We also recommend screening prospective sponsorship for financial eligibility early in the process.

The CBA is a national association of 36,000 members, including lawyers, notaries, academics and law students, with a mandate to seek improvements in the law and the administration of justice. The CBA Section has approximately 1,000 members practising all areas of immigration law. Our members deliver professional advice and representation to thousands of clients in Canada and abroad.

The CBA Section commends IRCC for experimenting with different options in recent years to identify a fair, effective system for parent and grandparent sponsorship EOI. We are pleased that, while testing different intake methods, IRCC has increased the number of parent and grandparent sponsorship applications processed annually and reduced processing times.

Overview of Previously Tested Options

Option 1(a): Processing applications as they are received without annual quotas

One prior model was for applications to be processed as they were received. There was no explicit limit on the number of applications that could be processed each year and sponsors could submit applications throughout the year. This system led to ballooning wait times, with applications sometimes taking over five years to process. Family reunification was delayed, passports and medical examinations would expire, and stakeholders were inconvenienced by and dissatisfied with the program.

We advise against adopting this model. Given the current level of interest in parent and grandparent sponsorships, we expect that processing wait times would be unmanageable if the model was re-adopted.

Option 1(b): Allowing applications for a limited time followed by a moratorium

IRCC may be tempted to return to a model it used almost a decade ago of allowing sponsorship applications for parents and grandparents for a limited time followed by a moratorium. While this strategy may benefit some would-be sponsors in the short term, it can create uncertainty and dissatisfaction in the long term. A looming moratorium could lead prospective sponsors to submit rushed applications. Unpredictability in the number of parent and grandparent sponsorships may also deter prospective immigrants from coming to Canada. We prefer a process that allows stable, predictable levels of sponsorship.

A sudden surge in parent sponsorship applications could also have unintended consequences for IRCC. We expect that a moratorium would create bottlenecks in processing that would be frustrating for both applicants and IRCC officers processing applications. With processing delays, medical examinations and passports could expire, and more work may be needed to process applications to completion.

We recommend IRCC avoid adopting a model with a moratorium.

Option 2: Inviting sponsors to submit applications until a cap is reached

In 2019, would-be sponsors were invited to log onto the IRCC website at a predetermined time to attempt to submit their sponsorship EOI before a cap was reached and intake shut down. The process resembles how Ticketmaster sells concert tickets online.

The 2019 model favours some potential sponsors over others. Those with high-speed internet connections have a higher chance of success, which puts people living in rural and remote communities at a disadvantage. Those with shorter names or better typing skills are more likely to submit their EOI in time. The system privileges those with access to computers as opposed to tablets or smartphones and may favour particular operating systems and web browsers. It also favours those with flexible work schedules who can wait by a computer at a specified time and date.

We are particularly concerned that this model's speed-based approach discriminates against those with mental or physical disabilities contrary to s. 15(1) of the *Canadian Charter of Rights and Freedoms*.

This year, approximately 27,000 applications were received within seven minutes of the launch of the intake system. At that point, IRCC shut down intake as the cap had been exceeded. If the same intake method is used in future years, we expect the cap would be reached more quickly, and for advantages in typing speed, technology and scheduling to be more determinative of outcomes.

The 2019 model could also be exploited to give someone an unfair advantage. Using online bots, or having multiple people fill out EOI forms for the same person at the same time on different computers would give someone an edge in the process.

This intake method also raises possible technological risks. Encouraging tens or even hundreds of thousands of people to access a government website at the same time is risky. During a time of concentrated Internet traffic, the government website may crash, lose applicant data, or even be vulnerable to hackers. We do not recommend that IRCC pursue this model.

Option 3: Inviting sponsors to apply through a lottery selection process

The other system IRCC has tried in recent years is a lottery system that used random selection. The lottery system was unpopular. Nonetheless, it is the fairest and most efficient of the alternatives tried so far. This system avoids the unmanageable influx of applications that is a likely outcome of options 1(a) and 1(b), and the unequal opportunity of success and risks associated with option 2.

We recommend that IRCC adopt a process similar to option 3 and offer some suggestions to make the system fairer and more efficient.

Our Recommendation

IRCC should adopt a weighted lottery system that favours would-be sponsors who submitted EOIs in the past. Not every would-be sponsor is equally interested in sponsoring their parents and not every parent is equally interested in permanently moving to Canada. A weighted lottery system favouring potential sponsors who submitted EOIs in the past would improve the likelihood of success for those who consistently apply to sponsor their parents and grandparents.

IRCC should also consider requiring objective up-front proof that potential sponsors meet the financial requirements for sponsorship. In recent years, IRCC has invited many sponsors to apply only to later reject them because they failed to meet the income requirements for sponsorship. Requiring proof that financial requirements are met up front could help avoid appeals to the Immigration Appeals Division in cases where sponsors don't meet the income requirements.

We recommend clarifying financial eligibility requirements at the EOI intake stage to improve the efficiency of the process. We understand that IRCC may lack the legislative authority to request income information from Notices of Assessment at this stage. Instead, applicants could be asked to indicate how many dependents they have and what their ages are, and to disclose the dependants of the sponsored person. An algorithm could be developed to advise would-be sponsors at the lottery stage of the income requirements for their situation. Applicants could be informed that even if a sponsor receives an invitation to apply, the application will not be processed to completion if the sponsor does not meet the specific income requirements for all relevant years. The online application could also advise applicants that if they receive an invitation but do not meet the income requirements, they should decline the invitation to allow others who meet the income requirements to apply.

IRCC may want to consider holding two or three lottery draws a year instead of an annual draw. For example, IRCC could draw 10,000 EOIs in January and another 10,000 in July, rather than drawing 20,000 in January. While the annual number of invitees would not change, prospective sponsors may have the impression of more sponsorship opportunities being available. Having more draws would also spread the processing workload for IRCC officers more evenly throughout the year.

We suggest that IRCC do more to manage the expectations of those thinking of immigrating to Canada. It should be clearly communicated early in the application process that there is no right to sponsor parents or grandparents and there are limits on the number of parent and grandparent applications that will be processed and when these applications can be submitted.

The CBA Section shares IRCC's goal of selecting a process for parent and grandparent sponsorship EOI intake that is transparent, fair and efficient. We would be pleased to clarify our comments, and to have further discussions about developing a sponsorship process for parents and grandparents that is fair, efficient and respectful of *Charter* rights.

Yours truly,

(original letter signed by Nadia Sayed for Marina Sedai)

Marina Sedai
Chair, CBA Immigration Law Section