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US Border Problems May Loom Large for Associations

What should Canadian association executives be doing to deal with the fact that one of the biggest challenges ahead will be the increasing hassle that members will face at the US border - and for some of your members, an inability to enter the country at all?

An alarmist cry? I don't think so - if you spend time talking to anyone who frequently crosses the border into the US to work, to go to a meeting or to attend a conference, you'll hear of a system that is choking on the cholesterol of ever increasing bureaucratic nonsense, capricious decisions with respect to entry, and intolerant and rude behaviour by our American friends at the border.

Behaviour that certainly shouldn't stand in the way of the labour mobility that has long existed within the world's largest trading relationship.

While there has been much discussion at a political level of the need for a smart border, the typical entry point into the US is anything but. And yes, while there have been many initiatives to keep the free-flow of goods happening, particularly for the trucking sector, the issue of labour mobility seems to be an ever increasing problem that few are paying attention to.

As someone who speaks of the future and trends, I think this issue is a big one. Indeed, I remain convinced that if we don't do something at a senior political level to deal with the problems that are appearing, Canadians will soon wake up to an economy that has been damaged because we've let "the other side" nit-pick apart the long held tradition of labour mobility between the two countries.

What's going wrong? First and foremost, our US friends seem to have decided that they will use September 11 not only as an issue to deal with challenging border security issues, but also as a good excuse to more rigorously interpret existing laws with respect to labor mobility.

For years, Canadians have been easily able to travel to the US for a business meeting; to attend a conference, or to work within the confines of one of many work-visa and entry permit categories. But now, it seems that they are finding that what used to be a straightforward (and sometimes pleasant) border crossing has become anything but.

Here's a good example of what is going wrong - the Department of Homeland Security seems determined to chip away at the number of Canadians who are permitted to enter and work within the US under the provisions of the North American Free Trade Agreement (NAFTA). Enshrined in law a decade ago, NAFTA was a visionary agreement that allowed for a wide variety of professions, including accountants, lawyers, actuaries, as well as many other scientific, trades and other categories of workers, to apply for and easily receive what is known as a TN-visa. With a TN visa, Canadians in one of the many categories of professions can enter and work within the US for a year, as can Americans.

Pre-September 11, the process of obtaining a TN was almost a slam dunk - with a properly worded letter, you spent a few minutes with the INS agent at the border and you were whizzed through. Renewals were straightforward too, with the result that the TN visa put in place the labor mobility that had been envisioned by Mulroney and Reagan during the NAFTA negotiations.

Today, that's no longer the case. Talk to anyone who travels frequently, and you'll hear stories of an

ever increasing number of Canadians who are seeing their TN visas rejected for a technicality; because the inspector didn't think the wording of the job responsibilities exactly matched the required attributes for that particular profession; or even perhaps because a sourpuss with weight to throw around was having a bad day.

Need more evidence? Just take a look at the growing business of the ever-increasing number of US immigration lawyers who help Canadians with TN-visa issues to realize that there is a big and growing problem here! Visit the online forum for Joseph Grasmick, a US Buffalo immigration lawyer who specializes in US-Canada immigration, and you'll see lots of Canadians who are suddenly being turned away.

That's just but one visa category. There are others - an L-1 for those who are entering as part of an inter-company transfers; a B-1 for those who work directly for a Canadian company and are simply attending a meeting in the US; other categories for medical professionals and other areas of professional and career specialty.

Anecdotal evidence in Internet chat rooms and published reports would seem to indicate that things certainly aren't where they were in the pre-Sept. 11 days, and so yes, while security is one thing, an open border based on mutual trade mobility is another. Why are we permitting this to happen?

The second issue concerns your ability to hold conferences or other educational event in the US. If the border turns into a 2 or 3 or even 4 hour nightmare at many airport crossings, does it make any sense at all to hold it in the US?

Maybe not -- particularly so if a good chunk of your association membership was born in or holds citizenship in one of the many countries - Iran, Libya, Syria, etc - that are on the special "US list" of "nasty countries." They will find it particularly difficult to travel, and might require to obtain a special visa permit that can take upwards of many, many months to obtain. Given that many medical associations contain an ever-growing number of foreign members, you'd better take the time to really think about the potential problems in holding a conference in the US.

The third issue is simply one of attitude. I sense an extreme frustration with many Canadians of Arab heritage who have become so disgusted with the US border that they have vowed never to return. I know of one fellow - Jordanian - whose ancestors came to Canada 125 years ago. He's found the border crossing experience to be so unbelievable that he has simply decided to stop doing it. Period. Forever.

If these numbers grow, then holding a conference in the US becomes a losing proposition, does it not? Particularly as the demographics of Canadian society continue to change?

An interesting sidebar to this issue is that some overseas associations have already stopped holding their annual conference in the US altogether, given the hassle that their own members are subjected to when it comes to the visa process. American conference, travel and convention associations are raising alarm bells about the impact on the US meetings industry.

Which does, of course, lead to yet another interesting question -- should your association step up to the plate and encourage your Asian, European or other regional association groups to come to Canada instead? Last time I checked, we still seemed to welcome the world with open arms.

As an association executive, what do you need to do?

First and foremost, become cognizant with the unique border issues that your own association members might be faced with.

Poll your membership to gauge how many of them might be encountering new and unique challenges at the border. Take time to understand the "why" this is occurring, to determine if there seems to be some commonality in the problems, and if there is something that you can do at an association level

to help to deal with it.

Second, make sure that the changing nature of the career, skills and responsibilities of your membership is properly updated, and makes its way into the world of 'officialdom.' One big issue is that the Department of Homeland Security relies on a very weighty, bureaucratic tome that defines what people in a certain career "do", and the types of "activities" that they undertake. They then use that information to determine whether the type of work that an individual is undertaking fits within a certain visa category. If it doesn't, they're out of luck.

In a world of constant change and innovation, careers change at lightning speed, and hence, the official "book" might not describe the real nature of the activities your members perform. Do what you can to make sure that rapid career change is reflected in the view that the Department of Homeland Security has of what your members do.

Third, prepare to lobby, and work your connections with politicians, to wake them up to the issue. They need to understand that Canadians crossing the border are being increasingly subjected to arbitrary and capricious behavior by the US gatekeepers. They seemed to be focused on the issue of hard-goods going through the border, and while that is critically important, so too is labour mobility.

Better yet, start suggesting that Canadian politicians hang out at Pearson's Terminal 2 on a Monday morning and party in the 2 ½ hr line-up like the rest of the common folk. Years ago, we had politicians with the political will to put in place NAFTA, a key political compromise that permitted the freedom of labor mobility for a huge number of professions and careers between three very inter- twined and inter-connected economies.

Yet now the US Department of Homeland Security seems to have decided that in its zeal to deal with security challenges that they should also chip away at the labour mobility rights that their political leaders put in place. That needs to come to an end, and as an association executive, you should start to determine how you can help to fix the problem

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