HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 065 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Wednesday, February 13, 2013

Chair

Mr. Pierre-Luc Dusseault

Standing Committee on Access to Information, Privacy and Ethics

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● (1530)

[*Translation*]

The Chair (Mr. Pierre-Luc Dusseault (Sherbrooke, NDP)): Welcome to the 65th meeting of the Standing Committee on Access to Information, Privacy and Ethics. We are continuing with the statutory review of the Conflict of Interest Act.

During the first hour, we will hear from an official from the Privy Council Office, Joe Wild. Mr. Wild is the acting deputy secretary to the cabinet, Legislation and House Planning and Machinery of Government.

Mr. Wild, we are looking forward to your presentation on the statutory review of the Conflict of Interest Act. You will have 10 minutes, after which we will move on to questions and answers.

Without further ado, the floor is yours.

Mr. Joe Wild (Acting Deputy Secretary to the Cabinet, Legislation and House Planning and Machinery of Government, Privy Council Office): Thank you, Mr. Chair.

[*English*]

Thank you for inviting me to discuss with you the Conflict of Interest Act. I have some brief opening comments to make and then I will be happy to address questions.

[*Translation*]

As you know, the Conflict of Interest Act was one of the key components of the Federal Accountability Act and came into force July 9, 2007.

Prior to the introduction of the act, public office holders at the most senior levels of government—that is, ministers, ministerial staff and advisers, parliamentary secretaries, deputy ministers and governor-in-council appointees—were subject to the Conflict of Interest and Post-Employment Code for Public Office Holders.

[*English*]

Various versions of this code have been in place since 1985. Administered by an ethics commissioner, the code set out both the broad ethical principles and standards to which public office holders would be held to account as well as specific compliance measures they were required to take in areas such as disclosure of assets and liability divestiture, outside activities, gifts, and post-employment.

With the adoption of the Conflict of Interest Act, most of the specific conflict of interest and post-employment rules in the code were enshrined into law ensuring that public office holders were subject to a clear and consistent set of rules regardless of change in government. Some of the rules relating to divestment and use of blind trusts were also strengthened at this time. The other major innovation of the act was to provide for strengthened enforcement through the creation of the Office of the Conflict of Interest and Ethics Commissioner. The commissioner was given powers to investigate and report on alleged breaches of the rules, levy monetary penalties to encourage compliance with the act's disclosure and filing requirements, and report directly to Parliament and on how the act is being administered.

The purpose of the act is set out in section 3. It indicates the various public policy goals the act seeks to further:

> (a) establish clear conflict of interest and post-employment rules for public office holders;
>
> (b) minimize the possibility of conflicts arising between the private interests and public duties of public office holders and provide for the resolution of those conflicts in the public interest should they arise;
>
> (c) provide the Conflict of Interest and Ethics Commissioner with the mandate to determine the measures necessary to avoid conflicts of interest and to determine whether a contravention of this Act has occurred;
>
> (d) encourage experienced and competent persons to seek and accept public office; and
>
> (e) facilitate interchange between the private and public sector.

As this clause makes clear, the substantive rules of the act are focused on avoiding conflicts between the official duties of public office holders and private interests.

Section 4 defines the core concept of conflict of interest for the purposes of the act. It says,

> a public officer holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

This concept provides the basis for the rules in sections 5 and 6, which set out the basic duty of public office holders to avoid conflicts of interest and to not participate in decision-making that would place them in a conflict. It also defines the scope of the rules concerning use of insider information, in section 8, and influence, in section 9.

Other rules in part 1 of the act deal with specific forms of private interests, outside employment and activities, gifts, contracts, fundraising, and travel. As is also reflected in its purpose clause, the act seeks to provide clear rules for public office holders while ensuring that these rules are not so restrictive or burdensome that they discourage experienced and competent persons from serving in public office or hinder interchange between the private and public sectors. For example, part 2 of the act includes strict divestiture rules with respect to assets that can directly or indirectly be affected by government decisions or policy and requires disclosure of a public office holder's other assets and liabilities to the commissioner. While many assets also have to be declared publicly, those for the private use of public office holders and their family members which are not of a commercial character are exempt from this requirement. Thus, through a combination of divestiture requirements, confidential and public disclosure, and exemptions, these provisions provide transparency to show that conflicts of interest are being avoided while seeking to not unduly interfere with the personal privacy and finances of public office holders.

In considering how this balance has been set in the act, it is worth noting that some of its provisions, in particular, confidential disclosure of assets and the gift provisions, affect the privacy and financial interests of family members of public office holders as well.

● (1535)

[*Translation*]

In her submissions to you, the commissioner has suggested that the balance that the act currently sets with respect to divestment may be more restrictive than what is actually necessary to avoid real conflicts of interest.

[*English*]

A similar balancing of goals and interests is seen in the administration and enforcement provisions found in part 4 of the act. The commissioner is mandated under sections 44 and 45 to investigate and report on alleged breaches either in response to a parliamentarian or on her own initiative.

At the same time, section 46 requires that a public officer holder be afforded the opportunity to present his views before a report that could impugn his reputation is made public, reflecting a basic principle of procedural fairness.

A similar protection is provided with respect to the levying of administrative monetary penalties, and confidentiality requirements seek to avoid unfair or premature damage to reputations that may result during investigations into unproven allegations.

[*Translation*]

Finally, I would like to note that the Conflict of Interest Act is just one component of a broader regime of public sector ethics and accountability.

[*English*]

This broader regime includes “Accountable Government: A Guide for Ministers and Ministers of State” , which sets out the Prime Minister's expectations for his ministry.

Annex A of “Accountable Government” sets out broad ethical standards of behaviour for all public office holders, which goes beyond the requirements of the Conflict of Interest Act. Like the act, compliance with these guidelines is a term and condition of each public officer holder's appointment. “Accountable Government” also contains guidelines for political activities of non-partisan public office holders as well as particular rules for ministers with respect to fundraising and lobbyists.

The Lobbying Act contains an additional five-year post-employment prohibition on lobbying for many of the same public office holders who are subject to the Conflict of Interest Act, including ministers, parliamentary secretaries, ministerial staff, and deputy heads. The post-employment provisions in the two acts overlap with respect to what activity is covered, the relevant time periods, and the public office holders to whom they apply. They are not fully aligned, however, and are administered by different commissioners.

The Public Servants Disclosure Protection Act provides a regime for the disclosure and investigation of wrongdoing by public servants, administered by the Public Sector Integrity Commissioner or PSIC. Where a disclosure deals with a matter covered under the Conflict of Interest Act, the PSIC refers the case to the Conflict of Interest and Ethics Commissioner, who must investigate and report on the matter.

Commissioner Dawson has made some recommendations for providing her office with more discretion to deal with these referrals, and we look forward to receiving the committee's views on these.

Under the Public Servants Disclosure Protection Act, the Treasury Board has adopted a code of conduct that applies to all public sector organizations, and individual organizations have adopted their own specific codes as well. These codes form part of the terms and conditions of employment of every public servant. Public servants in the core public administration are also subject to conflict of interest and post-employment rules that have been established by the Treasury Board through policy.

That concludes my opening remarks, and I am happy to address any questions.

● (1540)

[*Translation*]

The Chair: Thank you for your statement.

Now we'll go right into questions and answers.

Mr. Angus, go ahead for seven minutes.

[*English*]

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you, Mr. Wild, for coming.

It's been an interesting discussion so far, as we are trying to get a real sense of how the Conflict of Interest Act plays out and how to view its various components.

Am I correct that you're at the Privy Council Office?

Mr. Joe Wild: Yes, that's correct.

Mr. Charlie Angus: What role does the Privy Council take in dealing with potential issues of conflict of interest, education of the cabinet, or education of parliamentary secretaries? Is there a role to play?

Mr. Joe Wild: The Privy Council Office has a couple of roles that it plays. We are the primary public service advisers to the Prime Minister, so we provide advice to the Prime Minister on the standards of conduct or the policy in the actual Conflict of Interest Act. We are the ones who provide the public service with advice on how the act is operating, whether or not there are improvements to be made to the act, and whether or not we think the act is covering the things that it ought to cover.

We also provide advice to the Prime Minister on accountable government and the particular parts of accountable government that deal with restrictions on the political activities of Governor in Council appointees. We look after that regime in the sense of providing advice to Governor in Council appointees—whether they're ministers or the heads of government agencies or crown corporations—on what their obligations are.

Mr. Charlie Angus: I'm sorry, I don't have much time, but I really want to get a sense of how this works, whether it's proactive or reactive. We do get issues. A minister gets into trouble over the years. Is that when you step in, or is there an ongoing education process in place? For example, a minister would know that he or she is not supposed to write letters to independent tribunals. They would need to know the rules. Do you explain the rules to them, or do you go in afterwards and explain what went wrong?

Mr. Joe Wild: Our role is not to specifically, directly educate ministers with respect to their obligations under the Conflict of Interest Act. That's the role of the Conflict of Interest and Ethics Commissioner. She has the responsibility of doing whatever education she feels is appropriate under the act. Our job is to advise the Prime Minister on whether or not, from a public service perspective, the system is working, whether or not there are things that need to be adjusted in the system. It's to provide that public policy advice.

Mr. Charlie Angus: Okay.

It seems odd to me that we don't have an ability at cabinet to have people trained. People do make mistakes. It's not that everyone who gets caught doing something wrong has a malicious intent. Sometimes they don't know the rules. It seems odd that it's the Ethics Commissioner who has to step in, that this wasn't done in advance. So the police have to come to the scene of the crime and then tell you how to drive the car properly.

I know when Mr. Christian Paradis was found guilty of breaking the Conflict of Interest Act the Prime Minister said that it was an “education process”. So the education process doesn't happen at cabinet, it happens through the Ethics Commissioner and through these findings?

Mr. Joe Wild: My understanding is that Commissioner Dawson does meet with those folks who are public office holders under the act. She has to work through their asset disclosure and those kinds of things with them when they are first appointed. An element of education comes with that process.

In terms of whether or not my office provides an orientation or an education to ministers about this act or about the stuff that's in accountable government, we generally don't do that.

Mr. Charlie Angus: So, again, we have an issue like an ethical screen. There were allegations that Mr. Nigel Wright was being lobbied by Barrick on three different occasions, I think. He is the godfather of Anthony Munk's son. Anthony is on Barrick's board of directors with his father Peter Munk who is the founder and board chairman of Barrick Gold. Peter Munk said that Nigel Wright was one of the few people that he trusted completely. So an ethical screen is set up that's supposed to separate Mr. Wright and his personal and potential financial interests from being lobbied, yet he is lobbied. So that screen is not set up through anything with Privy Council; you'd come in after the fact to explain what the problem was. The Ethics Commissioner is supposed to set this up, and then just assume people will do it?

● (1545)

Mr. Joe Wild: We assisted in the establishment of the ethical wall that was set up with regard to Mr. Nigel Wright, and a portion of that wall is the responsibility of the Privy Council Office to administer. That's mainly the portion that would relate to any of the material that comes through us that's going for cabinet discussion, to ensure it is properly flagged, if it's subject to the wall, and that it is not transmitted or communicated or discussed with Mr. Wright in accordance with the provisions of the wall.

So we have a responsibility to do that, and we do. The rest of the administration of that wall is vested in the deputy chief of staff in the Prime Minister's office. Ms. McNamara has responsibility for ensuring the wall is respected on their side.

Mr. Charlie Angus: She's deputy chief, so she's below Nigel Wright, but her responsibility would be maintaining his ethical wall?

Mr. Joe Wild: She is responsible for ensuring that material is also caught on their side and is not shared with Mr. Wright and for reporting any potential breaches or issues with respect to the wall to the Conflict of Interest and Ethics Commissioner.

Mr. Charlie Angus: Okay, thank you very much.

[*Translation*]

The Chair: Mr. Carmichael, you have the floor for seven minutes.

[*English*]

Mr. John Carmichael (Don Valley West, CPC): Thank you, Chair.

And thank you, Mr. Wild, for appearing today.

We've received quite a litany of recommendations from the Commissioner and from some of the witnesses that we've had before us. I'd like to get your feedback on one of the items that appears fairly contentious.

The Commissioner has recommended that the gift disclosure threshold be lowered from $200 to approximately $30. I wonder if you could provide your thoughts on that one specifically.

Mr. Joe Wild: I think that, in looking at that particular recommendation, the committee may want to consider the value at which gifts can raise concerns about perceived influence on a public office holder and therefore warrant triggering the public disclosure requirements of the act.

One thing I would note is that the act does require disclosure to the commissioner if there is a series of small gifts from a single donor that add up to $200. So it's not just a single $200 gift that triggers that, it is if there is a multitude of small gifts given by a single donor to a single public office holder; that can trigger it. And that threshold, when it was established, when the act was passed as part of the Federal Accountability Act, I mean, was intended to be a meaningful threshold in the sense that it was felt that at that point, the public might view a gift being given in that amount or more as potentially being given for nefarious purposes as opposed to a lower value gift. There was a real attempt to figure out the right threshold to communicate to the public around that.

The other thing I would note is that the act doesn't strictly place a requirement only on public office holders to disclose gifts. That disclosure requirement also attaches to the spouses, common-law partners, and independent children of public office holders on gift disclosure. So that is one of the provisions of the act that isn't specific to the public office holder. In some ways, it is more invasive in the sense that it also applies to their immediate family.

For example, if you had a spouse of a public office holder with a career outside the public sector, if that spouse were to attend a business lunch, as might be the norm in that particular industry, and that business lunch was paid for by the client or the person who they're having lunch with and that lunch was over $35, that spouse would then have to disclose the fact that occurred and put that on the registry. I think that's something the committee may want to really think about. When you think about the level of disclosure around gifts, at least the way it's currently crafted in the act, this isn't strictly an obligation of the public office holder. It does extend to family members. That's just something the committee may want to consider.

Mr. John Carmichael: That's an interesting point. I wasn't actually aware of that.

I had concern from an administrative perspective that in lowering the threshold, do you actually bulk up on the administrative demand on the staffing at the commissioner's office? But at this point, we have a bit of feedback on that.

The commissioner also recommended that the administrative monetary penalties be extended to breaches of the substantive provisions of the act. I wonder if you could tell us the implications of this, and do you in fact agree with this recommendation?

● (1550)

Mr. Joe Wild: Again, there are some things that the committee may want to consider as it examines that particular recommendation. The way the administrative monetary penalty regime is set up now, it's there to ensure that public office holders disclose and file their public declarations on time. It's not there for the actual substantive breaches of the act. And again, there were reasons why that line was drawn at the time when the government first introduced the legislation.

There are a couple of issues that the committee may want to think about, and I think some of these have been raised by other witnesses. One is whether or not a nominal monetary penalty is an appropriate response to a substantive breach of the act, particularly if that substantive breach is of a serious nature.

The way the act is intended to work is that you can call it a name-and-shame kind of regime. If there is a serious breach, the idea is that the commissioner reports that publicly. That results in reputational damage, and ultimately I think the main consideration for the government around this has to do with the role of the Prime Minister and his political accountability for the conduct of the ministry as well as those appointees for whom he is responsible.

I think it's important to bear in mind that under the Westminster system of government, when you look back at the trigger for the emergence of a role of a Prime Minister, it was very much wresting from the king the actual appointment of the ministry. This is at the heart of the role of a Prime Minister: to be the one who determines the makeup of a cabinet and basically to hire and fire ministers. And the act is trying to draw a line to ensure that it respects that Westminster feature, that it is ultimately up to the Prime Minister to determine whether or not a breach of the act is sufficient to warrant removal of an individual from office or some other form of remedial action such as a public apology or whatever it might be.

Mr. John Carmichael: You mention a nominal monetary penalty; I don't know that the commissioner's intent is nominal. Number one, I think it's substantive, and number two, do you agree that it, in fact, is the right direction to be taking this or not?

Mr. Joe Wild: As you can tell, I am being a bit careful about "agree" or "not agree" because it's a bit difficult as a public servant to come in and say what I think is right or wrong in terms of a policy direction. What I can say is, that would substantively change the nature of the act and the balance that the act is trying to achieve, which I think is reflective of a Westminster form of government.

I don't think it is something that should be done lightly. I think one has to fully consider what it means to have a commissioner imposing sanctions on political actors where there is a system of political accountability that ultimately rests on the shoulders of the Prime Minister for the conduct of those individuals.

[*Translation*]

The Chair: Thank you for your answer.

[*English*]

Mr. John Carmichael: Thank you very much.

[*Translation*]

The Chair: Thank you, Mr. Carmichael.

Mr. Andrews now has seven minutes.

[*English*]

Mr. Scott Andrews (Avalon, Lib.): Mr. Wild, thank you for coming. I have three lines of questioning.

You talk about the five-year post-employment prohibition and how that actually works if it's the five-year under the Lobbying Act or the year under the Conflict of Interest Act. Yet, people who don't obey get written up; that's the only sanction they get. They get a bad name and they get an article in the newspaper for one day. Then they get to carry on with their lives and continue to do what they're doing. So there's really no incentive to pay attention to the rules.

If you don't put in a monetary fine of some sort, how do you chastise people for not obeying their post-employment obligations?

Mr. Joe Wild: I think there is an important distinction to be drawn between the prohibition on lobbying under the Lobbying Act, which actually has a criminal sanction regime sitting behind it versus the more generic post-employment regime that's under the Conflict of Interest Act.

With respect to the Lobbying Act, there are a couple of things in there beyond the criminal sanction. There is the report to Parliament part which, for a lobbyist, I would think actually carries a fair bit of impact. If you have been publicly outed as having violated the Lobbying Act, I don't know how you could continue to necessarily have a livelihood that's based on lobbying. My guess is that most people would not want to use a lobbyist who actually is being seized —

● (1555)

Mr. Scott Andrews: But under the Conflict of Interest Act then, the one-year prohibition of not going out in the field for which you were employed by government....It's clear, and again, I have said it before, Loyola Sullivan, was in clear breach of it. He carries on as normal. He had a one-day news article and he carries on.

Mr. Joe Wild: I can't speak to any specifics of that specific case. I'm not aware of the details of it.

There are always choices to be made about how to build these regimes. This particular regime is built on a principle of both self-reporting and self-regulation by the individual public office holders. It depends on the nature of the post-employment breach, but in addition to the naming and shaming around that, the commissioner can also issue an order that public office holders are not to have dealings with the individual who has breached the post-employment regime.

The idea is that you can turn off, if you will, the kind of government side of the tap in that relationship. That doesn't necessarily address all aspects of potential post-employment violations, but there are some measures there that I guess would help protect or ensure that there's no improper flow of information between the government and the individual who may be violating the post-employment provisions.

Mr. Scott Andrews: Also, you mentioned that the acts are not fully aligned and they're administered by different commissioners. Do you see this as a problem? Should we try to align the pieces of legislation or is it fine under each commissioner?

Mr. Joe Wild: This is an issue that came up when the Lobbying Act went through its five-year review. It was this committee, I guess, that looked at that, and the report it issued recommended that this should be looked at in terms of harmonizing that post-employment regime.

I think that is something that, again, probably merits good examination by the committee. The government was clear in its response to the prior committee report under the Lobbying Act, that it would be interested in hearing from this committee on this with respect to this act. Once it sees the views of this committee on the Conflict of Interest Act angle of it, I think there's interest in seeing whether or not that's something worth doing.

I think it's recognized that there are issues with having the two regimes the way they are and that it's creating some confusion. There may be issues around whether or not the levels of sanction are proportionate. Sorry, I didn't mean sanctions; I meant to say the amount of the time during which the prohibitions apply, the five years versus the one or two years under the Conflict of Interest Act, depending on whether you're a minister or a different type of public office holder.

Mr. Scott Andrews: You also talked about the broader regime and the "Accountable Government: A Guide for Ministers and Ministers of State". How exactly does that guide get presented to a minister or a minister of state? Who sort of says, "You're a minister now. Here is this guide. You must apply these guidelines." Do they have to sign it? Do they read it?

Who administers that in the PCO or the PMO?

Mr. Joe Wild: My group is responsible for providing advice to the Prime Minister. It's very much a Prime Minister's publication. Really, since the time of Prime Minister Trudeau there has been some form of accountable government. Since the time of Prime Minister Chrétien these have been made public.

That document is always distributed to any new minister, or any time you have a new ministry forming after an election, so it's part of the package of material that is provided to an incoming minister. In addition, whenever there is a transition—after an election and you're restarting government—it's usually noted at the first cabinet meeting. There is some review, a reminder of what the requirements are under accountable government.

● (1600)

Mr. Scott Andrews: But they are just guidelines. They are just like, "These are the things we think you should do."

I have actually read the guide, and one of the things that amazes me the most about is that the guide says that ministers must answer questions in the House of Commons to the best of their ability and truthfully and to the subject matter. They don't seem to pay attention to that guideline very much when it comes to questioning in the House of Commons.

Mr. Joe Wild: All I can say about accountable government is that these are the Prime Minister's expectations of the ministry. It's ultimately the Prime Minister who judges whether or not conduct is sufficient under those parameters for a minister to continue or not in the position they are in.

[*Translation*]

The Chair: Thank you, Mr. Andrews.

It is now over to Mr. Warkentin.

[*English*]

Mr. Chris Warkentin (Peace River, CPC): Thank you, Mr. Chair.

Thank you, Mr. Wild, for being with us this afternoon.

I've said it before, and I guess I'll get your perspective on it. It seems to me the one thing that members of Parliament have—maybe the only thing members of Parliament have—to remain in their jobs is their reputations. Obviously we have an act that is supposed to protect people from being falsely accused of having done something.

There are some procedural safeguards within the system to ensure that those people who have had an allegation brought against them have some protection for their reputation.

I'm wondering if you view that the appropriate safeguards are in place, or if you believe that there are some gaps or potential gaps within the system that need to be considered as we review this act.

Mr. Joe Wild: The act certainly places a number of requirements on the commissioner. For example, under sections 44 and 45, the commissioner has the authority to investigate and report on alleged breaches, whether in response to a complaint made by a parliamentarian or self-initiated.

Then section 46 says that public office holders are to be afforded the opportunity to present their views before a report that could impugn their reputation if made public. So there is a safeguard in that sense in that before a report is issued under an investigation, whether self-initiated or in response to a complaint, the public office holder is provided the opportunity to respond or to provide their views to the commissioner.

I would say that's a fairly basic principle of procedural fairness. You have a similar type of protection with respect to the levying of administrative monetary penalties. Again, before a penalty can be levied, the commissioner has to offer an opportunity to the public office holder to provide a response.

In addition, there are confidentiality requirements in the act that seek to avoid unfair or premature damage to reputations that could result during investigations when allegations remain unproven. Again, there is that whole idiom of innocent until proven guilty. The act is very much built along those lines so that the commissioner does have a general confidentiality requirement that prevents her from disclosing information prior to issuing a report. As well, the parliamentarians who provide the commissioner with allegations they've received from the public to the effect that a public office holder has violated the act are supposed to keep that information confidential until the commissioner has issued a report.

Mr. Chris Warkentin: That's the one that doesn't seem to be followed right now. It seems that any allegation that's brought to the commissioner's attention is immediately made public, or in some cases made public before the complaint is brought forward. The commissioner talked about her frustration with regard to that.

Mr. Joe Wild: I certainly heard the commissioner's testimony on that point, and I think that goes to the heart of the recommendations she's making about wanting to be able to have the discretion to make some information public, when those kinds of disclosures happen, in order to either correct misinformation in the allegation or otherwise try to at least keep the public record somewhat straight on what's going on. That's another area about which we're interested in hearing the committee's views as to whether or not there's something inappropriate there.

The other area that probably bears some examination is the commissioner's use of compliance orders under section 30 of the act. Generally speaking, that whole area was intended to be forward-looking, in that compliance orders were meant to be about the things you need to do to avoid putting yourself into a conflict situation.

We've had recent examples of compliance orders that actually draw conclusions on breaches under the act. I don't want to suggest there's anything necessarily untoward around that. I just think that when we're doing our review of the act, we should try to figure out whether or not there is proper procedural fairness balance in how the compliance order is being used under those scenarios. Again, that may be something the committee wants to look at, just to make sure we have the basics of procedural fairness in place for anything that's going to be a conclusion of fault or blame under the act.

● (1605)

Mr. Chris Warkentin: We did ask the commissioner, and I think we got her view on it, but is it your view that there should be some type of penalty for people who break the provision of confidentiality when they bring an allegation forward?

Mr. Joe Wild: That's a difficult question. Different ways of looking at that have been looked at. I'm not aware of a jurisdiction that has put something in place around this. It may be that ultimately it is something that should be put back into the hands of the Speaker, if we're talking about the conduct of members of Parliament and senators. Maybe it should be something that the Speaker of either house should be dealing with if that occurs. It's complicated to put a commissioner into the middle of that kind of fray, but, again, those are areas about which we look forward to hearing the committee's views.

Mr. Chris Warkentin: Do I have some time?

The Chair: Yes, you have one minute.

Mr. Chris Warkentin: In respect of the definition of "friend" within the act, the commissioner has a definition that she has used. I'm not sure it is described within the act, what "friend" means. What's your view of the word? Should there be some additional definitions within the act? Are you comfortable with what it is? This commissioner has interpreted it one way. Is there a chance it would be interpreted a different way by a different commissioner?

Mr. Joe Wild: Certainly, there's always a chance that a different commissioner would interpret something differently. We would assume, though, that a specific guidance from a commissioner would set a bit of a foundation, and you wouldn't expect that to vary too much in the future. I think that the interpretation the commissioner has given to "friend" is consistent with what we see as the use of "friend" in other contexts where conduct is being regulated. There's nothing in the way she has come at the definition that would be different from what we see in the notions of other professional bodies that have codes of conduct of a similar nature.

While it's true that the act doesn't define “friend”, we think the commissioner's guidance has been sufficient to allow most public office holders to understand where the lines are in the act. The commissioner's guidance for us appears to be consistent with the sources that we would look to, were we to try to create a definition for “friend”.

[*Translation*]

The Chair: Thank you, Mr. Warkentin.

Now we begin the five-minute question round.

Ms. Borg, it's your turn.

Ms. Charmaine Borg (Terrebonne—Blainville, NDP): Thank you, Mr. Chair. Thank you to the witnesses for joining us today.

Mr. Wild, you said that you give the Prime Minister and ministers a guide that explains the type of fundraising activities they can take part in, as well as the precautions they should take.

The commissioner called for stricter fundraising rules for ministers and parliamentary secretaries. Do you agree with that recommendation? Using the ministers' guide as a model, could you suggest some more tangible steps we could take?

[*English*]

Mr. Joe Wild: I haven't thought about that particular area to any great degree, so I don't have a particular view on the commissioner's recommendation. As with anything else, we await the committee's views on that recommendation.

● (1610)

[*Translation*]

Ms. Charmaine Borg: Thank you.

The commissioner also recommended harmonizing the members' code and the Conflict of Interest Act. Do you have any thoughts on that? Would that make your job a bit easier?

[*English*]

Mr. Joe Wild: I don't think it will make my job easier, mainly because, from a public service perspective, we play no role in the development of the policy on the code for members of the House of Commons, or the Senate for that matter. That is done under the auspices of the legislative branch of government, and we have no role in it.

I don't think it would change anything. I can't imagine that I would ever be asked to provide policy advice on the code for members of Parliament. To that extent, to combine them into a single act would just raise the question of how to structure the process of reviewing that act, and how to make amendments to it, given that you would have split policy responsibilities. Part of the act would be under the policy jurisdiction of the executive branch—the government and my office—and the other part would be under the legislative branch and whatever House committee is used to review the rules for members of Parliament.

This creates a certain logistical tension in how you would go about doing a review of a combined piece of legislation on a five-year cycle, as we're doing now. I'm not sure how that part would work. I don't think it's an insurmountable obstacle. I just point it out as something that would have to be thought through. You have the two different arms of government, the legislative and executive branches. We have very different roles vis-à-vis these two branches, and I have absolutely no role whatsoever to play in the code of conduct for members of Parliament.

[*Translation*]

Ms. Charmaine Borg: Thank you.

I am going to pick up on the ministers' guide for a moment.

In your opinion, if you heed the advice contained in the guide, can you really avoid scandal or successfully navigate through a grey area? Is the guide quite helpful in that respect?

[*English*]

Mr. Joe Wild: By “guide”, do you mean accountable government?

[*Translation*]

Ms. Charmaine Borg: Yes.

[*English*]

Mr. Joe Wild: Certainly from my perspective, I'm able to see from my vantage point how that document has changed over the years, because I've seen every version of that document from the very first one produced by Prime Minister Trudeau all the way to the version that exists and that was published in 2011. I can say that the document is remarkably consistent in the fundamental principles that it enunciates. I think those principles resonate not just in Canada, but are the kinds of principles that you would expect to see in most Westminster forms of government. So in that sense the base, the foundation, of that document is almost, in a sense, timeless. It really reflects the hundreds of years of evolution of Westminster government. Those basic principles are all tried and true.

The notions of what it means to have cabinet government, the role of a prime minister in cabinet government, the role of the governor general, the role of the executive, the role of Parliament, the accountability relationship between ministers and Parliament, the role of deputy ministers, the role of exempt staff, those are quintessential principles of our form of government. They tend not to radically change over time. They may be evolving, but I don't think there's anything in the current version of accountable government that would suggest there's any weakness in those core principles.

I think, generally speaking, it's pretty robust. At least when I look internationally at Australia, New Zealand, the United Kingdom, I see very similar types of documents produced by them that enunciate these principles in very similar ways. We're remaining fairly consistent within our Westminster tradition.

● (1615)

[*Translation*]

The Chair: Thank you for your answer.

We now move on to Mr. Butt. You have five minutes.

[*English*]

Mr. Brad Butt (Mississauga—Streetsville, CPC): Thank you very much, Mr. Chairman.

Thank you, Mr. Wild, for being here today.

At the outset, I want to say I think it's great that we're doing this five-year review. I think it's great that we brought forward the Federal Accountability Act, and, as part of that, the Conflict of Interest Act, and that we did try to set some rules. We brought a comprehensive package forward and we've done our best. The whole idea of this review is to get feedback from you and others on the following. Is it relevant again five years later? Is it covering the right people? Are the right disclosures being done? Is the commissioner's mandate appropriate?

In that vein, I asked the commissioner on Monday a couple of questions, because I'm struggling with a part of the act. Obviously, we're covering certain public office holders, including cabinet ministers, but essentially we're saying to somebody that once you're appointed to cabinet, you're not really a member of Parliament anymore. You're not really there. You can't really advocate for your community on a local issue. And I'm struggling with that.

I'm sure every MP, if they're on the government side, wishes they're going to get that call from the Prime Minister and they're going to get appointed as a cabinet minister or a parliamentary secretary, and they want to take on that role and they want to do that job to the best of their ability. But it sounds like the way this act is written we've almost handcuffed those same people, preventing them from being able to advocate for their community on an individual issue, which may have absolutely no relation to the ministry of which they're a minister.

Is that a shortcoming in the act? Or was it particularly deliberate that we really do have two very clear sets of individuals who work in the House of Commons, those who are in cabinet or parliamentary secretaries and those of us who are regular MPs?

Mr. Joe Wild: There are a couple of things around that question. There's a bit of grey in the answer in the sense that the act does attempt to balance the idea that you have ministers who are also members of Parliament. Quite frankly, their constituents have a right to receive the same services from their member of Parliament as from other members of Parliament. So, how do you balance that then with the role a minister may have and the issues that can create?

Subsection 64(1) of the act is a very important subsection. It was the subject of a lot of discussion when the act went through the House and Senate the first time around. It's an important section because that is the section that lays out that nothing in the act prohibits a member of the Senate or House of Commons, who is also a public office holder, from engaging in those activities that he or she would normally carry out as a member of the Senate or House of Commons.

That was a deliberate choice to put that provision in at the time. It was put there because the idea was that ministers and parliamentary secretaries would have to play a role as MPs and senators in conducting activities on behalf of their constituents. The recent decisions of the commissioner have suggested that there are certain areas where that work has to be curtailed.

I would say there is nothing necessarily new in that debate. This whole issue of the role of ministers vis-à-vis certain types of bodies, in particular bodies that carry out any kind of an adjudicative function, has been an area of discussion and controversy going back to the early nineties and probably even before.

I think the difficulty is whether or not additional clarity may be needed to try to figure out where the lines of the go and no-go zones need to be drawn. The commissioner offered her views when she appeared and the committee is going to have to look closely at that and think about that.

I can say that the primary concern in the development of the act, if you look from 1990 forward and you look at how accountable government has changed—because it has a whole chapter that deals with the role of ministers vis-à -vis administrative tribunals in crown corporations—and if you look at all of the issues that have gone on in that last 20-25 years, the line that's being drawn is really saying that you have to be particularly careful if you are a minister responsible for the actual organization.

If the organization is in your portfolio, you need to be particularly careful about having any interaction with that organization in order to further the interest of a constituent. But you still have to be able to do the things that an MP would otherwise be able to do. There should be processes put in place so that your constituents can have the normal referrals that other MPs may be able to offer them.

The uncertainty at the moment is where all of that sits, given the recent decisions of the commissioner and whether or not these are policy areas that the committee wants to weigh in on. I think we will wait to see what the committee has to say about them.

From my perspective, from a public policy perspective, we need to look at that to make sure that the balance is all correct. Right now, I think there is a bit of tension between the orders the commissioner has issued and how accountable government is framed, and we're going to have to look at that.

● (1620)

[*Translation*]

The Chair: Thank you for your answer.

I will now turn it over to Ms. Davies for five minutes.

[*English*]

Ms. Libby Davies (Vancouver East, NDP): Thank you very much, Chairperson.

What we're talking about is a very complex issue. What I'm struck by in your opening remarks is the number of players involved and the number of levels and nuances, whether it's the Conflict of Interest Act, “Accountable Government”, the Public Servants Disclosure Protection Act, and then we have the Treasury Board guidelines as they pertain to senior employees or all public employees, the Lobbying Act, and two different commissioners.

At the end of the day we would all say we want there to be clear, ethical rules and we want there to be an avoidance of any conflict of interest. So I think part of this statutory review is to really try to get at the issues as to whether the system itself is not clear enough, or whether it's being enforced properly, or in fact if there really isn't any enforcement—and you've spoken to that a little bit today—so that if an action takes place there is really no consequence. Those are the questions we have to try to drive at.

I am curious that you've just said, in response to one of my colleague's questions, that you think there is a grey area between what pertains to a minister and what pertains to that person as a member of Parliament. When Ms. Dawson came on Monday she seemed to think there is a clear delineation.

I really think it opens up a lot of issues: is there clarity around what these guidelines or rules are in terms of the people administering them, and in terms of the people who have to live by them? Everything you've said today leads me to think that it isn't where it needs to be in terms of overall clarity, and that all kinds of stuff can go on, whether deliberately or not. That's what we have to focus on because at the end of the day it is about public accountability and being very clear on where we all stand on this.

Maybe you could address that, in terms of whether there is a need to look at some overall structure, and why you think there is a grey area where apparently Ms. Dawson doesn't have that opinion. That's definitely a different approach you're taking there.

Mr. Joe Wild: I'm certainly not trying to disagree with the commissioner. That would be a bit presumptuous of me since it's ultimately her responsibility to interpret the act.

What I'm saying is that annex H to "Accountable Government" sets out a frame of guidance around the interaction of ministers with quasi-judicial bodies, bodies that carry out adjudicative functions. The recent compliance orders would necessitate our having to change that guidance.

In other words, what we thought was happening under subsection 64(1) the commissioner has, I suppose you could say, clarified is not actually what's happening under subsection 64(1). We need to look at annex H because annex H—which was really rewritten back in 1993 and hasn't changed much since then—moved the yardstick away from a complete ban on any interaction between a minister and a quasi-judicial body to saying that the ban is with respect to the actual adjudicative function, but, for example, licensing or permits where the representations are open to anyone to be made, may be okay.

All I'm saying is that as a result of those compliance orders coming out, we now have to look at that and judge what it means in terms of what we thought was the policy framework we had established through the act, and look at what subsection 64(1) meant, and then how that was being reflected in the specific guidance in "Accountable Government" around the interaction between ministers and quasi-judicial bodies.

It's clear to me that we have a problem right now as it sits and that we're going to have to revisit what we thought were the rules of the game because it looks like they're not what we thought they were.

● (1625)

[*Translation*]

The Chair: Ms. Davies, your time is up.

I will now give the floor to Ms. Davidson for a few minutes before we move on to our next witness.

[*English*]

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thanks very much, Mr. Chair.

Thanks, Mr. Wild, for being here with us. It certainly has been interesting testimony that we've heard this afternoon. I know that I've learned some things that I didn't know before you started giving your presentation, so I really appreciate you being here.

You talked in your opening remarks about the PCO and how they're the primary public service adviser to the Prime Minister. Part of your responsibilities, if I understood you correctly, is to determine whether or not the act covers what it needs to or there need to be other things, and whether it covers the appointees that it needs to cover.

I have a couple of questions.

Do you think the act covers what it needs to? We've had some people suggest that there should be other Governor in Council appointees or people covered by this act. What do you think about that?

Also, here's one of the other things that I have wondered about myself. Should parliamentary secretaries be held to the same restrictions as ministers when it comes to cooling-off periods and the rest of it?

Could you comment on those, please?

Mr. Joe Wild: With respect to coverage, and in particular the appointee question, I think it's certainly clear that there is a particular form of appointee that the committee may wish to consider, whether or not the definitions of public office holder or reporting public office holder need to be changed in order to capture those individuals. It's a somewhat unique form of appointment, wherein you have chief executive officers who are appointed by their board, rather than by a minister or the Governor in Council.

In particular, we all know about the case of the Governor of the Bank of Canada. There are directors of museum corporations, as well as pilotage authorities, who fall under this category. I think it's clear that there's probably something to be said for looking at whether or not that definition needs to be revisited in order to make sure we haven't missed anybody.

The parliamentary secretary question is an interesting question from the perspective of, again, the purpose of the act. It's trying to ensure that those who are discharging the exercise of powers, duties, and functions housed within the executive branch of government are doing so in a way that they can not only demonstrate publicly, but that they are in reality being done in a way that is not influenced by any private interests, right? That's the overall objective here. It's to make sure that the public then has trust that those who are exercising executive authority in government are doing so in a manner that is appropriate, with "appropriate" meaning determined by the public interest, and not influenced by the private interest.

I think there's a big question about where parliamentary secretaries then fit into that scheme. They don't have any powers, duties, or functions in law. Their role is to assist ministers vis-à-vis their responsibilities in the House of Commons.

They may also assist ministers in developing government policy, but they don't actually discharge a specific in law power, duty, or function in the same way that ministers do, or, quite frankly, public servants who exercise authority on behalf of ministers, so there is something to be said about looking at whether or not they fit into a slightly different category. They don't necessarily have access to the same information that ministers do. They don't have access to cabinet information, typically; they may be provided some cabinet information if they work on a particular policy issue for a minister. They exercise a slightly different category of duties, so they have a slightly different relationship in terms of, to me anyway, the issues that the act is trying to capture.

That's an area that, again, the committee may want to think about and look at as they think about what a parliamentary secretary does versus what a minister does, the difference of the use of authority, and the access to information between the two within government.

● (1630)

[*Translation*]

The Chair: Thank you, Mr. Wild, for your comments.

That brings our first hour of testimony to a close.

We will now take a short break to get set up for our next witness, who is joining us by videoconference.

● (1630)

(Pause)

● (1630)

The Chair: Colleagues, members of the committee, we will now reconvene for the second hour of our meeting.

As per the agenda, we will now hear from Lorne Sossin by videoconference. Mr. Sossin is the dean of York University's Osgoode Hall Law School in Toronto. As usual, we'll begin with a 10-minute presentation, followed by questions and answers.

Mr. Sossin, please go ahead. Thank you for joining us.

[*English*]

Dr. Lorne Sossin (Dean, Osgoode Hall Law School, York University): Thank you very much for having me and for accommodating the fact that I can't be there in person, which I would have very much enjoyed.

I probably won't need the 10 minutes, and I want to make sure there's as much time for questions and answers as need be for me to be helpful. My experience with this field, whether municipally, provincially, or federally, has convinced me of just a couple of guiding principles that I hope will be helpful in this review process.

One is the challenge of granularity. In other words, there is the temptation to lay out with increasing specificity what constitutes a conflict, because people have to govern themselves and want to know with as much clarity as possible the rules they're going to be falling under.

But if you set out as some of the sections in the act do—such as section 14, for example, on contracting, which sets out spouse or parent or child—invariably, I think you're going to lose sight of the guiding principle, which is not advancing a private interest through the exercise of a public power. Why, for example, does that not apply with equal force to a brother or to a cousin or to a niece? Wherever you try to draw the line, I think, invariably, you're going to leave out things that are, in the public's eye, in the same category of private interest.

The overall structure of the act is very value-based and is very much guiding itself by the desire to enhance public confidence, and I hope this review validates that approach, because I've seen in municipal and provincial and other statutes the attempt to become more and more granular lead to less and less public confidence at the end of the day. That's one comment as a general matter.

The other comment is related to that. If there's one criticism of the act that I've heard within the community of other integrity commissioners or other people who practise and observe this area of law and policy, it's the line between actual conflicts as our concern and the apprehension of conflicts or the perception of conflicts. I think actual conflicts are remarkably difficult to establish in many cases whereas the perception is often much clearer.

I think, increasingly, what people are concerned with is not entering into a course of action that's going to give rise, in a reasonable observer, to the perception of a conflict. That's certainly a legal standard well known in administrative law around decision-making. Increasingly, in the new municipal statutes that I'm aware of, for example, the tendency is to embrace that idea of perception being as potentially damaging as the actual conflict. Again, I think it's a point of discussion that I know you're already considering and that those who designed the statute already considered, but it's alive in the community of accountability officers, so I wanted to mention that.

The third point is about the powers of the commissioner. I know there's been media discussion of whether additional financial penalties are necessary. We're had an interesting case in the City of Toronto as I'm sure everyone around the table knows in which a court found our integrity commissioner didn't have the authority to ask the mayor to pay back certain funds that in her judgment were paid in contravention of the code of conduct.

Again, that is puzzling in terms of public confidence. If the issue is that you received a benefit, why wouldn't it make sense, in a restitution sense, to have the remedy be to pay that money back or to pay that money into the city coffers so there's no individual benefit?

I guess the third point would be to not necessarily comment on the specifics of what monetary penalty would be appropriate. The commissioner has a strong point in saying it's unusual to have monetary penalties for breaches of the process but not for substantive breaches. But, again, I wouldn't want to see that leading to granularity so that this penalty of up to this particular amount in this particular case would be appropriate.

● (1635)

I think the value-based approach—of saying the remedies necessary to ensure public confidence ought to be the remedies the commissioner has at her disposal—is going to fulfill the objects of the statute much better than an attempt to itemize with exact precision the nature of which penalty ought to attach to which kind of conduct.

Those are the three areas that are very much top of mind for me and, in conversations about the act in this review, are the ones that come up around this particular statute. This statute was welcomed when it came into force and has been a qualified success story in terms of raising the quality of conduct and raising the credibility of review. But qualified successes, obviously, are double-edged swords and there are clearly elements of a work in progress yet to be completed as well.

I'd welcome any discussion you wish to have or questions that I might be helpful in answering.

Thanks for the opportunity to share those opening thoughts.

● (1640)

[*Translation*]

The Chair: Thank you for your remarks.

Now we'll move into questions and answers, beginning with Mr. Angus for seven minutes.

[*English*]

Mr. Charlie Angus: Thank you, Mr. Sossin, for being with us today. We really appreciate your advice. I'm not a lawyer myself, but there are many lawyers here in Parliament and we do deal with legislation.

Therefore I find it sometimes a little surprising that my Conservative colleagues get very confused about what rules are right and what rules are wrong. For example, on January 18 the Ethics Commissioner ruled that Finance Minister Jim Flaherty clearly broke the Conflict of Interest Act when he wrote a letter, as a minister, on behalf of a commercial interest that was not in his riding. It was based on section 9 of the act, which prohibits ministers from using their influence, and it also was in conflict with the Prime Minister's own guidelines.

Now I just heard from a representative of the Privy Council who said this was a very grey area and that perhaps the committee needed to look at it. We asked Ms. Dawson and she seemed to think the rules were very clear.

Are the rules clear on the issue of a minister writing to a semi-judicial body, or is it, as the Privy Council person was saying, a very grey area and they're not very sure what the rules are?

Dr. Lorne Sossin: In my view, this is not particularly grey. Section 9 is clear. What creates the opportunity for clarification, and I'm not sure that's the same as a grey area—that's for you to explore—is the operation of section 64 in this other provision of the act, which speaks to not wanting to interfere with the ordinary activities of a member of Parliament.

I think it is clear that section 9 needs to constrain the other section. In other words, there shouldn't be any interference with the ordinary conduct of an MP's affairs, except to the extent that you cannot use a position of influence to affect an adjudicative or regulatory decision.

The public confidence metric is the key one. I heard a bit of the Privy Council representative's thoughts, and it goes to a particular appendix and particular language, and I don't want to speak to the specifics of what protocols or guidance exist and what needs to be revised. But the principled approach is pretty clear: it would make no sense to have a section like section 9 that sets a global restriction on any public office holder using that influence to get a particular result for any private or commercial interest if the exception were whenever you were doing so for a constituent, or where there was that other relationship.

That is not to say, with respect to Minister Flaherty, that there was an attempt to undermine the act or an attempt to act improperly. It's important to also remember the advice-giving and principle-clarifying role of this office and this legislation. The idea, in other words, I don't think should be just the ex-post moments where you can say someone contravened the act. The best-case scenario is where conduct can be governed by good advice and good, sensible distinctions based on the legislation.

So I don't think it's particularly grey, but having two competing provisions does raise the important moment to say here is how they live together. In this case, it is pretty clear how they live together, and section 9 has to prevail whenever there is any ambiguity. When you're sitting on the fence and don't know which way to go, the purpose of the act has to be the governing issue, and you don't have to be a lawyer to see why that would be the most sensible way to understand the legislation.

Mr. Charlie Angus: That's the way I interpret it. We weren't expecting Commissioner Dawson to jail the finance minister over this. She was clarifying the act. I think it was fairly clear. She said section 9 did take precedence.

I'm not sure if my colleagues on the other side are trying to water down the act, but they seem to be very uncomfortable by this. I had asked if it was okay for me as an ordinary member of Parliament under section 64 to write the letter, and she said it was absolutely correct. My colleague Mr. Warkentin then suggested that if Charlie Angus received financial interest from Aboriginal Voices Radio, would that be wrong? She said, well, then, she would consider it. But as I received absolutely no donations from Aboriginal Voices Radio, I remain, like my colleagues around the table, an ordinary member of Parliament.

She clarifies the rules. It would seem to me that we should be able to move on, but my colleagues on the other side seem to want to perhaps reopen this and water down the act.

I'd like to just ask you something else about my colleagues' concerns. They seem to be very much against any administrative monetary penalties for ministers who break the law, but they are suggesting that perhaps an MP who writes to the Ethics Commissioner with an investigation, and lets anyone know, should be liable for punishment because this should be kept secret.

The example I'd use is from last Friday. Is it Mr. O'Toole, the new guy from Durham? He did a press release saying he was going to launch an investigation against one of our colleagues. It's a fairly spurious accusation, but he didn't tell the Conflict of Interest Commissioner until Monday, so to me that's politics. It's not great, but it's politics.

Is there anything to be gained by deciding that we're going to keep investigations secret? It seems certainly there would be something to be gained by a minister being able to keep an investigation secret. But is it really something that's going to add anything by our going after Mr. O'Toole and subjecting him to monetary penalties for the fact that he went to the media before he went to the Ethics Commissioner? Wouldn't we just say, “Hey, this is politics”?

● (1645)

Dr. Lorne Sossin: It's an absolutely critical puzzle, in a sense. Look, I have no partisan axes to grind on any side here, but I think it's clear to anyone that you would defeat the purpose of giving sensible advice and being able to engage in investigations, which sometimes need to be developed away from the public glare, if the entire thing was transparent from start to finish.

On the other hand, it seems completely unfair for me to ask for the investigation on a Wednesday, launch a complaint, and then on Friday stand up and say, “I hear the minister is under investigation by the Ethics Commissioner and that's reason number 15 why they should resign”, and not have either the Ethics Commissioner or the subject minister be able to say anything in defence of that.

To me the goal is how to make sure we're going to get efficient, effective investigation, with efficient transparency to enhance public confidence and to avoid that kind of potential unfairness. If this just becomes another vehicle through which to express partisanship, then I think we've clearly lost an opportunity for accountability, which is what the public wants. But that said, it has to live within the realities —

Mr. Charlie Angus: I'm running out of time now.

[*Translation*]

The Chair: Unfortunately, your time is up.

It is now over to Mr. Carmichael for seven minutes.

[*English*]

Mr. John Carmichael: Thank you, Mr. Chair.

Thank you, Dean Sossin.

Clearly, the issue of partisanship is a two-way street. I don't think anybody around this table today would disagree that we all want an act that is fair and balanced for everybody, through which it governs us.

When the commissioner is asked to contemplate launching an investigation, though, there is the potential for public external factors to create a presumption of guilt prior to her conclusions being made known. This gets back to the partisanship. My concern is reputational damage before that is completed. I want to make sure we have a fair solution to this. I wonder if you see any way to mitigate attacks on reputation for purely partisan purposes.

Dr. Lorne Sossin: I think this is an unfortunate but necessary reality to confront. I'm not sure that raising the stakes of monetary penalties against potential complainants is a sensible way to do this, but a balanced middle ground is having a measure of transparency where an ethics commissioner can exercise some judgment on disclosing, for example, the fact of an investigation, that it hasn't been complete, that there is no finding until that investigation is complete, and that it would be imprudent to comment further on specific allegations or evidence.

I think, ultimately, if there is someone who is vexatious, who brings complaint after complaint, or brings a complaint and tries to exploit it in the media, that it can be considered by the Ethics Commissioner as part of an overall discretion to ensure the integrity of her process. There should be a full panoply of measures at her disposal to ensure that her office is not used for improper partisan purposes.

There are things that can be done that are measured and balanced, but, again, you have to start from the proposition that this commissioner has to be above the fray, and has to be seen to be above the fray. If the commissioner doesn't have that credibility, doesn't have that confidence, then no provision in the statute and no amount of discretion or remedial sanction is going to make any difference. That has to be the point of departure.

● (1650)

Mr. John Carmichael: I totally agree with you. I think the issue is one of a fair and balanced approach to managing the process, and I don't envy the commissioner her responsibility for finding a way to do just that.

It was interesting; the previous witness talked about—and you mentioned—the monetary penalties. We asked him about substantive administrative monetary penalties, which is one of the recommendations that the commissioner has put forth, and he suggested that the introduction of those penalties would substantively alter the act. The question becomes—while, the act, for what it was intended to accomplish, is right—are we flirting with something that's going to put us offside in trying to maintain a good solution to this act, as we try to refine it after this period of time?

Dr. Lorne Sossin: I think there is some risk in the sense that the more jeopardy you add, whether monetary policy or other kinds of sanctions or discretion around remedies, the more someone who's subject to this can legitimately say, “I deserve more process. I deserve more of a chance to be heard.” It becomes a much more legalized process the more you raise the stakes, as opposed to, for example, simply a reporting remedy, to say there's been breach, and leave it to either Parliament or some other process to decide on a remedy. Then, in fact, the powers of that commissioner can be more free-ranging, because there is less at stake. In other words, it's not that you can simply change the remedies without changing the other character.

But, again, I come back to your evocation of balance. I think to give the commissioner discretion to consider both the fairness of any process to the subject minister and a range of remedies appropriate to both deter the conduct and address it...so it's the classic example, as I said, from the city, of not having the ability to order restitution. Again, I'm not commenting on whether I agree with the court or whether they got the statute right, but as a proposition, it seems puzzling that you would have a conflict of interest or code of conduct that would not have the ability, for example, for a commissioner to order an amount of money repaid.

It's different when you're looking at monetary sanctions and how significant they should be for conduct. I don't think we want to get in a world in which that becomes the story: it's about the money. What we keep the narrative around is: what is necessary for the commissioner to be able to be effective in her role and enhance public confidence? That, to me, is more important than any kind of "gotcha" moment that anyone would be subject to.

So the penalties, and the commissioner's view on them, are sound, but I would worry if that became the distraction from the broader purposes at which the act is aiming.

Mr. John Carmichael: How's my time? Do I have a few more minutes?

The Chair: You have one minute.

Mr. John Carmichael: One minute, so I'll try to be brief.

In your opening remarks you talked about actual versus perceived conflict of interest. I wonder if you could talk about how you differentiate that and just go a little deeper on that topic.

Dr. Lorne Sossin: Sure, and it won't take long. We have considerable jurisprudence on this point through administrative law's "reasonable apprehension of bias" test, which is used by administrative decision-makers and regulators, by quasi-judicial and policy-based entities. So we have a lot of basis to say when, in the eyes of a reasonable person, there is the perception of a lack of impartiality.

That's what I think the conflict of interest provisions are getting at, where there is a possibility that a private interest has undermined public confidence in the exercise of public authority. For the same reason, in that legal standard we don't say you have to prove bias. We say it would be too onerous, too unpredictable to actually prove what's in the heart and mind of a person. So the reasonable apprehension, the mix of that objective standard, has to be a reasonable observer's view, not a partisan observer's view. This is a check on its being abused.

If we have confidence in the commissioner, I believe that an apprehension, a perception standard, can be added in a way that enhances public confidence but doesn't undermine fairness.

● (1655)

[*Translation*]

The Chair: Thank you, Mr. Carmichael.

Now it's Mr. Andrews' turn. You have seven minutes.

[*English*]

Mr. Scott Andrews: Thank you and welcome, Dean Sossin.

Early on in your statement you talked about knowing where to draw the line on how to apply the act when it comes to family members, your spouse, your cousins, your sisters and brothers. You made a comment that the public believes it knows where that line is. Could you explain to me where that line is in the public's opinion, or in your opinion, and how far down the family tree you have to go?

Dr. Lorne Sossin: I'm glad you asked that question. When I say the public knows, what I mean is the distinction between a private interest and a legitimate public authority is pretty clear to people. For example, it may be the spouse, the sibling, or a whole bunch of proxies where we would assume you're going to be affected by your child's interest.

But we know in particular situations it can be the good friend you've known since grade school. It can be the person you have a crush on and are trying to impress by wielding your authority. Why would we care about the family relationship and not the situational context in which it may be quite a distant relative? In that context it's clear, based on the information and evidence provided, that it had a material bearing on the exercise of a public authority. That to me is the issue. The act cares about conflicts.

To reduce it to this idea, that as long as I'm only biased in favour of my nephew or I'm only interested in the private relationship of a former roommate, somehow it's legitimate. To think that somehow it's okay to compromise the integrity of a public authority, as long as it's this private interest and not that one, creates cynicism and a sense of rule-bound seeking of loopholes. It just doesn't resonate with anyone's lived experience, right?

Everyone in their own life knows when they have been affected by a personal relationship. It's not usually mysterious. What it needs to be is evidence-based—it can't just be the allegation or the fact of prior association. That's what the commissioner's for: providing an objective, non-partisan, evidence-based review that's much more reliable than we would get by confining ourselves to categories.

In the City of Mississauga inquiry, you had a child of the mayor affected. At first glance, that seems to be a no-brainer. But leaving aside the specifics of that case, which we had a whole public inquiry about, we have to ask: when your child's in his fifties and you're in your eighties or nineties, at what point does it stop having the same impact as when your child is 15 or 21? So context matters much more than status, and that's the point I was trying to convey.

Mr. Scott Andrews: Okay, how do you put the words "in context" into legislation without specifying who these individuals are?

Dr. Lorne Sossin: I think the act in fact does that. Section 4, for example, refers to private interests and the public authority. It's simply leaving language that is instructive and value-based for the commissioner to interpret and apply, potentially using guidelines or scenario-based advice.

I'm convinced that the commissioner can do this and that it's much better to do this than to itemize nieces, but not nephews, or second cousins, but not third. The challenge is transparency for the people who are going to be governed by this. A minister has the right to know, when she's about to enter into some undertaking or transaction, whether she's caught by this or not.

So having an advice-giving function, having scenarios in which we can discern the commissioner's thinking on the bounds of private interest, is undoubtedly important. The legislation builds in common-sense exceptions. It's okay, for example, if something is going to benefit a whole region or all taxpayers or all users of public transit, while at the same time affecting you in a private sense.

● (1700)

Mr. Scott Andrews: Okay, let me take it to this extension, and I want your opinion.

The commissioner is recommending that we move the gifts category down to $35. Our previous witness mentioned to the committee that this gift also applies to our spouses, if they're given a gift in their line of work.

Where does this stop? My wife's a teacher and every Christmas kids give her $35 worth of Tim Hortons money. Do I now have to report my wife's gifts?

Dr. Lorne Sossin: I take a different view from the commissioner on this. I have a lot of respect for her and for others in the field. For example, David Mullen is a colleague in this field, and we both served as integrity commissioner for the city at different periods. We take a different view. His view is that no gift should be under the radar.

Commissioner Dawson has said that the radar should reach deeper than it does.

I'm comfortable with a fairly healthy *de minimis* line because I don't think the public is concerned about the nickel-and-dime stuff. The example I used to use is that city councillors would complaint that they wanted to give out Marlies tickets, and they heard the integrity commissioner wouldn't let them go to the neighbourhood Boys and Girls Club to give out Marlies tickets because it was a gift they were dispensing or had received from the city-owned organization.

My view is that the public knows the difference between Marlies tickets going to the Boys and Girls Club and box tickets at the Air Canada Centre to watch the Leafs. In other words, it's not that going to a hockey game is in one category, the potential of influencing through the giving of gifts is the mischief.

I'd rather we had a standard that says that, and lets the Commissioner make the determination, than these arbitrary cut-offs. For administrative convenience I can see you need a number and obviously we can't have everything resting on broad discretion. But I'd be fine with $200, $300, or $400. Eyebrows will be raised at some level, and that's the level at which I would put this. I don't think that $50 is in any reasonable person's view the kind of gift that is going to get a public official to act contrary to the public interest. That kind of benefit just doesn't ring true to me.

But again, I respect the Commissioner closer to this. I respect colleagues who say there shouldn't be any limit below which you don't get the scrutiny.

This is one about which people committed to accountability may disagree.

[*Translation*]

The Chair: Thank you for your answer.

Mr. Butt, go ahead for seven minutes, please.

[*English*]

Mr. Brad Butt: Thank you very much, Mr. Chair.

Thank you very much, Dean Sossin, for being on conference with us from York University.

One of the tasks this committee has in the statutory review of the Conflict of Interest Act is to look for areas where the act is obviously working, where it's making sense, where the original idea of the act when it was drafted and came into law five years ago works and is doing what it's supposed to be doing, and obviously looking at ways we can improve it or change it to make it more relevant, based on the experience we've had over the last five years.

Have you looked at other national jurisdictions? I think you mentioned you've done a fair bit locally, maybe in Toronto or with some municipalities, on their conflict of interest bylaws and codes. But do you have some international examples where some countries have it better than Canada, where you believe parts of their legislation could be emulated in Canadian improvements to our act?

Dr. Lorne Sossin: It's an excellent question, and there are experts on other jurisdictions who have looked particularly at some recent innovations.

This same process that led to the Conflict of Interest Act five years ago is ongoing in several jurisdictions, often in the wake of a scandal. I'm not aware of one that has been held up as the model, just as the different provincial statutes now give us a range. The empirical work that I've seen really focuses on metrics like what has led to greater public confidence, rather than any objective truth about what monetary penalty works or doesn't work. As I said, in most jurisdictions it's more an example of a trade-off. Those that have ethics commissioners with more powers tend also to have a more legalized procedure, and often it becomes a more litigious environment. Those who have greater discretion tend to invest far more attention on who gets appointed and what kind of all-party support there is, if it's a parliamentary system.

I know there are scholars who focus on the comparative, and I'm regrettably not one of them. In my discussions and review of the literature, I don't think it's fair to say there is a jurisdiction out there that is the gold standard. Of course, this legislation comes out of an evolution federally from earlier models that have arguably been improved on in this legislation. I think it's fair to say it's always intended to be a work-in-progress. I'm not sure there is a perfect balance that will work in every context and for all time, here or anywhere. I think the best one could say is this: as we find the elements that don't appear to be working, is there a fix or a coherence that can be brought to it? This is why we have these parliamentary reviews and why it's so important to not simply let legislation stand without a chance to look at how it's working and how it can be improved.

● (1705)

Mr. Brad Butt: Would you say, though, that the rules governing a minister's conduct, as well as other public office holders, are stricter now than prior to 2006? Do you think at this stage, based on looking at this act over the last five years, that maybe we do have the balance just about right? We can all have our individual qualms with the commissioner's individual ruling on a certain case, and some of us can agree with her decision and maybe some of us don't necessarily agree, but do you think the right balance is there? Do you think that the rules are clearer and tighter now than they were prior to this legislation coming into force?

Dr. Lorne Sossin: Yes, my own view—and, again, it's not a partisan view, but just looking at the evolution of this—is that the act is an improvement on what came before it. The dynamic that you haven't mentioned, though, which is an interesting one for all of you around the table, is that it's not a static process. In other words, the public itself is growing in its expectations of accountability and transparency. I think it's fair to say that even what might have satisfied that balance in 2006 or 2007 needs to keep growing in order to keep pace. Growing doesn't mean just getting stricter or higher monetary penalties or more powers. Greater transparency, a greater sense of a commissioner who is in touch with the standards that are going to work, and also the standards the public is coming to expect are why this is evolving.

It's not like once you get the balance right you can then sit back and relax, because the public is only heading in one direction on this —expecting more and more transparency in more real time, and with greater expectation that ministers are going to be aware of all of this, or public officer holders, when they take on these roles.

Mr. Brad Butt: A question before my time is up, very quickly.... When we had Mr. Wild from the Privy Council Office, before we had you as a witness today, he intimated that there are really two processes here for accountability. One is political accountability at the end of the day through the Prime Minister and the Prime Minister's Office, because ministers are appointed by him, they serve at his pleasure, and there's political accountability. But at the same time, obviously, through this piece of legislation and others, there's legal accountability because they are ministers of the crown or because these are people appointed by governor in council appointments, etc.

Do you think that's a fair judgment on how the system does work? At the end of the day, really, it's political accountability that the public is going to judge, through the Prime Minister and how cabinet ministers operate, but, yes, there is also a need for some legislative tool to deal with some of these issues and set some guidelines at the same time.

● (1710)

Dr. Lorne Sossin: Yes, I think that's fair. It's a tough concept to get your head around. The same person you voted for—who was on the campaign hustings, who is part of government, who is a political player in a very significant sense—needs at the same time, wearing a different hat, to be an impartial person exercising statutory authorities for the public interest.

There can't be a partisan reason, for example, to approve a particular licence or engage in a particular prosecution or make a decision on the allocation of those resources. This is where ministers really wear two hats and are intended to wear two hats in our system: that they be drawn from the ranks of the elected politicians or senators, but also, when performing those functions, need to be free of conflicts and, I would argue, need to be seen to be free of any conflict of a private nature.

So I think that's right; they're different accountabilities. The prime ministerial one is ultimately about keeping your job. The other one is about a reporting obligation: to say, if there's been a breach, that there has been a breach.

But really, the consequences of that are going to be political for most of these individuals, so these accountabilities are not unrelated, even though they're of different kinds.

[*Translation*]

The Chair: Thank you for your answer.

Thank you, Mr. Butt.

Ms. Borg, the floor is yours for five minutes.

Ms. Charmaine Borg: Thank you, Mr. Chair.

Mr. Sossin, thank you for agreeing to appear before the committee.

A number of times, you mentioned how important public perception is. I agree with you. We want Canadians to have confidence in us, the politicians. One idea that witnesses have mentioned to the committee is that the public should have the ability to make a complaint.

From your broad range of experience, do other countries have a similar model in place? Would that put some power back in the public's hands? Would that be a way to underscore the importance of the public eye you referred to?

[*English*]

Dr. Lorne Sossin: It's a very intriguing issue. It's not just citizens, of course, but in some cases it may be people doing business with government; it may be a whole range of people who will come into knowledge of what they consider to be a potential conflict.

I can't think of a principled reason that we wouldn't want to hear those concerns. On the other hand, if you could simply go to all the political opponents of a particular minister and say, “Why don't you start flooding the ethics commissioner with complaints day and night?”, it would become an untenable situation, a more partisan situation, and one ultimately for which there aren't the resources to do justice to the meritorious complaints.

I think a model in which there is an opportunity to welcome complaints from others, but also a screening mechanism such that the commissioner can decide which ones are meritorious and not necessarily have to investigate every one, or every one in the same way, would be a middle ground or a balance.

If you're looking at it from the standpoint of the purposes of the act, I can't think of a principled reason that you wouldn't want to hear concerns from citizens or other interested parties. At the same time, if you opened it up without any constraints, you would undermine those very goals.

[*Translation*]

Ms. Charmaine Borg: Thank you very much.

In one of your essays, you talked about political or partisan no-go zones, saying that respect for those boundaries was currently on the decline. How do we fix that? Are there certain changes we can make to curtail partisanship, which seems to be on the rise?

[*English*]

Dr. Lorne Sossin: The best solution I can think of is to try to use the principles to find that middle ground. For example, you could say that a minister should never have anything to do with a constituent who is coming before a regulatory or other body. But these are politicians, and the nature of representing a riding and a constituency is that you want to help.

One solution I know that has been tried with some success is one in which the minister can write about his or her personal experience with, let's say, someone seeking a licence, in the CRTC context—not to say "I think they should get the licence", but "if I have had a positive experience, why shouldn't I be able to share it?"—in a way that then is up to the regulator and that is respectful of the integrity and impartiality of a regulator to make a decision.

When I've been asked whether a minister should write a letter as part of a process, rather than say "never", which I think would be unduly constraining, I would say that there are contexts in which you can do so and respect the integrity of the process and not suggest that you think there's an outcome that the minister is advocating for. It's the advocacy that is the no-go zone, not the being part of a process or sharing relevant information and so forth.

I think if you take that principled approach, you'll find far more middle ground that in fact will satisfy the legitimate interests of ministers as politicians while reinforcing the integrity and impartiality of these important regulatory or quasi-judicial settings. A no-go zone is important, but it's important to limit it to the areas in which this would actually do damage.

● (1715)

[*Translation*]

Ms. Charmaine Borg: Thank you.

The Chair: Ms. Borg, you're out of time.

It is now Mr. Warkentin's turn for five minutes.

[*English*]

Mr. Chris Warkentin: Thank you very much, Mr. Chair.

I appreciate the comments. We've covered off a number of things, Dean Sossin, but one of the things I'd be interested in is your perspective relating to post-employment rules.

One of the things we know is that it's important that there be rules constraining certain people, including public office holders, in what they might do following their public posting. But in terms of cooling-off periods and different things, obviously the Lobbying Act constrains the ability to pursue work-related communication, in terms of whom they can lobby or what they can do on that front. Obviously, there are certain things that can and cannot be done, based on information that was confidential during their period of time as a public office holder.

Are there any things that you can think of that need to be changed within the act as it relates to the post-employment of public office holders?

Dr. Lorne Sossin: It's a real challenge, because I think you could do a real unfairness by preventing a public office holder from effectively being able to have a livelihood. But it's a hugely sensitive area of concern, both temporally—wanting, in other words, to make sure that there is that cooling-off period—and also in an ongoing sense of wanting to make sure you're not trading on access to public information or decision-making in order to gain a private benefit.

The part I'd like to see, and it's not set out as clearly as I think it could be, is an ongoing monitoring, advising, and reporting function, whether for the commissioner or under the lobbying statute in a different way, so that we can actually get much more situational, contextual guidance on the inevitable grey areas as we try to work this through.

I think this is a case in which we're looking for bright lines. The legislation tends to favour bright lines, but bright lines have a way of being unfair to people who end up on either side. Either we're letting things through that in fact are going to jeopardize public confidence or we're stopping people from doing things when in effect there is no threat to public confidence. You've heard this as a bit of a refrain from me, but I much prefer the principled discretion, with an ongoing office holder, commissioner, or other person able to have that jurisdiction, to a series of bright lines that are set out in the act and about which there's no further commentary or guidance.

Mr. Chris Warkentin: It's a difficult thing. On one hand if there are lines and they're bright, and they're clear, and everybody knows what those are, then in seeking post-employment a former public office holder can have clarity as to what the future employer can expect from that person, as well as what the former public office holder would expect, and how he or she would conduct himself or herself in this new role. I'm concerned that what we have in not having absolute clarity is ambiguity, and nobody likes ambiguity. I've seen some former office holders do well in their post-employment ventures, and some who struggle to find a place that fits well. Do you have any comments with regard to that?

I guess the other questions I have that come to my mind often are, what can we do, and to what extent can we control the actions of public office holders after they've left employment, and would those things comply with our charter?

● (1720)

Dr. Lorne Sossin: I think there is actually a way forward. I think you set out the dilemma quite well. The way forward again is looking for the principled middle ground. One that comes up a fair bit in this accountabilities sphere is the idea of advanced judgments. So you say, look, I want to take on this role and can I get an advanced ruling from you the commissioner on whether I'm running afoul of the rules? I get my precision and predictability. The commissioner gets a chance to lay out, again, a principled foundation of what is going to, and not going to, offend the provisions, and then can do better. The commissioner can report in annual reports and otherwise on the aggregate kind of advice that she's giving so that others get the benefit of seeing how these rules are developing.

Without violating confidentiality of an advice-giving, without having to wait until ex-post judgment that you thought you were okay but you weren't, there's a way to give predictability, coherence, and fairness. I know a lot of the former ministers simply go to former ethics commissioners who are now in private practice, get an opinion letter from them on how the legislation would be read in their context, and then they keep that in their back pocket as some kind of insurance for what they're about to embark on.

Why create this facsimile or proxy for something that can be a much more direct relationship with someone who has that statutory mandate acting in a non-partisan sense in the public interest being able to say, here is an advance judgment based on these available facts? Again, if you don't share all the necessary information, and if that information changes, then of course a different outcome may occur. But if you look at these issues.... I had the chance to testify as part of the Mulroney trial, or the Oliphant inquiry, where this was a key issue in much of the discussion. It's hard to think of scenarios in which you can go wrong where you ask for advice, receive it, and rely on it where the advice giver is the statutory office holder with jurisdiction over the act.

[*Translation*]

The Chair: Thank you, Mr. Warkentin.

Thank you, Mr. Sossin, for your answer.

We now move on to Ms. Davies for five minutes.

[*English*]

Ms. Libby Davies: Thank you.

Thank you very much, Dean Sossin, for joining us today. I just want to follow up on a number of points that you've made.

On this issue of advanced judgments, I don't know whether the commissioner in this case would be happy to do that or not. It puts a lot of onus on that person, almost a liability, because you are in effect giving a clearance, but in any event it's a good concept. I wonder if you could give us any information as to where that's actually working so we can take a look at it.

The other question I'd like to get at is, I know that in some of the writing that you've done you've looked at this issue of apparent conflict of interest and I think it's related to this question of advanced judgment as well. I think one of the questions that the committee is facing is whether or not with the omission in the current legislation —or the terms that are used “real, or apparent, or potential” in relation to conflict of interest—there actually is a big gap there. So if you have any opinion or advice on how those should be included, particularly following up from the Oliphant commission, I think it would be very helpful.

Dr. Lorne Sossin: Sure.

Advance rulings—we'll start with that—are not uncommon. For example, they're a routine part of how our tax system works. In this field, the Ontario integrity commissioner, for example, would say the most significant part of her work is the advice-giving, which runs the spectrum between someone saying they want to go to an event, here's who's sponsoring it, and asking for advice on whether they should go. Current office holders, in other words, get that kind of advance ruling quite often. Some of the legislation and/or codes of conduct will specify that, when advice is given in that context, the politician or office holder has the right to rely on it. In other words, a different view won't then be taken if a complaint is brought.

It is in a sense like an insurance policy. It does put the commissioner in a position of having to make that call, and it's not always an easy call to make because the glare of public scrutiny afterwards may in fact reveal a different view. Again, the safety valve is based on the information at the time, so it's not open to that minister to be partial in the disclosure, get a favourable ruling, and then feel somehow clear to do something which, if the fullness of it had been revealed, might have led to a different result. So it's only as good as the disclosure and transparency of that.

I actually think it's a much better system. What we don't want is just a system set up to catch people. We want a system that's set up to make people work more effectively in the public interest, so it's probably where I differ from members around that table. This came up, of course, with another integrity commissioner not long ago. If someone hasn't been prosecuting, I'd ask, what have you been doing? Some commissioner who hasn't been prosecuting, but has been engaging in educating politicians and dealing with them on an advisory basis and leading to much better conduct, may be in fact a success story. So it's not, in other words, just the number of complaints and investigations and outcomes by which we should judge the effectiveness of an accountability officer. It's how the culture is changing and whether the public interest is served. That approach to advance rulings and advice-giving is key.

As I was indicating before, I'm a strong proponent of the idea that you can't have a regime dealing with conflicts of interest that doesn't deal with apparent conflicts, and still lead to greater public confidence. In other words, it's not that you can't. We have a statute that says “actual conflicts”, and that clearly is erring on the side of fairness to those caught up in this because the standards of an actual conflict are more precise than the standards of an apparent one. But I think you're losing more in diminishing public confidence than you're gaining in fairness. The balance, I think, can be struck with having apparent conflicts included, but with a reasonableness test so that there is an objective, a check, on either a rogue commissioner who goes off on a political vendetta, or on having too much uncertainty.

Remember, this can all be subject to judicial oversight at the end of the day if someone's receiving a penalty or other jeopardy. The accountability I think is still there, even if you move to apparent conflicts, as I believe the scheme should.

● (1725)

[*Translation*]

The Chair: Thank you, Ms. Davies.

And that ends our time with Mr. Sossin. I want to thank you once again for joining us today and taking the time to contribute to our study.

[*English*]

Dr. Lorne Sossin: Thank you very much.

[*Translation*]

The Chair: It was a pleasure. Thank you.

On that note, fellow members, have a great week in your ridings. We will see each other back here on February 25, and we'll continue with our study then.

(Meeting adjourned)