



Opening Statement before the House of Commons Standing Committee on Access to Information, Privacy and Ethics

Mary Dawson – Conflict of Interest and Ethics Commissioner
Ottawa, Ontario, February 23, 2016

Mr. Chair and honourable members of the Committee, I thank you for inviting me to appear before you today as the Committee considers its future business.

Given that the Committee has a number of new members, I will begin by briefly reviewing my mandate and the activities of my Office.

Mandate and Activities

As Conflict of Interest and Ethics Commissioner, I administer two conflict of interest regimes: the *Conflict of Interest Act* and the *Conflict of Interest Code for Members of the House of Commons*. These two regimes seek to prevent conflicts from arising between the public duties of elected and appointed officials, and private interests.

The *Conflict of Interest Act* currently applies to over 2,100 public office holders. This number will likely increase significantly as the remaining ministerial staff positions are filled.

All public office holders are subject to the Act's core set of conflict of interest and post-employment rules. More than half of those covered by the Act are subject only to these general rules. This group is made up primarily of part-time members of federal boards, commissions and tribunals, as well as some part-time ministerial staff.

Over 800 public office holders are currently designated as reporting public office holders. Reporting public office holders include ministers, parliamentary secretaries, ministerial staff and all full-time Governor in Council appointees such as deputy ministers, heads of Crown corporations and members of federal boards. They are subject not only to the Act's general rules, but also to its reporting and public disclosure provisions, as well as prohibitions against outside activities and holding controlled assets.

The Act also sets out a few additional requirements for reporting public office holders who are ministers or parliamentary secretaries.

My approach in administering the Act is based primarily on prevention. My staff and I provide public office holders with confidential advice on specific matters. We seek opportunities to educate them about the Act's requirements, as individuals or as groups. We review their confidential reports related to their assets, liabilities and activities and we maintain a system of public disclosure.

There are also several ways in which I can enforce the Act. I can impose administrative monetary penalties for failures to meet certain reporting requirements. I can issue compliance orders to ensure that public office holders meet their obligations in the future. And, I can initiate formal investigations, called examinations, of possible contraventions and issue public reports that set out my conclusions.

Interactions with the Committee

This Committee has oversight responsibility for my Office and reviews its annual spending estimates, as well as matters related to my annual reports under the *Conflict of Interest Act*.

I have appeared before the Committee a number of times since becoming Conflict of Interest and Ethics Commissioner in 2007, to testify about my budgetary submissions for the Main Estimates and, in the early years of my mandate, to speak about my annual reports under the Act.

Five-Year Review of Act

I also contributed to the Committee's five-year review of the *Conflict of Interest Act*.

Section 67 of the Act sets out a requirement for a comprehensive review of the Act's provisions and operation to be undertaken within five years after its coming into force. Unlike the Members' Code, which includes a provision for a review every five years, the Act provides only for this one-time review.

The Committee began its review in January 2013. I was invited to provide a written submission and appeared before the Committee twice, in February and March 2013, to discuss my recommendations.

I made over 70 recommendations. Some of them address broad thematic areas that I consider to be priorities. These include:

- broadening the scope of conflict of interest to extend it to "entities" rather than limiting it to "persons";
- increasing transparency around gifts and other advantages;
- strengthening the Act's post-employment provisions;
- narrowing the overly broad prohibition on engaging in outside activities;
- narrowing the overly broad prohibition on holding controlled assets;
- introducing some disclosure and reporting obligations for public office holders. Unlike reporting public office holders, they do not currently have any reporting obligations;
- addressing misinformation related to investigative work; and
- adding administrative monetary penalties for breaches of the Act's substantive provisions.

The Committee completed its review in February 2014 and issued a report containing 16 recommendations that were fairly narrow in scope and of a largely technical nature. Two of my recommendations were retained by the Committee, although a number of my recommendations were mentioned in the body of the report.

I note that the report was not unanimous. It was accompanied by two dissenting opinions that expressed strong objections.

Many of the Committee's recommendations were new to me and I did not have an opportunity to comment on them. One example is the recommendation that proposes changing the definition of "public office holder" to include members of organizations that collectively bargain with the Government of Canada. Such an amendment would exponentially increase the number of public office holders covered by the Act and would completely change the nature of my Office. It might well also create an overlap with existing regimes such as the public service values and ethics regime.

The government responded to the Committee's report in June 2014 by expressing its support for the Committee's recommendations. However, no amendments to the *Conflict of Interest Act* have been proposed as a result of the five-year review. Because this is a new Parliament, this might be an opportune time, if the Committee wishes, to revisit that review, or undertake a new one. I would be pleased to provide any input requested.

Conclusion

Mr. Chair, in closing, I wish to assure the Committee that I am available to provide any information that it may require about any matters related to my Office and to the *Conflict of Interest Act*.

I look forward to a productive relationship between the Committee and my Office going forward.

Thank you for your time. I will now be happy to answer any questions you may have.