



Opening Statement before the House of Commons Standing Committee on Access to Information, Privacy and Ethics about the Office of the Conflict of Interest and Ethics Commissioner

Mary Dawson – Conflict of Interest and Ethics Commissioner

Ottawa, Ontario, September 29, 2011

Thank you, Madam Vice-Chair.

I am pleased to have this opportunity to brief you on my mandate and role, and to update you on some of the issues my Office has been dealing with.

I would like to take this opportunity to welcome the Committee's new members. Your Committee has oversight responsibility for my Office and reviews its annual spending estimates, as well as matters related to my reports under the *Conflict of Interest Act*. I look forward to working with all of you.

I understand that there was a motion before the Committee on Tuesday on a particular issue that members would like to discuss with me today. I will address that shortly, but first, I have some other more general remarks.

As Conflict of Interest and Ethics Commissioner, I am an independent Officer of Parliament. I report to Parliament, through the Speaker of the House of Commons, on the activities of my Office.

I am responsible for helping appointed and elected officials prevent and avoid conflicts of interest. I administer two regimes: the *Conflict of Interest Act* for public office holders, and the *Conflict of Interest Code for Members of the House of Commons*. The latter is overseen by the Standing Committee on Procedure and House Affairs.

Both regimes set out obligations and rules to prevent real or potential conflicts between private and public interests. The Committee's reviewing function relates to my responsibilities regarding public office holders under the *Conflict of Interest Act*.

The Act applies to some 2,800 public office holders. More than half of those covered by the Act — mostly part-time members of federal boards, commissions and tribunals and any part-time ministerial staff — are subject only to its core set of conflict of interest and post-employment rules.

About 1,100 public office holders are designated as reporting public office holders. They are also subject to the Act's reporting and public disclosure provisions, as well as prohibitions against outside activities and holding controlled assets. These individuals include ministers, parliamentary secretaries, ministerial staff and full-time Governor in Council appointees such as deputy ministers, heads of Crown corporations and members of federal boards.

In some instances, the Act sets out additional requirements for reporting public office holders who are ministers or parliamentary secretaries.

My activities under the Act and the Code are similar. My Office advises public office holders and Members about how to comply with the Act and the Code. Last year, my Office received over 1600 calls for advice from reporting public office holders and about 500 from MPs. We review the confidential reports of reporting public office holders and MPs on matters such as assets, liabilities and activities, and maintain public registries of publicly declarable information. We also investigate possible contraventions of the Act and the Code. Under the Act, I can impose administrative monetary penalties of up to \$500 on reporting public office holders who fail to meet certain reporting requirements of the Act.

The *Parliament of Canada Act* requires that I present two separate annual reports to Parliament by June 30 each year. One relates to the administration of the *Conflict of Interest Act*, and it is referred to your Committee. The other relates to the administration of the *Conflict of Interest Code for Members of the House of Commons* and it is referred to the Standing Committee on Procedure and House Affairs. As well, under the Code, I am required to prepare a list of sponsored travel by Members and submit it for tabling in the House of Commons by March 31 each year.

I submit my reports on my examinations under the Act to the Prime Minister, and I submit my reports on my inquiries under the Code to the House of Commons. All of these reports are made public.

Since my appointment, I have released 13 investigation reports, eight under the Act and five under the Code. In these reports, when appropriate, I take the opportunity to point out gaps in the regimes and comment more broadly on the matter under review if I believe it has the potential to diminish public confidence in the integrity of elected public officials and the governing institutions they represent. I have done so, for instance, in relation to the use of partisan identifiers in government announcements, and the involvement of lobbyists and other stakeholders in political fundraising.

I have also put in place the people, systems, processes and procedures to help public office holders and Members of the House of Commons comply with the Act and the Code.

I have organized my Office into several divisions.

Advisory and Compliance is the largest, accounting for a third of the 49 positions in my Office. They provide confidential advice to public office holders and Members, receive their confidential disclosures and maintain internal records of this information, and administer a system of public disclosure.

These activities are supported by proactive outreach and communications initiatives coordinated by the Policy, Research and Communications division. It also contributes to policy development, compiles research and coordinates our dealings with Parliament, including presentations to the caucuses of parties represented in the House of Commons.

Staff in our Reports and Investigations division investigate alleged contraventions of the Act and Code. They are responsible for reports on those investigations and coordinate the preparation of my annual reports.

Our Legal Services division provides strategic legal advice on all facets of my Office's work, and plays an integral role in conducting investigations and preparing investigation reports.

And, the Corporate Management division ensures we have effective internal procedures and management systems, overseeing the Office budget, facilities management, procurement and human resources.

My budget of \$7.1 million has remained unchanged for the last three fiscal years and has been sufficient to support a staff complement of 50. However, as the number of investigations continues to grow, I may need more resources for this function, which would require an increase in my budget.

My Office has continued to be as transparent as possible. For example, in the past year we have expanded the types of compliance measures that are made public. Going forward, we will further improve the efficiency of our operations and advisory services, and continue to enhance client outreach.

As mentioned earlier, I have also, whenever possible, identified improvements that could be made to the Act and the Code. These are described in my annual reports.

For example, reporting public office holders are prohibited from holding controlled assets such as publicly traded securities, and are required to divest any that they hold when they are appointed. No conflict of interest test applies to the divestment requirement, which is unnecessarily onerous for some of the reporting public office holders and costs taxpayers money.

The Act's administrative monetary penalty scheme applies only to failures to report certain matters, generally within established deadlines, and not to failures to comply with its substantive provisions.

There are no reporting requirements in the Act's post-employment provisions for former reporting public office holders in relation to employment undertaken during their "cooling off" period.

A particular challenge that I face is that I must administer two regimes that have many similar provisions but also some significant differences. I have suggested that Parliament might wish to consider streamlining them, possibly within one Act with separate provisions for certain classes of individuals. I note that most provinces and territories have one statutory regime that covers both members of the legislative assembly and public office holders.

A legislated review of the *Conflict of Interest Act* is to be made within five years of its coming into force, that is, by July 2012. I hope that these and other ideas that I will bring forward will be considered in this important process.

Madam Vice-Chair, this has been a very brief overview, but members of the Committee can find detailed information in my last annual report and on my Office's website.

I would now like to take the opportunity to address the motion that was adopted by this Committee. Committee members have invited me to discuss the issue of sponsorship at the NDP convention. I can confirm that I received a letter in relation to that issue that did not satisfy the requirement for reasonable grounds for a request for an inquiry under the Members' Code. I did, however, take the step of requesting further information about the matter from the Interim Leader of the NDP, Ms. Nycole Turmel. Ms. Turmel forwarded me her response on behalf of members of her caucus, which I have reviewed. I am now in the process of preparing response letters to the interested Members, which will be sent in the coming days.

As well, I am of the view that this matter may fall within the jurisdiction of Elections Canada, and for this reason, I forwarded the first letter I received to the Commissioner of Canada Elections.

In light of my ongoing review of this matter and the confidentiality of my deliberations, I will have no further comments at this time.

I thank the Committee for its attention, and will be pleased to answer any questions on my presentation.