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# Standing Committee on Access to Information, Privacy and Ethics

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Chair: Mr. John Brassard





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• (0845)

[English]

**The Chair (Mr. John Brassard (Barrie—Innisfil, CPC)):** I call this meeting to order.

[Translation]

Welcome to meeting number 55 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[English]

Today's meeting is taking place in a hybrid format, pursuant to the House order on June 23, 2022, and therefore members can attend in the room and remotely by using the Zoom application.

Should any technical challenges arise, please advise me. Please note that we may need to suspend for a few minutes, as we need to ensure that all members are able to fully participate.

[Translation]

Pursuant to Standing Order 108(3)(h) and the motion adopted by this committee on Wednesday, November 30, 2022, the committee is undertaking its study on the third edition of the Lobbyists' Code of Conduct.

[English]

I would now like to welcome our witnesses today. We have Ms. Nancy Bélanger, the Commissioner of Lobbying.

Welcome on this Friday morning.

[Translation]

Madam Clerk, are all headsets working properly for interpretation?

**The Clerk of the Committee (Ms. Nancy Vohl):** Yes, committee members are properly equipped. Since the witnesses are in the room, no sound tests were required.

**The Chair:** Thank you.

Mr. Villemure asks about that at every meeting. That is why I checked.

I would like to welcome Ms. Normandin, who is replacing Mr. Villemure today.

[English]

Mr. Cannings, welcome to you this morning as well. I'd also like to welcome Mr. Dalton, as well as Ms. Koutrakis on behalf of Ms. Khalid.

Ms. Bélanger, the floor is yours. Thank you for being here this morning.

Please proceed.

[Translation]

**Ms. Nancy Bélanger (Commissioner of Lobbying, Office of the Commissioner of Lobbying):** Thank you.

Good morning, Mr. Chair and committee members.

I am pleased to have the opportunity to discuss the Lobbyists' Code of Conduct, which I submitted to you on November 15, along with a document explaining the changes.

I am joined by Scott Whamond, our office's policy analyst.

As Commissioner of Lobbying, it is my responsibility to develop the Code which defines the standards of ethical behaviour required of registered lobbyists. It contributes, along with other ethical regimes, to enhancing public confidence in federal government institutions.

My experience administering the 2015 Code highlighted challenges in applying its rules of conduct and in providing guidance to lobbyists. In updating the Code, I aimed to address these challenges by using clear and plain language, by focusing on lobbyists' actions without importing various ethics regimes, and by creating a comprehensive code which eliminated the need to consult separate guideline documents to define the key concepts.

[English]

We conducted three rounds of public consultations over a two-year period. Overall, we received positive feedback on the new code, particularly with respect to the clarity of its objectives and its rules of conduct.

I received passionate but widely divergent feedback on two issues. These were political work and the value of allowable hospitality.

On political work, the 2015 code prevents a lobbyist who participated in a political activity from lobbying the official and their staff who benefited from this participation for a specified period. There is no definition of political activity or what is meant by a specified period. A separate guidance document suggests that the cooling-off period for higher-risk political activities should be equivalent to a full election cycle. There is no specified period for lower-risk activities; there is only a recommendation that lobbyists exercise caution if they are frequently involved in such activities.

During the consultation, some stakeholders suggested that after participating in important political work, the cooling-off period should be at least 10 years, while others argued that any such restriction could infringe on a lobbyist's charter rights. This is a concern I shared.

The updated rule was carefully crafted to achieve its objective of restricting lobbying if a sense of obligation could reasonably be seen to exist and to provide the greatest clarity for lobbyists, all while complying with the charter.

The new rule defines and provides examples of the political roles that could reasonably be seen to create a sense of obligation. It also excludes from its application certain forms of political participation. The rule does not prohibit lobbyists from engaging in political work, but prevents them from lobbying officials who benefited from this work and their close associates. The rule also sets out a cooling-off period of one or two years, based on the significance of the political work or the level of interaction with the official.

When considering other regimes and the five-year restriction on lobbying that applies to senior officials when they leave office, I believe these cooling-off periods are reasonable and appropriate.

I am confident that as currently drafted, the rule is on solid constitutional footing. I have real concerns, however, that extending the cooling-off period beyond two years creates risks with respect to charter compliance, particularly given that the code is a non-statutory instrument.

● (0850)

[*Translation*]

With respect to hospitality, the 2015 Code prevents a lobbyist from offering gifts to an official that the official is not allowed to accept. This rule therefore requires the commissioner to defer to various federal authorities governing the ethics of such office holders to determine whether lobbyists can offer hospitality. The new rule allows lobbyists to know when they can offer it and the permissible value, regardless of other regimes.

Some argued that lobbyists should not be allowed to offer any hospitality. Others said having a monetary value added to clarity, but some argued it was too low. Some believed the status quo should be maintained.

I determined that a \$40 limit for food and beverage, excluding taxes, was reasonable, with an annual limit of \$80. The low value amount is based on federal hospitality standards, recent average restaurant meal costs and the impact of inflation over the past two years.

In my view, this rule will promote equitable access for all lobbyists and avoid creating a sense of obligation on the part of the official.

[*English*]

Although it is not possible to anticipate all scenarios, a lot of thought went into revising the ethical standards that federally registered lobbyists must follow.

Mr. Chair and members of the committee, I look forward to your questions and your comments and I welcome any suggestions to improve the code before I finalize it.

*Merci.*

**The Chair:** Thank you, Ms. Bélanger.

We now are going to move to our six-minute round of questioning. We're going to start off with Mr. Kurek.

I will note for the benefit of the committee that I have spoken to Mr. Kurek. His flight was cancelled and the only piece of clothing he has is the T-shirt that he's wearing. I'm sure there's more.

Mr. Kurek, you have six minutes, sir.

**Mr. Damien Kurek (Battle River—Crowfoot, CPC):** Thank you, Mr. Chair.

For the benefit of the committee, I am wearing more than just a T-shirt. I certainly didn't expect when getting on an airplane yesterday that my outfit would be something that would possibly be referenced in parliamentary proceedings.

Thank you, Commissioner, for joining us here today. Virtually everybody I speak with would agree that we need to have a regime that ensures that there is not undue influence exercised by those who would attempt to manipulate officials, politicians and the like to their benefit.

I went through some recent news stories, including some very public examples, in which there were people who were involved in government contracts, people who work in consultancy fees and a whole host of others. As I was searching through the lobbyist registry, those individuals' names were not on it. They don't fall into being registered lobbyists, yet it's quite clear.... As an example, both the Prime Minister and the Deputy Prime Minister referenced very clearly how a particular individual who's been in the news—Mr. Barton—was recruited because of his contact list.

I'm curious if you could outline how that right balance is found, because when I searched through the list, these names were not found on it.

● (0855)

**Ms. Nancy Bélanger:** Thank you for your question.

Obtaining contracts is not something that is regulated in the Lobbying Act, except for consultants. If organizations and corporations hire a consultant to negotiate a contract for them, the consultant would need to register with our registry under the Lobbying Act. However, any communications with respect to contracts for organizations and corporations are not part of the Lobbying Act. That is something we likely should be looking at if ever the Lobbying Act is looked at and reviewed.

I would note that in British Columbia—and you should have a look at that regime—any conversation that is beyond the regular procurement process, which is very much in the public domain, requires registration from organizations and corporations. Right now, that's not regulated at the federal level.

**Mr. Damien Kurek:** Certainly it speaks to one of the issues of Canadians simply wanting to be able to trust that their officials have not had undue influence exerted and whatnot.

One of the challenges.... I know you spent a lot of time moving the code to plain language so that it's more clearly understood and helping to find that right balance. You outlined in your report how you heard examples from both sides.

Can you explain to the committee how this would help build public confidence in the system to ensure that Canadians know their officials are not under undue influence?

**Ms. Nancy Bélanger:** If I understand your question correctly, are you asking how the current code that I am proposing would help to benefit, or is it adding—?

Okay.

Basically, right now, the rules are simply not clear, and because they're not clear, it is very difficult to regulate, investigate and provide advice. I think that adding clarity.... From the moment that I was appointed, back in 2018, lobbyists would tell me that the code was not clear. They didn't know what they could or could not do. We would issue guidance, but I don't know how I could find someone in breach of a guidance that in and of itself was not very clear.

I'm hoping that we've struck the right balance, considering that our code is, I think, currently one of the best in the world. Now we're simply going to raise that bar even more by adding clarity.

We've looked at what exists in the world and we've looked at what exists in the other provinces, and in fact there are not too many codes of conduct. Based on the submissions, if anyone takes the time to look at what's on our website, I think we have struck the right balance.

**Mr. Damien Kurek:** Thank you, Commissioner.

I'm wondering if you could provide that to us, because I know there have been discussions around the charter compliance issue, specifically around political campaigning.

I would like to ask a question about the actual lobbying.

Over the course of COVID, approximately half a trillion dollars were spent on a COVID response. Have you seen any significant trends that have reshaped the way you look at lobbying in Canada over the last number of years?

• (0900)

**Ms. Nancy Bélanger:** Certainly the pandemic has increased the number of communications, mainly because people needed to be heard, and all of you did open your doors, so the numbers have gone up and continue to go up.

One of the requirements under the act is to actually enter every time you have an oral and arranged communication. Every virtual meeting is oral and arranged in advance. That had to be inserted in the registry, and it has gone up. The issues that concern Canadians are usually the issues that are most lobbied. Health, environment, and the economy are the three usual topics. Lobbying flows with what is of concern for Canadians.

**The Chair:** That concludes your six-minute round, Mr. Kurek.

Thank you, Ms. Bélanger. Next we're going to continue online with Ms. Hepfner. You have six minutes.

**Ms. Lisa Hepfner (Hamilton Mountain, Lib.):** Thank you, Mr. Chair.

Thank you so much, Commissioner, for being here today and taking all these questions.

I would like to go back to something my colleague Mr. Kurek said about consultants not being on the registry. Could you clarify for the committee whether companies that are responding to RFPs and are bidding on government contracts are required to register as lobbyists?

**Ms. Nancy Bélanger:** Just to clarify, consultants who are government relations officials, if they are hired to negotiate a contract—

**Ms. Lisa Hepfner:** On a point of order—

**Ms. Nancy Bélanger:**—for an organization, they would have to register—

**The Chair:** Ms. Hepfner, please go ahead.

**Ms. Lisa Hepfner:** I'm sorry. I was calling a point of order because I could not hear the floor, but I think it's because I was not muted. I did hear her eventually, but I missed the first part of what she said.

Can you restart my time?

**The Chair:** I'm not going to start at six minutes, but I paused it and I'll allow Ms. Bélanger to answer your question. Then I'll restart your time.

**Ms. Nancy Bélanger:** With respect to consultants, if they are hired to negotiate a contract for an organization or corporation, they would need to register. Organizations and corporations that follow any public process.... Even if it's not a public process, any contracting is currently not required to be registered under the registry.

**Ms. Lisa Hepfner:** Thank you for that clarification.

My next question is around volunteers.

I was just recently elected in 2021, but I think all of the elected officials around this table, virtually and in person, appreciate the value of volunteers to the political system.

You need lots of volunteers. They're really important. I feel it's a way for people to get involved at a grassroots level in the political system, understand it better and have their say and just get a feel for it. I think it's a really important part of the process.

I would like to know whether those people, those normal Canadians who just get involved and go knocking on doors at election time, would be affected by the update in this code. Is the sense of obligation a factor in those cases, in those basic grassroots, political things that we see every day?

**Ms. Nancy Bélanger:** The code for lobbyists is only applicable to registered lobbyists. Any individual who volunteers for you who is not a lobbyist is not subject to this code. It's really only for the individuals listed in a registry.

If they are registered to lobby and they do volunteer for you, there might be some consequences under the code, because they would be subject to the code. If they go and lobby you when you know they have volunteered for you, there's certainly an appearance, possibly, of a sense of obligation. It will depend on what they have done.

I have the rule to regulate lobbyists, and you have your own rules under your own code of conduct to ensure that you don't improperly further the interests of individuals whom you may know who may have helped you.

It's a whole. It's from the lobbyists' side and from the public office holders' side. It really will depend on the facts of the case and what they have done and if they're registered to lobby.

• (0905)

**Ms. Lisa Hepfner:** Okay.

In general it wouldn't be a disadvantage to volunteer for an MP because then you could never go and ask that MP for a favour, or for help, or be seen to be receiving services that other people wouldn't get from that member of Parliament.

Could you clarify that?

**Ms. Nancy Bélanger:** If the individual is a registered lobbyist, they do need to be vigilant about whom they go to help and who they're going to lobby afterwards. They should be calling my office.

If I can give you some stats, there have been two elections since 2017, since I've been in my position. There have only been 40 calls to my office about the application of the current rule on political activity. Only 29 of them have been from people who are thinking of playing an important role and wondering about the consequences.

Considering that there are 8,000 lobbyists and that over 300 of you are getting help from many, the fact that I'm only getting 29 calls about playing an important role... I don't know if it's a prevalent issue or if people are just keeping it under the radar. I just don't know.

I'm hoping these rules will send a signal that they need to be careful and need to call us to get some help.

**Ms. Lisa Hepfner:** Very good.

I would like to go back to your statement about Canada's code being among "the best in the world". Can you elaborate more and talk about peer countries and what sorts of differences there are?

**Ms. Nancy Bélanger:** In the world, there are about 11 countries that have codes of conduct. Of course, it will depend on their regime. I've read them all to see if I could get inspired, and for the most part they're very much principle-based. Very often the authorities don't necessarily have the power to investigate and regulate.

I would say, for example, that when it comes to political work, codes are actually quite silent, even in this country. Only in Ontario has my colleague suggested there should be a cooling-off period, and it should be for a year.

We are one of the best, and people look up to us, but there are still improvements to be made. I am hoping that this is what this will do.

**The Chair:** Thank you, Ms. Hepfner. That concludes your six minutes.

Thank you, Ms. Bélanger.

[*Translation*]

Ms. Normandin, the floor is yours for six minutes.

**Ms. Christine Normandin (Saint-Jean, BQ):** Thank you very much, Mr. Chair.

Ms. Bélanger, thank you for being here.

My first question is related to the one my colleague, Mr. Kurek, asked. You may already have answered it, but I want to be sure I fully understood your answer.

What I understood is that if the Lobbyists' Code of Conduct is violated, a commissioner can conduct an investigation and ultimately table a report in the House.

Could the commissioner possibly do that when someone is supposed to be registered as a lobbyist but is not?

**Ms. Nancy Bélanger:** That's a good question.

In the case of a person who is supposed to be in the registry, but is not, I would conduct an investigation. If I have reasonable doubts that the person should have been in the registry, I have to suspend my investigation and report it to the RCMP.

The Office of the Commissioner of Lobbying is on the lookout then. If the file comes back to us, I could make a report to Parliament to explain the situation. But is it worth the effort to investigate someone who was supposed to be in the registry, in accordance with the Code? I do not really have the resources for that.

I would probably advise you that this person was supposed to be in the registry. If the person is not in the registry, that is a violation of the Lobbying Act, and I have to report it to the RCMP.

**Ms. Christine Normandin:** Perfect.

Once you conclude that the person should have been in the registry and there are grounds to investigate non-compliance with the Code, you conduct an investigation? If I understand correctly, you have the authority to do that in such cases.

**Ms. Nancy Bélanger:** Yes, definitely.

**Ms. Christine Normandin:** I have a question about calculating the 12-month or 24-month period.

Parallels have been drawn with the duration of MPs' term in the House of Commons. As we know, their term of office is shorter when there is a minority government.

Should this not have been studied in relation to a sense of obligation, using psychologists' reports, among other things? I would like to hear your thoughts on that.

What led to establishing a term of two months? Was the sense of obligation considered?

• (0910)

**Ms. Nancy Bélanger:** If I may correct you first, we are talking about 12 or 24 months, not two months.

We considered the following: the current guideline says 5 years or nothing at all. We looked at how things are done elsewhere around the world. What I can say is that it is the people who are lobbied who have to comply with the regulations. If the person has a sense of obligation, it is up to them to decide whether they should meet that person.

For my part, I decided to establish a rule because there was one in 2015, but I could simply have banned lobbying of anyone who has a sense of obligation toward the lobbyist. We wanted to provide a rule as a guideline.

I looked at all the bans in place.

Under the Conflict of Interest Act, a minister may not engage in certain activities within two years of leaving their post. For other office holders, the ban is for one year.

After you leave your job as MPs, you may not engage in lobbying for five years. That is the ban you are subject to.

I had to compare restricting political activity for a period of time and depending on its importance with the case of persons who, like you, held a position for at least two or more years.

I did not hire a psychologist. The sense of obligation is really what matters. It is based on facts, the role you played and its importance to you. We would certainly interview you if we were to investigate a lobbyist who had contacted you but wasn't supposed to.

**Ms. Christine Normandin:** In that case, the burden is on the official rather than the lobbyist.

**Ms. Nancy Bélanger:** Yes.

**Ms. Christine Normandin:** But the official would not really face any consequences if they did not declare a sense of obligation to the lobbyist, who, on the other hand, would face consequences.

**Ms. Nancy Bélanger:** I do not make regulations pertaining to your role, but you may contact Mr. Dion, your resource person on ethical matters.

**Ms. Christine Normandin:** Ultimately, there would not be any consequences for the lobbyist nonetheless. Is that correct?

**Ms. Nancy Bélanger:** There would be a consequence for the lobbyist.

If I conclude from my investigation that the person should not have lobbied you, I report that to Parliament. The only consequence is to the person's reputation as a result of a report to Parliament. There is no penalty though.

**Ms. Christine Normandin:** If I understand correctly, you have received legal advice referencing a potential Charter violation relating to the right to political activity.

I wonder though if that should not instead have been analyzed in terms of the right to work.

Political activity comes first. The inability to perform part of one's work comes next. This raises a few questions. I do not think it is people's political activity that is being limited, but rather their right to work, just as a former MP is prevented from being a lobbyist for five years.

I would like to hear your thoughts on that.

**Ms. Nancy Bélanger:** I completely agree with you.

When I asked for a legal opinion, I did not limit the question to political activity. I asked a number of questions, and a rule preventing someone from working subsequently does indeed have legal implications relating to the Canadian Charter of Rights and Freedoms. What is most problematic is not restricting the right to political activity but rather limiting freedom of expression by preventing a person from communicating with you.

All I can say is that our rule was intended to restrict rights as little as possible in very specific situations. This would probably justifiable since we are trying to prevent any relationship with a sense of obligation. The objective of the rule justifies the restriction of rights and freedoms, which is nonetheless very clearly defined.

**Ms. Christine Normandin:** I think my speaking time is up but I will have more questions for you.

Thank you.

**The Chair:** Thank you, Ms. Normandin and Ms. Bélanger.

[English]

Next we go to Mr. Cannings for six minutes, sir.

**Mr. Richard Cannings (South Okanagan—West Kootenay, NDP):** Thank you for coming before us here today.

I appreciate that you've been producing this new set of guidelines or rules to provide more clarity. The problem is that the more you try to be clear, the harder it is. There are a lot more questions about the clarity on the details.

For instance, there's the new rule regarding gifts. I assume this is replacing the old rule. The old rule mentioned favours and other benefits. This new rule does not. Is that true? If that's the case....

• (0915)

**Ms. Nancy Bélanger:** No, the definition of gifts would include favours and benefits. It's still included.

**Mr. Richard Cannings:** Okay. It didn't seem to be there. There are no gaps in terms of...?

**Ms. Nancy Bélanger:** No. If you look at the definition of gifts, we've given a list of examples. It's quite broad. It's really any advantage.

**Mr. Richard Cannings:** Okay.

The same thing goes for the definitions of who's a friend and a close friend.

**Ms. Nancy Bélanger:** Yes.

**Mr. Richard Cannings:** Is that when you expect people to pick up the phone and call you? They'll say, "I have somebody whom I met at a party three times in the last year. Is that person a close friend or a friend?"

**Ms. Nancy Bélanger:** Yes. It's a good question.

You are all subject to making sure that you're not furthering the private interests of your friends. I think that is important.

Who is a friend is a difficult question to answer. I want people to call us so that we can help them navigate it. We have a definition of a close bond. It's personal affection. We will look at the facts. Do you see this person regularly? Even if you don't, do you call that person when you have the biggest problem in the world?

It will depend on the facts of each case. We will advise people and say, "Don't do it." You know you should always err on the side of caution and not lobby. If you have your own doubts about whether or not this person is a friend, you probably should not lobby them.

We have given a list of definitions and indicators of what we would be looking at. It's a list of examples to try to guide the lobbyists in making sure that they stay on the right side of the line.

**Mr. Richard Cannings:** Lobbyists, I believe, can request a reduction in the cooling-off period.

**Ms. Nancy Bélanger:** Yes.

**Mr. Richard Cannings:** Would those requests be made public? Would those be on the record?

**Ms. Nancy Bélanger:** That is a very good question. If it's something that this committee thinks I should do, I would definitely consider it.

Obviously, there are some serious privacy concerns in getting advice and a reduction. Unless it's in my code that I would make those things public, the individual would need to consent. They would likely let you know that they've received a reduction before they come and lobby you.

If this is something that the committee wants me to pursue, I can do that. I would likely consult my colleague the Privacy Commissioner to make sure that I was not doing anything untoward.

It is a good point. It's probably a good suggestion. It would enhance transparency for sure, so I would consider that.

**Mr. Richard Cannings:** I have one final point on another detail.

You have this \$80 limit for hospitality. Much of the hospitality I get from lobbyists.... I don't get taken out for lunch very often, but I go to receptions. Everybody here gets invited to three, four, five or eight receptions every night. Is it reasonable for a lobbyist to keep track of who shows up at those receptions and how many...?

Some lobbyists are working for various groups through the year. How do they manage that? I mean, it's good to have that detail, but then it gets kind of unwieldy.

**Ms. Nancy Bélanger:** Right now, the guidance doesn't mean very much. Lobbyists can offer hospitality, and if the recipient can accept it, they can give it.

Let's not forget that you're not the only ones who are being lobbied and offered hospitality. The senators are, and all the public servants are too. I am required to figure out who can accept what, and under what regime. By making this rule, we have now brought it back into regulating lobbyists to all be on the same level playing field with everybody they lobby.

Now when I hear that it's going to be a burden.... It's not that complicated. We've offered a formula. You expect 300 people and you order food for 300 people. You take your total and divide it, and it has to be under \$40 each. It's who you offer it to. Whether they show up or don't show up or eat \$50 worth or eat zero is not the test. We are not averaging it out. We are sending a signal that it has to be reasonable.

I see in the news often that there has likely been some.... I'm bringing it back. As far as I'm concerned, from the lobbyist's perspective, the whole hospitality area has gone unregulated for far too long, so we're bringing it back.

When I hear from lobbyists that I will be infringing on a parliamentary privilege, I have some serious concerns. That's why we landed where we've landed.

• (0920)

**Mr. Richard Cannings:** Thank you.

**The Chair:** Thank you, Mr. Cannings.

Before we go to Mr. Dalton and the next round, I'm going to use my privilege as chair to ask a question.

Ms. Bélanger, it refers to the letter you sent to the committee on December 14 regarding the cooling-off period and the legal opinion that you sought. In it, you said that the charter gives a "low threshold for infringement of the freedom of expression set by the Courts" and that the new cooling-off period would "likely be justified under section 1 of the Charter".



Is there anything in previous court rulings or any other jurisprudence that would affirm what that charter infringement would be?

In other words, you sought this legal opinion and they said it would be justified under this part, but not under this part. Are there any rulings that the expert legal opinion could refer to?

**Ms. Nancy Bélanger:** I'll give a charter analysis course 101.

The first test is to examine whether or not the rule as written infringes any constitutional rights. When it came to freedom of expression, I am stopping people from lobbying for at least two years or a year, depending on the circumstances. The courts have said the minute you stop people from being able to speak—it's a very low threshold—the freedom of expression has been breached.

Then when you look at section 1, is it justified? Is there a reason for this and has it been crafted in a way that it minimally impairs charter rights? When the objective is to ensure that we have ethical and transparent lobbying and that lobbyists do not lobby people who have a sense of obligation towards them, the legal opinion says that this objective is clear.

In the way the rule has been crafted, we're not stopping people from doing political work. In fact, we're letting them do it, but if they choose to do so, there might be limits on who they can lobby afterwards. It's only the people that they've helped get elected, and their close associates.

It is also limited in time, and, depending on the facts, the time could be reduced. If somebody is your campaign manager and within a week you realize that it's not working and you let them go, they shouldn't be prohibited from lobbying you for two years.

Some facts will be reviewed. According to the opinion, it was crafted in a way that the court would likely simply say that it's justified.

**The Chair:** Okay.

You also mentioned that you went externally. Can I ask where you went for that opinion?

**Ms. Nancy Bélanger:** It's actually in the public domain that I have a service contract with Goldblatt.

**The Chair:** Okay.

**Ms. Nancy Bélanger:** That's in the public domain: Goldblatt Partners.

**The Chair:** It used to be Sack Goldblatt Mitchell.

**Ms. Nancy Bélanger:** Yes, exactly.

Now, for the record, this is not a law firm that is registered to lobby, and they did a conflict-of-interest screen, so they were not in a conflict when they provided me with this legal opinion.

**The Chair:** Okay. Thank you, Ms. Bélanger.

We're now going to go to Mr. Barrett for five minutes.

**Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC):** Thanks very much, Chair, I appreciate that. We'll have Mr. Dalton take the next set of questions.

Commissioner, thanks for joining us again this morning.

Can you give us an update about how many investigations you've undertaken—a total, which is something that's available in your report—and a total of how many have been referred to the RCMP? Also, how many investigations and referrals to the RCMP are ongoing?

**Ms. Nancy Bélanger:** I have referred, since my appointment, 11 files to the RCMP. I know that there has been one charge laid, and they have returned five files recently to me. I haven't decided yet what I will do with that, so there are likely five or six still ongoing.

Right now, I have probably 35 open files that are being looked at, either at the preliminary assessment stage or the investigation stage. It's always around 30 that we have ongoing.

• (0925)

**Mr. Michael Barrett:** On what's in the news, we saw that with ArriveCAN, the principals of a company called GC Strategies were in almost constant contact with senior officials directly related to their field of business. Again, this is in the public domain through access to information requests. At one point they were even inviting the most senior person with respect to the business they wanted to do in IT and technology to an after-hours party. There were constant meetings, constant invitations. Should that be considered lobbying?

I mean, that is exactly what.... If you walked out onto Main Street in any of our communities and asked someone, if you could find someone when it's -40°C.... On any other day, if you walked out and there was someone there and you asked them, "Does that sound like lobbying to you?", they're going to say, "Yes, of course that's lobbying."

**Ms. Nancy Bélanger:** Not all communications with public office holders are considered lobbying under the Lobbying Act. It's considered lobbying by a lot of people, but the Lobbying Act does not cover all of the situations that are communications with public office holders.

The Lobbying Act needs to be reviewed. I can't say it enough. The last review was in 2012. We skipped 2017 and 2022. It needs to happen.

Yes, contracting was not in my preliminary recommendations in 2021 because I simply had not studied it enough, but I have now, and I have looked at the regime in B.C., and I do believe that there is a gap in the Lobbying Act with respect to contracting for organizations and corporations. It's not for consultants, obviously.

**Mr. Michael Barrett:** Right.

We heard testimony at another committee this week, at government operations—and it was reported in the media—that the former head of McKinsey had taken a dinner with the now Deputy Prime Minister at her private residence. That firm has since done significant business—in excess of \$100 million—with the government.

If there was a friendship there and no business was discussed, I think that perhaps a reasonable person might say that was not a lobbying interaction, but if the relationship is based only around business—and that seems to be the comment that Mr. Barton has made—even a dinner at a private home would be considered a lobbying effort.

**Ms. Nancy Bélanger:** Well, the location right now is not an issue; it's the communication itself and whatever was discussed as to whether or not it would be considered lobbying.

Right now, if they're talking about getting a contract for an organization, that is not lobbying. From the perspective of the public office holder, I don't regulate that. I can only regulate lobbyists that are registered, and when I say "registered", I mean those whose names appear on the registry. There's a gap there. Organizations and corporations do not need to register until they've met the significant part of the duties threshold, so there is a lot of communication that's happening that is not covered by the Lobbying Act right now. That needs to change.

**Mr. Michael Barrett:** Yes, and with respect to that calculation, that percentage, would you say that who is being lobbied is relevant? If a low-level member of a government relations firm reaches out to a backbench opposition member on one occasion, would that not be different from the chief executive officer of a multi-billion-dollar international conglomerate having direct communication with a member of the Privy Council?

Do you believe that the Lobbying Act should treat those interactions differently?

**The Chair:** Give a quick answer, Ms. Bélanger, please.

**Ms. Nancy Bélanger:** Possibly. I haven't put much thought into that one. I think that any communication with any of you should be transparent and that the level of influence or the level of decision-making power is not something that should necessarily be covered. I think all communications should be covered under the registry. It should be transparency by default.

• (0930)

**Mr. Michael Barrett:** Thank you, ma'am.

**The Chair:** Thank you, Ms. Bélanger.

Ms. Saks, you have five minutes and maybe a little extra after Mr. Barrett's interaction.

**Ms. Ya'ara Saks (York Centre, Lib.):** Thank you, Chair.

Thank you, Madame Bélanger, for joining us today.

These are important questions and things that we definitely need to think about. The government and I'm sure all my colleagues here are committed to ensuring that lobbying of federal public officer holders upholds the standards that are here. Asking these questions about integrity and also enhancing trust in the regime itself is something I really value, as does everyone here, I'm sure.

Previously the rules surrounding gifts, favours and other benefits were deferred to other federal authorities. Your office has mentioned that this creates challenges in administering and ensuring compliance with that rule. Can you go into what challenges your office has been facing with this arrangement?

**Ms. Nancy Bélanger:** Again, since my appointment in 2018, I have received 12 phone calls about receptions and whether lobbyists can offer them or not. They know that even if I say not to offer it, if you can accept it, they can do it.

When people call us and ask if they can offer a \$25 breakfast, we will usually say yes, but if they ask if they can give a \$50 breakfast, and we say no, whether or not that has any weight is zero, because if they offer you the \$50 breakfast and you eat it and nobody comes to tell you that you shouldn't have, it goes unregulated.

It is very difficult to give advice right now when I have to rely on all the other regimes. Again I repeat that it's not just you members; it's all public servants, who are all subject to different codes. There is a code of values from the public service, but each department sometimes has its own code.

There are challenges with respect to certainty, and then how am I supposed to find someone in breach of that rule?

**Ms. Ya'ara Saks:** Going in that direction, under this new proposed regime, you're essentially creating a \$40 limit and an \$80 annual limit for gifts and hospitality. It's a separated limit, from what I understood.

Is they separate, or is it the blanket amount for a public office holder in relation to a lobbyist per year?

**Ms. Nancy Bélanger:** It's in relation to the lobbyist. They can only offer public office holders—public servants, members of Parliament, senators, ministers, their staff—\$40 per event, per breakfast. We have asked for an \$80 limit.

In British Columbia right now, the annual limit is \$100. Interestingly, in British Columbia, every time a lobbyist registers, they need to indicate the value of the gift.

**Ms. Ya'ara Saks:** I want to talk about that, because there's an incongruity now. It's not the same on everything or what the Ethics Commissioner had, for example. We all received radon detectors and gave them back because they were valued at \$185, so we have this incongruity now.

If it's this amount and this amount, it creates a confusing regime, I think, for many folks. Could you comment on the incongruity and the values?

**Ms. Nancy Bélanger:** For lobbyists, it's going to be \$40. There is no confusion. It's an \$80 annual limit. If this committee thinks that I need to raise it to \$100, I will consider that, but there needs to be a signal that this is a reasonable amount. In fact, it's more generous than what public servants can offer to individuals whom they host.

We came down with that amount, and I think it is reasonable. Not everyone agrees. Some have said that they should not be able to offer you anything at all, so we came down with an amount that we view as being reasonable.

**Ms. Ya'ara Saks:** Okay.

How much time do I have, Chair?

**The Chair:** You have 45 seconds according to the clock, but with the soccer extra time, you may have a minute and a half.

**Voices:** Oh, oh!

**Ms. Ya'ara Saks:** We're feeling kind in -40° weather. I appreciate it.

I want to move into the 12-month and 24-month cooling-off periods. As my colleague Madame Normandin mentioned, with minority governments, election cycles might look a little bit different.

What is the change from what was previously defined? How did you get to 12 and 24 months, as opposed to...? Normally we think of an election cycle here as four years. It may or may not be. I come from overseas, where elections cycles can be six months. I would like you to weigh in because this is the nature of governments today. We may be going to elections more often.

● (0935)

**Ms. Nancy Bélanger:** That's why I'm not discussing.... The new rule will not have the concept of a full election cycle. It's gone. It was just in a guidance document. It was a "should" and it was really only if you had a very important role and significant interactions with the person you helped get elected. We've done away with full election cycles, and you're right that in the past few years they've been every two years.

What we did was to look at regimes. As I said, when we talk about political work, there is really no regime. With respect to political work, the only other cooling-off period I could find was from my colleague in Ontario, where it was one year.

That's unless, of course, there's an ongoing close relationship, and then a different rule applies. We came up with two years and a year in looking at the roles and the different regimes. The roles listed are examples. It really will depend on the importance, the relationship with you, the level of interaction. It will be two years. If it's less important, then it will be one year. If it's not much, it will be nothing.

**The Chair:** Thank you, Ms. Bélanger and Ms. Saks.

[*Translation*]

Ms. Normandin, you have the floor for two and a half minutes.

**Ms. Christine Normandin:** Thank you very much.

Ms. Bélanger, I understand the issue of lawyer-client confidentiality. I will not ask you to produce something you do not want to produce, but I will nonetheless ask: is the legal opinion public? Is it possible to obtain a copy without requiring it?

**Ms. Nancy Bélanger:** That is a good question. I expected someone to ask that.

I am thinking about it. I have not yet made a decision, but I will give you an answer next week. I am very much in favour of transparency, but I also know the great importance of confidentiality. I would not want to create a precedent.

So I will think about it and give you an answer next week.

**Ms. Christine Normandin:** Thank you for your transparency and promptness.

I would like to continue on this topic and on the issue of respecting the Charter.

Among other things, you said that since the Code is not a regulatory instrument, we might want to look directly at the Lobbying Act itself. That is a task for MPs. Is that something you would recommend to the committee?

Do you think MPs should consider reviewing the act, for instance to consider increasing the duration of the ban and to place the burden on us to make sure we are not violating any requirements related to the Charter?

**Ms. Nancy Bélanger:** You have no idea how happy I would be to review the Lobbying Act.

The act calls for a review every five years, but nothing has been done since 2012. So it is high time for a review. In 2021, I appeared before the committee and was asked for recommendations. So I made some preliminary recommendations at that time. My thinking has evolved since then and I am ready to make others. You already have a document before you with my preliminary recommendations.

If the Lobbying Act is reviewed, I will certainly be here to assist and support you in your discussions.

**Ms. Christine Normandin:** I have only 10 seconds left, so thank you.

**The Chair:** Thank you, Ms. Normandin.

[*English*]

Next we're going to go to Mr. Cannings for two and half minutes.

Go ahead, sir.

**Mr. Richard Cannings:** Thank you.

There's the accurate information rule in this piece. I think it's been adjusted to prevent information that has not been reasonably vetted from being used for lobbying. I'm just wondering what some examples might be.

I hear from lobbyists all the time. Sometimes I don't believe a word they're saying. I'm just wondering when can I put up my hand and say—

**Ms. Nancy Bélanger:** This rule currently exists. We just re-framed it or repackaged it a little bit. I have to say that it is probably one of the rules that gave us the greatest challenge in framing it in the right way.

I certainly can't be the keeper of the truth or of the facts, but in a world with a lot of misleading information out there, I wanted to make sure that when lobbyists do lobby you, they have done due diligence in taking reasonable steps to ensure that the information that they give you is not misleading. They will have to ask questions of their clients to make sure that the information is valid.

Of course, I can't breach freedom of expression. It's not to stop people from providing their opinions, but there is a bit of homework for them to do.

That rule really currently exists.

● (0940)

**Mr. Richard Cannings:** Can you expand on what “unreliable” is?

**Ms. Nancy Bélanger:** Well, “unreliable” would be information that they are aware is not accurate. I think that's really all I can ask of them, or that I will be able to verify whether or not it is accurate.

I don't have the resources to look at all the reports that you are given to make sure that they're accurate, valid and scientific.

**Mr. Richard Cannings:** Just getting back to the one-year or two-year piece, listening to the questions and answers about the election cycles and how unreliable they are these days, was there any thought given to maybe defining it by the election cycle?

Someone who helps you in a campaign couldn't help you throughout that period when you're in office.

**Ms. Nancy Bélanger:** It's interesting, because lining it up with a full election cycle also doesn't recognize that there are some political activities that can happen when we're not in an election period. I did not want to actually limit the application of this rule with respect to election cycles.

We said two years for the more important activities. It's from the moment the political work stops; it would be two years from there.

**The Chair:** Thank you, Mr. Cannings.

Mr. Dalton, you have five minutes.

**Mr. Marc Dalton (Pitt Meadows—Maple Ridge, CPC):** Thank you very much for your comments, Commissioner.

We've gone through a difficult time as a nation with COVID worldwide. A lot of money flowed from federal government coffers to assist.

There was one contract that has received some attention. I would appreciate your comments on this one. It was for \$237 million for ventilators. It was a sole-source contract for twice as much as the competition, so it was a lot of money.

The problem with this is that the company—a new company—was owned by former member of Parliament Frank Baylis. In the 2019 election, he didn't continue, and it was just a number of months later.

I'm not sure how the application of this code applies right here, but I wonder what your comments are about this situation, Mr. Baylis's company and even those who worked with him.

Obviously, there are a lot of conversations. There's a lot of money and a lot of concern. He made a quote to the media, saying that he saw an opportunity to help and he took it. It seems like he helped himself and the company.

This is a real concern. Can you talk a little about this right here?

**Ms. Nancy Bélanger:** With respect to organizations and corporations, contracts are not in my bailiwick right now. If it is the wish of this committee and Parliament that it be, then the Lobbying Act needs to be reviewed.

Because contracts are not subject to the Lobbying Act, individuals who do have communications about contracts are just not subject to my code. Those who will have had this contract are subject.... There is a procurement ombudsman. I don't know if he has a role to play in this situation. You may wish to speak to him.

Public office holders are subject to their own regime. I do not regulate people who have contracts with the government because they're not considered lobbyists at the moment.

**Mr. Marc Dalton:** Okay. I have another example. It has to do with a lobbyist.

I'm thinking of the Aga Khan Foundation, which has received tens of millions of dollars. I know that this is maybe a few years back, but still I feel that very significant breaches were made, and the public feels this also.

It regards a trip that the Prime Minister accepted, receiving gifts and flights with all sorts of benefits. I wonder if you could comment on this and how the new code applies.

● (0945)

**Ms. Nancy Bélanger:** Again, with any organizations that are registered to lobby, the individuals who are listed on the registry would be subject to this code of conduct. The Aga Khan is not someone who is registered to lobby. Therefore, he was not subject to it. This matter has gone to the courts and it's done. He was not a lobbyist.

Mainly, the Lobbying Act applies to people who are paid, so you need to be an employee of an organization or you need to be paid by a client. Currently, volunteers are not included in the Lobbying Act. That is another issue that we could discuss if the Lobbying Act were ever reviewed.

**Mr. Marc Dalton:** The foundation itself is a registered lobby. That's just a comment on that point.

**Ms. Nancy Bélanger:** Yes.

**Mr. Marc Dalton:** The code is non-statutory, and it's supposed to complement the Lobbying Act. What teeth does the code have?

**Ms. Nancy Bélanger:** The teeth are that lobbyists are supposed to comply with it, and I am supposed to investigate when they don't and report it to Parliament.

The teeth right now are reputational. It is a report to Parliament about someone who has breached the code. That's it.

**Mr. Marc Dalton:** It's reputational.

**Ms. Nancy Bélanger:** It's reputational. Yes.

**Mr. Marc Dalton:** I'm going to throw you a softball question.

**The Chair:** Make it a very quick one.

**Mr. Marc Dalton:** Very quickly, what element or aspect of this new code would you say you most want to highlight as far as the benefit is concerned?

If you can pick one thing, what are you most proud of or do you think is the best?

**Ms. Nancy Bélanger:** It's all very good.

I'm extremely proud of my team. They have worked very hard on this. The client services people who work with lobbyists day in, day out will appreciate these rules.

I think it's the clarity. I'm proud of the process. We've listened to people. We have looked at everything. We have come down with an excellent code, which I'm very proud of.

I can't pick one thing, except for its clarity, possibly.

**Mr. Marc Dalton:** Thank you.

**The Chair:** Thank you, Mr. Dalton.

Mr. Fergus, you have five minutes.

[Translation]

**Hon. Greg Fergus (Hull—Aylmer, Lib.):** Thank you, Mr. Chair.

Thank you very much for being here today, Ms. Bélanger.

I have two questions for you.

I think my questions and those of my colleagues involve two key concerns. The first is the \$80 annual limit, and the second relates to rights guaranteed by the Canadian Charter of Rights and Freedoms, specifically the political participation of Canadians, in this case, lobbyists.

[English]

Let me say that this is one of those things on which probably reasonable people can disagree.

Let me come in on the \$80 question first. I love the idea of putting a \$40 limit, or whatever limit you want to put, per interaction for hospitality for members of Parliament. I think that's very important. As a former lobbyist, I think that allows us to avoid *les déboires*.

[Translation]

If we do not want people going to a *méchoui* bearing gifts of gold, among other things, I think \$40 is a reasonable amount.

**Ms. Nancy Bélanger:** I agree with you.

**Hon. Greg Fergus:** What I think can be problematic, however, are evenings and receptions hosted by a sector of activity. Consider an association that represents a number of members, such as Universities Canada, which includes 96 public universities from across the country. They can hold a gathering. MPs will attend to talk to their local university presidents. This is entirely acceptable, and is even beneficial. As an MP, I can meet not just the rector of UQO, but the rectors of all universities in Quebec. I could have a discussion about innovation, for instance.

If the number of meetings per year is limited, we will force universities to have individual interactions instead of group gatherings which are a time-saver for me. They are probably more worthwhile for them as well.

Would it not be preferable to set a limit per activity, say \$40 for food and drink? On the other hand, if you are informed that a particular member, private company or organization contacts an MP five or six times per year, that is not reasonable.

Would it not be preferable to impose a limit per interaction, and provide guidelines to prevent excesses?

• (0950)

**Ms. Nancy Bélanger:** That is a good question, but I am not convinced.

The whole issue of hospitality is not regulated right now. We decided on a limit of \$40 per activity and \$80 per year. In other words, if an association wants to hold more than two receptions, it will have to limit its budget for each reception. The limit is \$40, but it is not necessary to spend the full amount.

**Hon. Greg Fergus:** That's true. I can tell you that my daughter got married a few months ago—

**Ms. Nancy Bélanger:** That certainly cost more than \$40.

**Hon. Greg Fergus:** —for an event, \$40 is not a lot.

**Ms. Nancy Bélanger:** It is not a lot, but it sends a message. If officials themselves can stick to that limit for hospitality when hosting people from outside, I do not know why lobbyists could not do the same thing. That is the first point.

Secondly, I understand what you are saying about \$80 when an organization has many members and wants to meet as many people as possible by holding a number of events. In that case, for any additional event, the organization can ask for my permission by submitting an exemption request and tell me how much the event will cost and who will be invited. That is a possibility.

I do not know what the ideal solution might be. I cannot rely on receiving reports on the number of times, let's say five, that a lobbyist wants to take someone to dinner. I do not receive that kind of complaint, but I can read the newspaper.

I would be pleased to hear what solution the committee would suggest in this regard.

[English]

**Hon. Greg Fergus:** Do I have more time, Mr. Chair?

**The Chair:** No. I apologize. We were over the five minutes.

[Translation]

Thank you, Ms. Bélanger.

[English]

We're going to go to the next round. We will start with Mr. Kurek.

Before we do, I'm also going to remind committee members that you've held off on posting this code in the Canada Gazette as a result of this committee's request. We sent a request to have you appear before the committee. I want that to be kept in consideration as we move forward, because obviously the delay in posting it has resulted in a delay in the implementation of the new rules.

There may be a desire on the part of the committee to provide some further recommendations to the Commissioner of Lobbying as a result of this meeting, or, as we discussed the other day during our committee business, it may be that there is interest in this issue and that other witnesses may wish to appear.

With that backdrop, Ms. Bélanger, at the end of the meeting, maybe you could give us an idea on what the game plan is on your side in terms of publishing the code in the Canada Gazette. What timeline are you looking at? What are the reasonable expectations of the committee as to providing some input as a result of this meeting, or for other stakeholders who have shown some interest in this issue?

We are going to move to the next round with Mr. Kurek. You have five minutes.

• (0955)

**Mr. Damien Kurek:** Thank you very much, Chair.

Thank you, Commissioner, for all your testimony today.

Especially when it comes to some of the headline-driving subjects like conflict of interest, one of the challenges that many Canadians have is that it seems as if no number of rules seems to stop it, whether it's the Prime Minister or other cabinet ministers being found to have not been complying with the act as those who would endeavour to circumvent them.

Specifically when it comes to the Lobbying Act, one of the very troubling aspects of the testimony I've heard today is the number of interactions. You talked about there being very few people who reach out and ask for advice.

How can we make sure that this is a subject of conversation that dominates headlines not only when the rules are broken but that we can create a climate in which there is more transparency, more accountability, and ultimately better trust built into our institutions around the act of lobbying?

**Ms. Nancy Bélanger:** Thank you. I can only comment from the perspective of the Lobbying Act.

One of the greatest aspects of the Lobbying Act is the registry. There is a lot on that registry. It is transparent, but not everybody

needs to go on that registry; therefore, there is definitely a gap. It is a concern of mine that there is a lot of communication happening that's not covered by the Lobbying Act, so it needs to be fixed.

With respect to the code, I am really hoping that this will set a new bar on the gold standard that we expect people to abide by. The clarity will give me the teeth to be able to investigate and report on it. I am hoping that it will have a positive impact on the trust that Canadians can have with respect to ethical lobbying and transparent, ethical lobbying.

I would note that it would appear from the media that many of you have been lobbied about this code. None of it has found its way onto the registry, so I don't know who has spoken to you about this. I'm suspecting that they are the same people who provided submissions, but that's a problem. I'm not sure what I'll do about that problem, but it is a problem right now. Hopefully, the code will help.

**Mr. Damien Kurek:** The comment was made earlier about a difference between somebody who speaks with a backbencher or an official. Perhaps an official reaches out for clarification about something that was said in a previous meeting. There's a big difference between that and somebody who is asking the government for a billion-dollar contract.

This is encouragement rather than a question, and it's to try to find a pathway to ensure that we can develop a culture of transparency, as has been talked about, in the entire system, and make sure that the text messages or phone calls that seem to help determine who gets contracts are certainly dealt with.

In terms of the issue of political activity, all of us around this table are very familiar with political activity in door knocking, phone calls, putting up campaign signs and whatnot.

Can you outline, for the sake of those who are watching, your experience in terms of coming to the position you did in your proposed roles when you're trying to find that right balance? There's a pretty big difference between somebody who knocks on a few doors a couple of times during a campaign and somebody who would do so to influence a public office holder.

Can you outline a bit as to how you came to the conclusions that you did?

**Ms. Nancy Bélanger:** Based on the questions we received over the years looking at the different roles that people play during campaigns and.... Of course, we only give a list of examples, because I'm not the expert, and people have different titles. We came to the conclusion, again with the charter backdrop, that with respect to people who are knocking on doors, they should be allowed to knock on doors. However, if they're not knocking on doors with you, the elected official, on a daily basis, a different relationship is created with the person who's doing it.

A former MP told me once, “I don't even know who knocks on doors for me.” I get that. Therefore, that would likely not cause a sense of obligation. This rule is to send a signal for people to call us if they're not sure. There is a difference, and I hope we have identified that difference on the list of different types of activities.

The second category would be people who have frequent interactions with the person who is seeking to be elected. If that doesn't happen, then there really is no cooling-off period.

• (1000)

**The Chair:** Thank you, Mr. Kurek. Thank you, Ms. Bélanger, as well.

We will go to Mr. Fergus. I understand there is an agreement among the parties that this will be the final round of questioning, and then I may have some comments after that, Ms. Bélanger.

Mr. Fergus, you have five minutes.

**Hon. Greg Fergus:** Thank you very much.

Please don't interpret this as being a lack of interest. I think we could have you here for several hours.

My second question is with regard to the charter. As you know, there are fundamental rights to participation in section 3 of the charter. You've looked and you think you've found a way that has a minimal impact upon this, yet I come from the belief that if we are going to limit Canadians' charter rights, then we should do so through legislation. I am a little concerned about codifying this without having that larger public debate, with all due respect to the extensive consultations you organized.

This really comes down to the soft part as to what is a significant influence and what isn't, and I think we need to be very careful about limiting people's charter rights. We have this idea that lobbyists are these evil folks. I think they are just people who are trying to help organizations. Some do a lot of great work for NGOs and for people who don't normally have a chance to have a voice, to try to get the attention of MPs, legislators and public office holders, who are all over the place.

Rather than having this change through guidelines, or codified through guidelines, do you think it would be a better move to have it done through legislation—that is, actual changes to the Lobbying Act—so that Parliament could have an opportunity to discuss this?

**Ms. Nancy Bélanger:** Certainly I do, if you tell me the Lobbying Act will be changed in the next few weeks, but that is not going to happen, and I need to find a way to regulate what's going on now.

Currently there is already a rule in place, and it has been there since 2015. I'm now trying to *l'encadrer* in a way that meets charter obligations. When you think about it, I could have one rule that simply says not to lobby anyone who has a sense of obligation towards you, and leave it at that.

I will get lots of complaints in my office, which I will not be able to get through, because I only have 28 people. This code is to try to explain how we are trying to limit when and how, based on considerations. People should call us, and if they call us, we will be able to give them proper advice.

Let's not forget that you have your own obligations if you feel like someone is.... I don't know. If a campaign manager helps you to get elected and they come and lobby you after the election, is that appropriate? We're saying that it shouldn't be happening if we want to enhance public confidence in the decision-making process. That is why we've limited it. If this committee believes it should be five years—

**Hon. Greg Fergus:** Let's say there is a sort of sign chair, a person who is responsible for putting up signs or coordinating volunteers to put up or repair signs that are damaged during an election. It could be a volunteer coordinator—

**Ms. Nancy Bélanger:** There will be no prohibition for that person. Of course not. We've created a list of those who we thought would be doing more important and high-profile work for you and another list of people who interact with you on a daily basis. For everyone else, there is no prohibition. If people are cleaning up the signs, they will be able to lobby you the next day.

There is a nuance, and we try to provide examples of where that nuance will happen. It will be a case-by-case basis.

• (1005)

**Hon. Greg Fergus:** I still....

**Ms. Nancy Bélanger:** I hear you. It is a serious issue, and I have known from the moment I was appointed that this was a serious issue, based on the guidance document.

**Hon. Greg Fergus:** It would seem to me that the most important aspect of it is the transparency aspect.

**Ms. Nancy Bélanger:** Absolutely.

**Hon. Greg Fergus:** That is what we should ensure—that people know what is going on and who is speaking to whom. That would be, to me, the primary aspect of it. Everything else is a variation.

As you said, it's a process of evaluation, which makes it really tricky to do. Some people would qualify to fall into that strategic role and some people wouldn't, so that is where that unfairness or arbitrariness comes in that makes me feel uncomfortable.

**Ms. Nancy Bélanger:** It makes you feel uncomfortable. I can tell you that if someone calls my office and says, “This is the role I played” and I'm not sure where they fit, I will call you. I am not shy. I will call you and say, “What did they do for you, and do you think it's the right thing?” I much prefer preventing to having their name on the registry as lobbying you and then having on the first page of the news that they've lobbied you when they helped you and they acted in an important role for you.

It is tricky. We are hoping that we can have conversations with lobbyists and with you and say, “Look, what do you think?”, and then we will determine the cooling-off period on that front.

**Hon. Greg Fergus:** I have just one comment to you, Mr. Chair.

You mentioned it. I think the statement you made before we entered into this round is important. I would enjoy having that conversation before the new regulations are posted. I think this is a question that has come up from all parties, and all the rounds of questions we've had have been with respect to exploring this a little further. It's very important.

**The Chair:** Yes. I think I'm going to leave a little time at the end so we can discuss that with the lobbying commissioner, Mr. Fergus, just in terms of those timelines and any potential future input as well.

Thank you.

[*Translation*]

Ms. Normandin, you have the floor for two and a half minutes or a bit more, if you wish.

**Ms. Christine Normandin:** Thank you, Mr. Chair.

If the answer takes longer, I will ask for a bit more time.

We talked about prevention and rapid intervention. I would like your thoughts on that. I suppose the people who consult you are not the most problematic cases, but rather the ones who are most compliant with the Lobbyists' Code of Conduct.

At the other end of the spectrum, the problem cases are the ones reported in the media. I am thinking of Frank Baylis, the WE charity, McKinsey, Aga Khan and company, in short, the big, juicy cases.

When you have to conduct an investigation, do you rely entirely on newspapers or do you have other sources?

If so, do you have sufficient resources to identify the problems before they are reported in the media? Do you have the resources to conduct preventative work, to catch things before the fact as much as possible? Are investigations only conducted after the damage has been done, when it is too late, the contracts have been awarded, the media are aware and the matter is before the courts and so on?

**Ms. Nancy Bélanger:** There are several parts to your question.

**Ms. Christine Normandin:** That is why I wanted more time.

**Ms. Nancy Bélanger:** Let me start with the first one. No, I do not have enough resources. I have enough for 33 employees, and we usually have 28. We have an important mandate, we work hard and we are all tired.

I made a request for additional funding in order to add seven employees, primarily to fulfill my mandate to raise awareness in order to prevent problems rather than correct them.

As to the information used in our investigations, I do not rely on what is published in the newspapers. Those are allegations and I don't talk to journalists. That said, media reports often lead us to open a file.

Our most important witnesses are you, public office holders, the people lobbyists talk to. If you have not received a letter from me, perhaps you will some day. I would then ask you for a written

record of your discussions with certain persons and I would interview you.

The witnesses we rely on are public office holders, public servants, senators, ministers and their staff, and their records documenting the discussions that have taken place. That includes their agendas, since they show with whom they met and when the meeting took place. That is what lobbying is: communication with public office holders.

• (1010)

**Ms. Christine Normandin:** Thank you very much.

**The Chair:** Are you finished, Ms. Normandin?

**Ms. Christine Normandin:** Yes, thank you, Mr. Chair.

[*English*]

**The Chair:** Mr. Cannings, you have two and a half minutes or more.

**Mr. Richard Cannings:** Thank you.

I'm not sure if this is a fair question, so feel free to answer it as you will.

Several times you have referred to how it would be good to have the Lobbying Act reviewed. I'll just frame it this way. If you were an MP drafting a private member's bill on updating the Lobbying Act—you don't have to go into details—what areas would you concentrate on? What are clearly the most important places to fix things?

**Ms. Nancy Bélanger:** The first one definitely would be to close the gap on the “significant part of the duties” threshold. For an organization and a corporation, there's a threshold to be met in order to decide whether they should register. We need to eliminate that. That's the first thing that needs to go.

Also, there are monthly communication reports. The individuals need to put in the registry that they've had an “oral” and “arranged in advanced” meeting. Communications that happen anywhere else that were not arranged in advance do not need to make it to the registry. That's a problem.

The other area would likely be the spectrum of sanctions, because right now we've got the code, and if I issue a report to Parliament, there's a reputational thing. Anything else is an offence under the act, and that is the RCMP, and there's nothing in between. I would like to have the opportunity to give monetary penalties, to prohibit someone from lobbying and to issue mandatory orders of education, which I do. I ask them to show up when there are some issues.

Those would be probably the top three that come to mind.

**Mr. Richard Cannings:** Thank you.

**The Chair:** Thank you, Mr. Cannings.

Thank you to all members of the committee and Ms. Bélanger for today's session.



That concludes the formal part of our meeting in terms of questioning, but I did sort of pre-empt Ms. Bélanger a bit at the beginning of this round.

On the timeline for publishing the proposed changes to the Lobbyists' Code of Conduct, and for the benefit of the committee, if you could tell us what your thoughts are on where you're going to go with this, we would appreciate it.

**Ms. Nancy Bélanger:** The first thing I will say is that I have very much appreciated this conversation. I was hoping that you would invite me, because I'm very much about public discussions and transparency. I appreciate that you have taken the time. I have seen that you have a busy schedule, and I'm therefore really happy to have been able to have this conversation with you.

We've been doing this process since 2020. We have been looking at this a lot and have spent a lot of time on it for over two years. There have been three rounds of consultations. I have looked at every comment more than once. It's time. We need to do this code, because the longer the current code is in place, the longer the issues continue.

It was in my departmental plan and in my annual report that I wanted this code to be in place before the end of this fiscal year, which is March 31. I am completely aware that this does not give you a lot of time. I would ask the committee to do it ASAP, because I really want this to start, to be in force.

The code makes reference to calendar years, and therefore it would have been nice to have as full a calendar year as possible, but if that's not doable, I am hoping for the end of March or by April 1 that I could do this, but I will not proceed until I get your sense that you do not have recommendations to make. If you do have recommendations to make, I will wait for them, but I would really ask that you do this as soon as possible.

You may hear from witnesses. I will listen to see if there is anything new that comes up that I am not aware of, because I really want to get this right. It's not a question of going ahead with what we've proposed, and if there are some improvements to be made, we will make those improvements, but we've stretched where we can, based on everything we have heard.

I really am in your hands, but I would really beg that we work on this as soon as possible so that we can move on to something else. I think our team wants this to move along.

• (1015)

**The Chair:** I thank you for that, because, based on the discussion today, there may be some further discussion, as Mr. Fergus implied, that may have to occur. I don't think it's unreasonable to expect that the end of this fiscal year, which is March 31, is a reasonable timeline in order to publish the code.

I think it's safe—and if I'm wrong, please let me know—that on behalf of the committee, we ask that these not be published until at least the end of the fiscal year. If that's your goal, I don't see that as an unreasonable timeline. That will give the committee time, and it will give, based on today's testimony and today's questions, outside stakeholders an opportunity to provide input as well. If there is new information, you can consider that, as you say.

The problem we have as a committee—and we discussed this the other day—is that we now have 29 meetings left before the end of the year, and there are several issues that we are dealing with, not the least of which is access to information. Therefore, I am going to make that request, and I can do it formally in a letter as well, if it is the will of the committee to ask you to consider holding off on publishing this in the Gazette at least until the end of this fiscal year. That will allow committee members an opportunity, so if that's reasonable to you—

**Ms. Nancy Bélanger:** Can I make a tweak to that?

**The Chair:** You can make a suggestion to the tweak.

**Ms. Nancy Bélanger:** If I could make a suggestion, if you only provide me your comments by March 31, I need to gazette, and then it will not be enforced until sometime in the summer, which is not ideal.

**The Chair:** Right. Well, that was my next point, and that is—

**Ms. Nancy Bélanger:** Okay. I need to publish.

**The Chair:** Perhaps I'll go around the table and ask committee members what a reasonable timeline is on their part to provide you with some suggestions that you may consider.

Mr. Fergus, I'll start with you. One week, two weeks, or three weeks—what would you consider a reasonable timeline?

**Hon. Greg Fergus:** I don't know. I want to be helpful, but I just don't know. As you said, it's March 31 for sure. We'd have to have a discussion about committee business and where we want to focus our concerns, and then who the appropriate people would be, if necessary, if we go outside of this committee.

**The Chair:** I'm canvassing the room here, Mr. Barrett. What's a reasonable timeline to expect input from committee members?

**Mr. Michael Barrett:** Again, it would depend on the tempo of our next few meetings. Am I correct that before the end of March, there are three non-sitting weeks?

**The Chair:** Yes.

**Mr. Michael Barrett:** That will impact it as well.

It would be great, Chair, to find out from the commissioner... If April 1 is her target to publish, by what date would she need to receive that feedback in order to be able to process it and then incorporate it, if that is her decision? We can do that instead of saying it's three weeks, four weeks, five weeks.

**The Chair:** That's a reasonable question.

**Ms. Nancy Bélanger:** If I want this code to be enforced on April 1, it needs to have been gazetted before that, and then I need to consider your suggestions, and I really do want to consider your suggestions. Depending on the extent of the suggestions, I may end up having to say it won't be April 1, because you may have many suggestions that I need to consider. We need to draft them and then proceed. I do want to give lobbyists the time to adjust to this new code and make sure that they've got time to....

Ideally, you would give me your comments by March 1. It would give me at least a month, but then that gives you less than a month, as we are at February 3.

If you were able to tell me whether or not you will have suggestions by March 1, that will help me figure out the timelines from there, because if you don't have any.... It will take you time to formulate those suggestions, as well. It does take time, and I'm not trying to rush.

• (1020)

**The Chair:** I appreciate that.

Based on a discussion I had with the clerk, we may have some time to deal with this issue at our Tuesday meeting this coming week. We may have a bit of time at the end of the meeting to deal with that. I would suggest that perhaps we deal with this under committee business on Tuesday. That will give you the weekend to think about the testimony that we heard, and suggestions and input, etc.

Does that sound reasonable to members of the committee?

[*Translation*]

Ms. Normandin, do you wish to add something?

**Ms. Christine Normandin:** Since this will be discussed by the committee like an administrative matter, I do not want to speak for Mr. Villemure and impose any deadlines on him.

The first question that will arise then is how much time each member needs to at least submit recommendations. We will then have to determine how much time the committee needs to deal with them. I understand that will be done on Tuesday.

**The Chair:** Okay. Thank you.

[*English*]

Mr. Cannings, do you have any comments at all on this, since we're going around the table?

**Mr. Richard Cannings:** I'm not a regular member of this committee, but if the committee is going to be discussing this on Tuesday, I would hope that we could provide some feedback by the end of the month, but probably not before.

**The Chair:** Given the clearer understanding, Ms. Bélanger, of what the timelines are, I think the committee can provide its input by, at a minimum, the end of the month.

If committee members agree, just leave it with me for Tuesday. I might be able to fit in a bit of time to deal with this, and we'll go from there.

Is that okay, Ms. Bélanger?

**Ms. Nancy Bélanger:** It is perfect. Thank you very much. It was most enjoyable.

**The Chair:** That is all that I have. I don't see any more business.

Thank you, Ms. Bélanger.

Thank you to Scott, who was—

• (1025)

**Ms. Nancy Bélanger:** He's my moral support.

**The Chair:** —chomping at the bit to get in. I see you shaking your head. No, you weren't.

Thank you for coming in and providing your time to the committee today to explain the proposed changes.

That's all the business that we have. Stay warm, everyone. Have a great weekend, and we'll see you on Tuesday.

The meeting is adjourned.







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