



Office of the Senate Ethics Officer



ANNUAL REPORT



Annual Report of the Senate Ethics Officer 2006-2007

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June 7, 2007

The Honourable Noël Kinsella
Speaker of the Senate
280-F, Centre Block
Parliament Buildings
Ottawa, Ontario
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Dear Mr. Speaker:

It is my honour and pleasure to submit to you the second Annual Report of the Senate Ethics Officer, pursuant to section 20.7 of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, as am. by S.C. 2004, c.7; S.C. 2006, c.9. It covers the period from April 1, 2006 to March 31, 2007.

Through you, I would like to express my sincere appreciation and gratitude to all senators for the cooperation and support they have provided to me and to my office.

Yours sincerely,

Jean T. Fournier
Senate Ethics Officer



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1. SENATE ETHICS OFFICER'S REMARKS

This is my second Annual Report as the Senate Ethics Officer and the office's second year of operation. The Report covers the period from April 1, 2006 to March 31, 2007. I wish to express my gratitude to all senators for their cooperation throughout this last year.



My office was established under the *Parliament of Canada Act* and the duties and functions of my office are set out under the *Conflict of Interest Code for Senators*. My primary responsibility is to administer, interpret and apply the Code. The most important aspect of my mandate is my advisory function. In this regard, I provide advice and opinions to senators on an ongoing basis in order to assist them in remaining in compliance with the requirements of the Code.

This year, as was the case last year, the cooperation I received from senators and their offices, was helpful to me in carrying out my functions. I greatly appreciated their responsiveness, particularly throughout the annual disclosure process. I was also pleased with the fact that senators are readily availing themselves of the services of my office and raising questions and concerns before acting. This, in my view, signals that the office is doing what it was intended to do – to prevent conflicts before they arise, rather than attempting to manage them once they have already arisen.

“Accountability is the foundation on which Canada’s system of responsible government rests. A strong accountability regime assures Parliament and Canadians that the Government of Canada uses public resources efficiently and effectively.”

*The Honourable Donald H. Oliver,
Q.C., senator, 2006*

The *Conflict of Interest Code for Senators* is still relatively new. It was adopted by the Senate in May 2005. This past year has presented several opportunities to examine in detail some of the explicit provisions of the Code, but also to reflect on their underlying purposes and the broader principles of the Code. Our interpretation and application of its provisions reflect the fact that the Senate



plays a unique role in Canada's parliamentary system, with responsibilities separate and distinct from the Executive Branch of Government, and although it forms part of the Legislative Branch, it is also separate and distinct in its constitutional functions and powers from those of the House of Commons.

Having said that, we are also mindful of the fact that the Senate exists and functions within a broader context – a Canadian tradition with uniquely Canadian values – values that form part of our own political culture – values that are changing and evolving as we grow and evolve as a society. What Canadians expect of their representatives in Parliament and in Government has changed over time and the standards expected of them today are higher than they were in the past.

Today, the appearance of a conflict may be just as damaging as a real conflict and the advice I provide to senators reflects this modern reality. The *Conflict of Interest Code for Senators* also provides an opportunity to reexamine the existing rules in light of public expectations through a mandatory review process. A review is required within three years of the coming into force of the Code, and every five years thereafter. Indeed, the Standing Committee on Conflict of Interest for Senators has already begun to consider the matter.

During this past year, a national debate on ethics and accountability related to parliamentarians and public office holders has dominated the public discourse. Bill C-2, the *Federal Accountability Act*, was going through the various legislative stages of Parliament and discussions and debates on it continued throughout most of the year. Bill C-2, if passed in its original form, would have had a direct impact on my

"...we do not simply, automatically trust people in authority. We have changed from having blind trust in authority figures ("trust me because I have status, power, and authority and will act in your 'best interest' and look after you") to requiring such authority to earn our trust ("trust me because I will show you that you can trust me and will continue to earn your trust")."

*Professor Margaret Sommerville
McGill University, 2006*



Office since one of its objectives was to merge the positions of the two existing federal ethics officers, i.e., the Senate Ethics Officer and the Ethics Commissioner, into one office holder, with the responsibility of administering three sets of rules on conflict of interest: (1) those that apply to senators; (2) those that apply to members of the House of Commons; and (3) those that would apply to public office holders, which would be codified into law. This would have resulted in one office holder being responsible for approximately 4,000 clients.

Given the impact the Bill would have had on my Office, I was invited to appear before the Standing Senate Committee on Legal and Constitutional Affairs to express my views on the draft legislation. The text of my remarks is attached to this Report as Appendix E.

In my remarks, I drew the Committee's attention to the experience of other bicameral countries to which Canada often compares itself, namely, the United Kingdom, the United States and Australia. Although the system of ethics varies in these countries, in all three jurisdictions each House controls its own ethics regime, including its own rules of conduct and its own oversight committee. Moreover, in cases where there is an independent officer in place to administer the rules, that officer has responsibility for members of one house alone, not both. In other words, all these countries have a well-established separate ethics regime in place for each House of Parliament.

I also highlighted the successful experience of the various provincial and territorial ethics offices, some of which have been in place for over fifteen years and thus are a great source of information on which to draw. The provincial experience in the area of ethics and conflict of interest suggests that building a direct and personal relationship with parliamentarians is essential in ensuring that they are properly informed regarding conflicts of interest and the means by which they may be avoided. One Commissioner responsible for members of the Senate, members of the House of Commons and public office holders would have great difficulty establishing a direct relationship of trust and confidence with each of his or her clients due to time constraints and the demands of the office.



"Ethics rules only work if there is broad participation in their drafting, and because the Senate has its own code and its own officer, I think the rules have more credibility, in this chamber than might otherwise be the case... It is the personal counseling of the Senate Ethics Officer that is so important to the success of the conflict of interest regime."

Professor Ian Green, York University, 2006

Most witnesses who testified before the Standing Senate Committee on Legal and Constitutional Affairs on this particular issue also agreed that informal, confidential meetings with parliamentarians is key to providing assistance to them in identifying problems or potential problems and, thus, avoiding real and apparent conflict of interest situations.

This issue was discussed and debated in the past in the Senate on several occasions and many senators took the same position that they had taken previously, i.e., that a separate ethics officer for each House was necessary as a matter of constitutional law. They insisted on amendments to Bill C-2 in this regard and these were ultimately adopted. Bill C-2 received Royal Assent on December 12, 2006.

Excerpt from the message from the Senate to the House of Commons on Bill C-2, the *Federal Accountability Act* (*Journals, House of Commons, December 7, 2006, Issue No. 093, page 886*) :

"A message was received from the Senate as follows: ORDERED: That a message be sent to the House of Commons to acquaint that House of the following and seek their concurrence:....that the Senate do insist on amendments...., since these amendments, which deal with the Senate Ethics Officer, are of significant importance to the status and privileges of the Senate of Canada as a constitutionally separate and independent House of Parliament, and reflect the practice of other Westminster based parliamentary democracies."



The *Parliament of Canada Act* provides that both the Senate Ethics Officer and the new Conflict of Interest and Ethics Commissioner (whose responsibility concerns members of the House of Commons and public office holders) carry out their duties and responsibilities under the general direction of a committee of each House of Parliament that is designated or established for that purpose. On June 6, 2005, the Senate established the Standing Committee on Conflict of Interest for Senators. I have met with the Committee twice this past year to discuss issues of a general nature, as well as some administrative matters. These exchanges have been useful and productive. The Committee also has an important role to play with respect to any inquiries and investigations that may be undertaken under the *Conflict of Interest Code for Senators*, as well as the periodic reviews of the provisions of the Code to which I referred earlier. However, it should be noted that the application and interpretation of the Code as it relates to individual senators is my sole responsibility.

I would like to take this opportunity to express my appreciation to senators and to the members of their staff for the respect they have shown for the independence of my office. I regard this independence as indispensable in ensuring public confidence in, and respect for, my office. It also enhances the confidence of Canadians in the Senate as an institution. I am able to state unequivocally that, since my appointment in April 2005, there has been no attempt to compromise this independence.

I am assisted in my functions by four staff members: the Executive Assistant, Mrs. Louise Dalphy; the Assistant Senate Ethics Officer and legal counsel to the office, Ms. Deborah Palumbo; the Director, Mr. Willard Dionne; and the Chief Advisor, Mr. Jacques Lalonde. I am grateful to each and every one of them for their hard work, dedication, professionalism and commitment to the office, especially during this prolonged period of uncertainty about the future of the office as a result of Bill C-2.

I have chosen to keep the number of staff in my office at a minimum – a sufficient number to ensure that the work of the office is carried out in a timely and efficient manner, without sacrificing the quality of it. This, in my view, provides greater privacy protection for senators and a greater assurance of confidentiality, both of which are ongoing concerns for me. They are also concerns that are specifically reflected in the provisions of the *Conflict of Interest Code for Senators*. In my view, the Code strikes a careful balance between the public interest in the disclosure of



information of senators as public figures on the one hand, and their right to privacy on the other.

I would also like to express my gratitude to the Senate Administration for the quality services they have provided to my office over the course of the year. As was the case last year, the Senate Administration provided my office with necessary support services on a cost recovery basis in the areas of security, finance, information technology and human resources, pursuant to a written agreement. This arrangement has worked well over the last two years, and I look forward to continue working with the Senate Administration in this manner.

I am pleased to make this Report available in the hope that it will contribute to the public discourse on ethics and accountability as Canadians continue to be engaged in this area and, in doing so, further strengthen the principles of democracy in Canada.

“All of us share the goal of working to ensure the government works well and is accountable, transparent and open to Canadians.”

*The Honourable Joseph A. Day,
senator, 2006*



2. ABOUT THE SENATE ETHICS OFFICE

A. The Appointment of the Senate Ethics Officer

The Senate Ethics Officer is an independent Officer of the Senate, appointed pursuant to section 20.1 of the *Parliament of Canada Act*. The appointment is made by the Governor in Council after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate. This method of appointment ensures that the incumbent has the broadest support of the Senate irrespective of party affiliation.

Pursuant to subsection 20.2(1), he or she is appointed for a renewable term of seven years and may be removed from office, only for cause, by the Governor in Council on address of the Senate. The Senate Ethics Officer has the rank of a deputy head of the Government of Canada and has the control and management of his or her office (subsections 20.4(1) to (5)).

“The Commissioner – like his opposite numbers elsewhere in Canada at the provincial level – is a totally independent officer of the Legislative Assembly. I regard that absolute independence as vitally necessary to the proper functioning of Conflict, Ethics or Integrity Commissioners, if uncomplimentary canine comparisons in the media are to be avoided.”

*The Honourable H.A.D. Oliver, Q.C.,
Conflict of Interest Commissioner
of British Columbia, Annual Report
2002*

The Senate Ethics Officer operates the office independently of the Senate and its Standing Committee on Internal Economy, Budgets and Administration (subsections 20.4(6) to (8)). The Officer has the responsibility for preparing the estimate of the sums required to pay the charges and expenses of the office. This estimate is separate from the estimates of the Senate. The Speaker of the Senate, after considering the estimate, transmits it to the President of the Treasury Board who then lays it before the House of Commons with the estimates of the government for the fiscal year. The Senate only reviews the Officer's proposed budget as part of the annual review of the Main Estimates. These aspects of the law confer on the Officer a status of independence and autonomy and they provide an effective shield against improper or inappropriate influence.



Features of the *Parliament of Canada Act* that demonstrate the independence of the Senate Ethics Officer

- The Officer is appointed by the Governor in Council, by Commission under the Great Seal, after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.
- The Officer is appointed for a term of seven years as an Officer of the Senate and may be removed from office only for cause, by the Governor in Council, on address of the Senate. These provisions confer on the Officer a status of independence and autonomy rarely recognized to Government officials and they provide an effective shield against improper or inappropriate influence.
- The Officer has the rank of a deputy head of a department of the Government of Canada and has the control and the management of the office, which the Officer runs independently from the Senate and its Internal Economy Committee. The Officer hires his or her own staff.
- The Officer has the responsibility for preparing the estimate of the sums required to pay the charges and expenses of the office. This estimate is separate from the estimates of the Senate. The Speaker of the Senate, after considering the estimate, transmits it to the President of the Treasury Board who lays it before the House of Commons with the estimates of the government for the fiscal year. The Senate reviews the Officer's proposed budget as a part of the annual review of the Main Estimates.
- The Officer is required, within three months after the end of each fiscal year, to submit a report of his or her activities to the Speaker of the Senate, who must table the report in the Senate.



On February 24, 2005, the present Senate Ethics Officer appeared before the Senate sitting in Committee of the Whole in relation to his appointment. That same day, a motion for the approval of the Senate Ethics Officer's appointment was moved by the then Leader of Government in the Senate, the Honourable Jack Austin, P.C., Q.C., and seconded by the then Leader of the Opposition in the Senate, the Honourable Noël Kinsella, and was adopted. On February 25, 2005, the first Senate Ethics Officer was appointed for a seven-year term effective as of April 1, 2005.

B. The Conflict of Interest Code for Senators

The duties and functions of the Senate Ethics Officer are set out in the *Conflict of Interest Code for Senators*. This Code was adopted by the Senate on May 18, 2005 as a document separate from, but of equal standing to, the *Rules of the Senate*.

The Code sets out a comprehensive list of rules of conduct for senators, which apply in addition to the already existing rules and laws governing their conduct. In addition to the rules of conduct, the Code sets out a process that requires senators to disclose, annually, any outside activities, federal contracts, financial and other interests to the Senate Ethics Officer on a confidential basis. This information is then reviewed by the Senate Ethics Officer in order to provide advice to senators regarding their obligations under the Code. It is also used to prepare a summary of information that is required to be publicly disclosed.

"I believe it is desirable that the Legislature include individuals with broad expertise and experience in diverse facets of public life, and therefore the ethics legislation should not be so restrictive as to preclude such individuals from offering to serve in the public life of Ontario."

*The Honourable Gregory Evans, Q.C.,
former Integrity Commissioner in
Ontario from 1988-1999*

The Code also outlines a series of general principles that provide guidance with respect to the interpretation of the Code (section 2). The first principle provides that senators are expected to remain members of their communities and regions and to continue to be active in those communities and regions, while at the same time, serving the public interest.

Senators come from a variety of different backgrounds, professions and fields of expertise. This diverse knowledge and



experience that senators bring to their debates and discussions on public policy issues is one of the strengths of the Senate. Unlike Cabinet ministers, senators do not control the public finances and they are constitutionally limited in this regard. As such, there are more restrictions that apply to Cabinet ministers in terms of their outside activities. By contrast, senators are not only permitted, but they are expected, to continue to be involved and active in their communities and regions in order to better represent regional interests.

The second principle outlined in the Code provides that senators are expected to fulfill their public duties while upholding the highest standards in order to avoid conflicts of interest. This recognizes the trust that Canadians have placed in their parliamentarians as they carry out their duties and functions, as well as the high standards that Canadians expect of them.

The third principle makes reference to apparent conflicts. Senators are expected to arrange their private affairs so that, not only real, but also apparent conflicts may be prevented from arising.

The principles of the Code strike a delicate balance between permitting senators to play the unique role they were intended to play in Canada's constitutional framework, while ensuring that their private affairs and outside activities do not take precedence over the public interest where these two come into conflict.

The term "conflict of interest" is not explicitly defined in the Code, but the motivation for adopting a code of conduct is clearly set out in section 1. First, the Code is intended to maintain and enhance public confidence and trust in the integrity of senators and of the Senate. Canadians expect their representatives to make decisions that are in the public interest, rather than in their own private interests.

"In particular, I believe Lyon J.A. was correct when he indicated that preserving the appearance of integrity, and the fact that the government is fairly dispensing justice, are, in this context, as important as the fact that the government possesses actual integrity and dispenses actual justice."

Former Justice of the Supreme Court of Canada, the Honourable Claire L'Heureux-Dubé in R. v. Hinchey, [1996] 3 S.C.R. 1128 at 1140.



Second, the Code is intended to provide greater certainty and guidance for senators in dealing with foreseeable, real or apparent conflicts. This is important as a matter of fairness. Conflicts of interest may arise inadvertently despite the best of intentions. Indeed, situations may arise in which there is no real conflict, but rather there is only an apparent conflict. However, and as noted earlier in this Report, the appearance of a conflict may be just as damaging to one's reputation as a real conflict. Having a clear set of rules and standards is helpful in raising awareness with respect to, not only what would be a real conflict, but also what could be perceived as a conflict.

"But I did not know, has never been an effective defence."

Richard Templar, 2003

addressed by an independent, impartial adviser. The model, in which an independent officer is charged with the responsibility of administering and applying a set of rules that is outlined, either in a code of conduct or in legislation, has been in place for many years and has worked successfully in Canadian provinces and territories. Sometimes referred to in international circles as the

"The ethicist sheds light and guides, more than he sets rules or sanctions."

*Professor Daniel M. Weinstock
Université de Montréal, 2006*

The third purpose of the Code builds on the second purpose already discussed above, in that it refers to the establishment of clear standards on which to measure conduct. But it also highlights the importance of having a transparent system where questions may be

addressed by an independent, impartial adviser. The model, in which an independent officer is charged with the responsibility of administering and applying a set of rules that is outlined, either in a code of conduct or in legislation, has been in place for many years and has worked successfully in Canadian provinces and territories. Sometimes referred to in international circles as the "Canadian" ethics model, it has proven to be an effective system because it provides objectivity and credibility to ethics regimes. It is also important because conflict of interest questions are often complex. They are not always easy to resolve and they often require a great deal of time and thought in order to find the best solutions. Having an impartial adviser who reviews these

questions and issues on a daily basis and applies a common set of rules and standards to all senators is both in the public interest, as well as in the interests of the Senate as an institution.

A summary of the key provisions of the *Conflict of Interest Code for Senators* is set out in Appendix A to the Report and a full copy of the Code is contained in Appendix C.



Principles of the *Conflict of Interest Code for Senators*

Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected

- to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities;
- to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate; and
- to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.

Purposes of the *Conflict of Interest Code for Senators*

- maintain and enhance public confidence and trust in the integrity of Senators and the Senate;
- provide for greater certainty and guidance for Senators when dealing with issues that may present foreseeable real or apparent conflicts of interest; and
- establish clear standards and a transparent system by which questions relating to proper conduct may be addressed by an independent, non-partisan adviser.



KEY OBLIGATIONS OF SENATORS UNDER THE CONFLICT OF INTEREST CODE

- Senators may not act in any way to further their **private interests**, or those of their family members, or to improperly further another person's or entity's private interests when performing parliamentary duties and functions (section 10).
- Senators may not use their position to **influence** a decision of another person in order to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests (section 11).
- Senators may not use **information** that is generally not available to the public to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests (section 12).
- Senators are expected to make a **declaration**, orally or in writing, when they, or their family members, have a private interest that might be affected by a matter that is before the **Senate** or a **committee** of the Senate in which they are members (section 14). [Senators may **participate** in debate on that matter if a declaration is first made orally on the record; they may **not vote**, but may abstain (sections 15 and 16)].
- Senators may not accept, nor may a family member accept, any **gift** or other **benefit** that could reasonably be considered to relate to their position, except as permitted under the Code. Gifts, benefits and sponsored travel that are acceptable under the Code must be declared to the Senate Ethics Officer if they exceed \$500.00 in value (sections 19 and 20) and these must be publicly declared pursuant to paragraph 33(1)(i).
- Senators may not be parties to, or have interests in corporations or partnerships that are parties to, **contracts with the Government of Canada** under which they receive a benefit, unless specifically authorized by the Senate Ethics Officer (sections 22-28).
- Senators are expected to **disclose** their private interests to the Senate Ethics Officer on an annual basis and those interests required to be publicly disclosed under the Code are then placed on the public record (sections 29-35).
- Senators must report to the Senate Ethics Officer any **material change** to the information in their confidential disclosure statements, within the prescribed time (subsection 30(4)).
- Senators must cooperate with the Senate Ethics Officer with respect to any **inquiry** (subsection 44(12)).



3. ACTIVITIES OF THE SENATE ETHICS OFFICER: 2006-2007

A. Opinions and Advice

As noted earlier in this Report, I view the advisory function of my responsibilities as my primary function. My approach, since my appointment, has been to encourage senators to seek my advice as often as possible, especially in cases of doubt, prior to taking action. This approach is an effective means of preventing conflicts from arising. To quote Robert Clark, the first ethics commissioner ever appointed in Alberta, the role of an ethics commissioner is “90% priest and 10% policeman”.

The advice I provide to senators may be of a formal nature, in writing, either pursuant to section 8 of the *Conflict of Interest Code for Senators*, or through the annual disclosure process described below. However, I also respond to numerous requests for advice of a more informal nature through telephone conversations, meetings and e-mail exchanges. These informal discussions may be useful in order to provide senators with an initial sense of the issues and concerns that may arise if a particular course of action is taken.

Any opinion or advice that I provide must be kept confidential pursuant to subsection 8(4) of the Code, although it may be made public by the senator to whom it was given, or by me with the senator’s written consent.

This year, I provided over three hundred opinions and advice, both formal and informal of varying degrees of complexity. In comparing the nature of the queries that were made to the office last year and this year, I noted that, last year, the office received more questions regarding proper procedures to be followed, the

“Last year there were 446 inquiries under the Members’ Integrity Act. We try to respond to all of these inquiries within 24 hours. Occasionally, where additional information is required, the response may take slightly longer. The number of requests for opinions under s. 28 is encouraging. Almost all of these requests are made before the event. This confirms that members, to their credit, are asking before acting or deciding. At a minimum this works to avoid more serious problems.”

*The Honourable Coulter Osbourne,
Q.C., Integrity Commissioner in
Ontario, Annual Report 2005-2006*



"To be a Man, is precisely to be responsible"

Saint Exupéry, Terre des Hommes

sense when one considers that last year was the office's first year of operation and, obviously, senators and their staff are now becoming more familiar with the rules and the process to be followed under the Code.

The sheer volume of requests for advice illustrates that senators are availing themselves of the advisory services that I provide and seeking counsel where there are any doubts regarding the best course of action. As already mentioned, I believe that this results in prevention – and prevention is not only in the interests of senators, but it is also in the public interest. The number of requests for advice is also, in my view, reflective of the level of trust and confidence that has developed between senators and the office.

"...I think that one of the duties of the Commissioner is to protect the members from getting into trouble. I know we have to represent the public and protect the public, but you're protecting the public if you protect the member from getting into difficulties through prudent advice."

*The Honourable Gregory Evans, Q.C.,
former Integrity Commissioner in
Ontario from 1988-1999*

various forms requiring completion under the Code, and more simple matters of interpretation. This year, there were a greater number of questions involving more complex issues of interpretation. This makes

B. The Annual Disclosure Process

The annual disclosure process under the *Conflict of Interest Code for Senators* is an important means of ensuring that there is a measure of transparency and accountability in the Senate. However, any disclosure process has the potential to unnecessarily impact on the privacy interests of those individuals that are subject to the process. The provisions of the Code strike an appropriate balance between these two interests, namely, the public interest in the disclosure of information on the one hand, and the right to privacy on the other.

(a) Confidential Disclosure Statements

Senators are required to disclose, annually, their sources of income, assets, liabilities, outside activities, and federal government contracts, pursuant to sections 29 and 30 of the Code. This information is initially reviewed by my office, on a confidential

basis, in order to provide advice to senators with respect to potential, real or



apparent conflicts. Measures are then recommended, if necessary, to ensure that senators are in compliance with the provisions of the Code.

I am pleased to report that all senators provided their confidential disclosure statements to my office within the deadline set for filing for this year.

Section 31 of the Code provides that the Senate Ethics Officer may request to meet with senators in order to discuss their confidential disclosure statements and their specific obligations under the Code. However, there is no corresponding obligation on the part of senators to agree to such a meeting. This could lead to a situation in which the Senate Ethics Officer would have to prepare certain documents and provide advice without the benefit of obtaining the necessary clarification and additional information that may be required. Having said that, I was pleased that, this year, I had the opportunity to meet with most senators; only one declined to meet with me. As such, this issue has not posed any significant problems at the present time. Nevertheless, in my view, it would be timely to address the matter of annual meetings between senators and the Senate Ethics Officer in light of the upcoming review of the Code already referred to previously in this Report.

A face-to-face meeting at least once a year is highly beneficial, both for individual senators and for me in the discharge of my duties and responsibilities. Indeed, drawing on my experience over the past two years, I have found that meetings are not only helpful in the context of the disclosure process, but they also provide an opportunity to raise and discuss questions and concerns regarding other obligations that senators are required

"I have endeavored to encourage Members to bring their concerns to me, no matter how insignificant they might believe them to be. The telephone is frequently used and having established a relationship with each Member as a result of the meeting I must have annually with each of them, a rapport has been built that facilitates that kind of approach. I hope that close contact will continue, particularly where the Member feels the need for immediate assistance and also in situations that are likely trivial in nature".

*The Honourable Ted Hughes, Q.C.,
former Conflict of Interest
Commissioner of British Columbia
from 1991 to 1997*



to meet under the Code. While these meetings vary in length of time, they allow for a constructive mutual exchange.

With respect to the disclosure process, I am responsible for preparing, under section 32 of the Code, a public disclosure summary for each senator, which is based on a

“The greatest difficulties arise in that broad grey area that exists between behaviour that is clearly forbidden and behaviour that is clearly honest or ethical. Within this grey area, there is a wide continuum ranging from abuses or conflicts that are real, through those that are potential, to those that are apparent. One of the reasons why codes of conduct and appropriate ethical rules are important is precisely to address the difficulties created by this grey area: to reassure the public; and to protect public office holders themselves”.

John C. Tait, Q.C., Chair of the Task Force on Public Service Values and Ethics, 1996

senator’s confidential disclosure statement. In order to prepare this public document, it is important that the information provided to me confidentially is current and accurate. An annual meeting allows a discussion to take place regarding this information in order to clarify any inconsistencies or ambiguities, as well as to expand on any matters that require more attention.

An annual meeting is also an opportunity to discuss areas in which a senator may have some doubt, or to signal a matter that may be coming forward that could be problematic. Moreover, conflict of interest issues are not always easily resolved. As already noted above, they may involve different levels of complexity. A face-to-face meeting to discuss a complex issue is often the most effective and efficient way to elicit the relevant facts and information required for a proper resolution of the matter.

Moreover, this approach is consistent with most other jurisdictions in Canada. In eight of these jurisdictions, an annual meeting between the ethics commissioner and the member is statutorily required. For example, this is the case in Ontario (subsection 20(3) of the *Members’ Integrity Act, 1994*), in Alberta (section 13 of the *Conflicts of Interest Act*) and in British Columbia (subsection 16(3) of the *Members’ Conflict of Interest Act*) – three jurisdictions that each have over fifteen years of experience with a conflict of interest



regime. In one other jurisdiction, an annual consultation between the member and the commissioner is required. Two other jurisdictions leave the matter to the discretion of the commissioner who may require a meeting if he or she considers it necessary. What is clear from the law and practice in other jurisdictions in Canada is that these annual meetings are considered essential and have proven to be a key ingredient to success. I will be addressing this matter further in my concluding remarks.

(b) Public Disclosure Summaries

As already noted, on the basis of the confidential disclosure statements and any other additional information provided that may be relevant, I prepare an annual public disclosure summary of the information that is required to be publicly disclosed under section 33 of the Code. These summaries of information are placed in the Public Registry and are available for public inspection during office hours at the Senate Ethics Office located at 90 Sparks Street, room 526, Ottawa, Ontario, K1P 5B4.

I am pleased to report that all senators' public disclosure summaries for this year are publicly available at this time.

C. Inquiries

The Senate Ethics Officer may conduct an inquiry in order to determine if a senator has complied with his or her obligations under the *Conflict of Interest Code for Senators*: (i) at the direction of the Standing Committee on Conflict of Interest for Senators (subsection 44(1)); (ii) at the request of a senator who has reasonable grounds to believe that another senator has not complied with his or her obligations under the Code (subsections 44(2) to (6)) ; or (iii) where the Senate Ethics Officer has reasonable grounds to believe that an inquiry is warranted and has obtained the approval of the committee (subsections 44(7) to (9)).

In carrying out an inquiry, the Senate Ethics Officer may send for persons, papers and records (subsection 44(13)) and senators are expected to cooperate with the Senate Ethics Officer in this regard (subsection 44(12)).

I am pleased to report that it has not been necessary to undertake any inquiries under the Code this year. In my view, this is directly related to the advisory aspect of my duties and functions. As is the view of other ethics commissioners in Canada, I believe that the more requests for opinions and advice, the fewer the inquiries.



"...the overwhelming majority of people in the world are law-abiding, loving, and caring. They just don't get any publicity for it. Being good doesn't make the news."

Hal Urban, 2005

D. Outreach and External Activities

Our ties with professionals, academics, practitioners and organizations that are involved in ethics and conflict of interest are of the utmost importance. Remaining connected to this very specialized community helps to foster long-term relationships with people and organizations who have experience and knowledge in this growing area of interest. These exchanges provide opportunities to share policies, best practices, ideas and also to better understand the similarities and

differences between the Senate system of conflict of interest and those in other jurisdictions, both in Canada and abroad.

As was the case last year, I was fortunate this year to be able to spend some time with several of my provincial counterparts to discuss issues of common interest.

From September 7 to 10, 2006, I participated in the annual meeting of the Canadian Conflict of Interest Network (CCOIN), which was held in Iqaluit, Nunavut. The Assistant Senate Ethics Officer also participated. CCOIN comprises the various federal, provincial and territorial ethics commissioners and officers. We gather together as a group on an annual basis to discuss and exchange thoughts and ideas on various topical issues and matters that may affect organizations involved in conflict of interest and ethics across Canada.

On September 27, 2006, the Assistant Senate Ethics Officer attended a conference organized by the Pacific Business and Law Institute, which was held in Ottawa, Ontario, and concerned ethics and accountability in government. It was entitled "Risky Business: Public Trust, Ethics and the *Federal Accountability Act*".

On September 28, 2006, we had the pleasure of hosting a delegation from the House of Lords, which was comprised of the Clerk Assistant and Clerk of the Legislation at the House of Lords, and the Head of Research Services at the House of Lords Library. The purpose of their visit to Canada was to meet with a number of senators and senior officials in the Senate, the House of Commons and the Library of Parliament in order to develop a better understanding of the Canadian parliamentary system and of its similarities to, and differences from, the parliamentary system in the United Kingdom.



I was also invited to make a presentation to a group of participants of the Parliamentary Officers' Study Program on September 28, 2006 (francophone participants) and again on November 2, 2006 (anglophone participants). This Program is hosted by the Senate, the House of Commons and the Library of Parliament and it offers participants the opportunity to observe, discuss and exchange views with senior Canadian parliamentary officials on the various procedural, administrative and research services provided to parliamentarians.

In addition, the Assistant Senate Ethics Officer participated in a conference organized by the Office of the Law Clerk and Parliamentary Counsel of the Senate, the Office of the Law Clerk and Parliamentary Counsel of the House of Commons and the Canadian Bar Association, entitled "Law and Parliament: Accountability as a Pillar of Democratic Governing". It took place in Ottawa, Ontario from November 1 to 4, 2006.

From December 4 to 6, 2006, I attended the annual conference hosted by the Council on Governmental Ethics Laws (COGEL), which was held this year in New Orleans, Louisiana, USA. COGEL is a professional association for government agencies, organizations, and individuals with responsibilities or interests in governmental ethics, elections, campaign finance, lobby laws and freedom of information. Membership is drawn principally from groups or individuals from the United States and Canada, with some European, Australian, and Latin American members as well. These meetings are an opportunity for members to gather together to discuss common issues of interest, for example, questions related to gifts, sponsored travel, outside activities, disclosure procedures and government contracts. The meetings are generally held in either the United States or in Canada. The next meeting in September 2007 will be held in Victoria, British Columbia.

"Over the past 30 years there has been a steady decline in public confidence in institutions, and the reasons for this situation are not due to one scandal or another, but they are sociological. Values are different, and people have lost all respect for authority. People are better educated, more informed and more critical. If citizens are better informed, more critical, that is a plus for democracy."

*Professor Denis Saint-Martin,
Université de Montréal, 2006*



On February 6, 2007, I participated in the 2007 conference organized by the International Congress on Ethics which was held from February 5-7 in Gatineau, Quebec. The theme of the conference was ethical decision-making in situations of conflict and crisis. The International Congress is an organization that aims to advance the thinking and discussion on ethical issues and challenges globally and on possible solutions. Participants included business professionals, ethics practitioners, civil society activists, academics, researchers, and public officials.

On February 14, 2007, the Assistant Senate Ethics Officer attended a workshop hosted by the Public Policy Forum entitled “Working with the Federal Accountability Act”. It was held in Ottawa, Ontario. The Public Policy Forum provides a neutral venue within which the private sector and the public sector are able to meet and learn from one another through the exchange of thoughts and ideas on common issues of concern.

On March 20, 2007, we made a presentation to the Parliamentary Spouses Association. We provided information with respect to the application of the *Conflict of Interest Code for Senators* to spouses and common-law partners of senators.

The above-noted events provided us with the opportunity to, not only learn from others involved in the area of ethics and conflict of interest, but also to communicate and educate them with respect to what we do and how we do it. I look forward to continue to ensure the office’s participation in these types of events and exchanges in the future. They have proven to be invaluable in our work.

“Integrity has become the fundamental condition for governments to provide a trustworthy and effective framework for the economic and social life for their citizens.”

*Organization for Economic
Co-operation and Development
(OECD), 2000*

E. Administration of the Office

One of our priorities is to ensure that we inspire confidence in the Senate Ethics Office and its work. This means that we, internally, must expect the highest standards of behaviour of ourselves.

In the course of this last year, the Senate Ethics Office has adopted a number of policies and procedures in order to ensure that we are transparent, accountable and effective. We believe we should expect of ourselves what is expected of others.



First, we have adopted a policy on the confidentiality of information. It reflects the importance of securing the confidence of our clients by ensuring that information that is to be kept confidential is in fact kept confidential. To this end, we have adopted a number of internal procedures to protect this information.

*“There is no such thing as
‘you’re not answerable.’”*

*The Honourable Mary Ellen Turpel-
Lafond, Saskatchewan Provincial
Court Judge*

Second, in light of the sensitive nature of the information that is handled by the Senate Ethics Office, we are also currently in the process of reviewing our records management policies with a view to improving and building on them. We will be continuing this work and bringing it to completion by next year.

Third, we have also adopted a written policy on conflict of interest for staff in the office. This policy sets out the guiding principles for staff of the Senate Ethics Office on how to avoid placing themselves in a conflict of interest situation in the course of their work. It highlights the importance of acting honestly and impartially as we carry out our duties and functions.

Fourth, although the provisions of the *Conflict of Interest and Post-Employment Code for Public Officer Holders* do not apply to the Senate Ethics Officer (since officers of the Senate are explicitly excluded from the definition of “a Governor in Council appointee”), I have chosen to voluntarily comply with the provisions of this Code as a matter of transparency and accountability. My public declaration may be found on the office’s website at: www.parl.gc.ca/seo-cse, or at the website address of the Ethics Commissioner at: www.parl.gc.ca/oec-bce. I have also posted my travel and hospitality expenses on the office’s website.

Fifth, we have had our financial statements for the year 2005-2006 audited by the firm van Berkom & Ritz, Chartered Accountants. The results of this audit are found in Appendix D to this Report.

Finally, an effective team requires a common vision, a common mission statement and a common set of values that are shared and adhered to by all staff. The office has spent some time reflecting upon what we view as the necessary values to ensure a productive, efficient and positive working environment. Our main objective is to provide quality services to senators in a timely fashion so that they are able to fulfill their public duties while upholding the highest standards, and to constantly strive to improve our own performance in achieving this goal.



THE OFFICE OF THE SENATE ETHICS OFFICER Vision-Mission-Values Statement

OUR VISION

Our vision is that, through our work, senators will be well-supported in fulfilling their responsibilities under the *Conflict of Interest Code for Senators* (the Code) in order to maintain and enhance public confidence and trust in the integrity of each senator and in the Senate.

OUR MISSION

The Office of the Senate Ethics Officer administers, interprets and applies the Code and provides sound, timely and independent advice to senators regarding their obligations under the Code in a manner that is non-partisan, responsive and effective.

OUR CORE VALUES

Both as individuals and as an organization, we are committed to the values of integrity, excellence, respect for people, teamwork and quality of life as we carry out our mission and constantly strive to achieve our vision.

These shared values are the key drivers to our success as an office and we strive to uphold them in our daily actions. They guide how we serve senators, how we work together, and generally how we do business.

Integrity. The manner in which we operate is just as important as what we accomplish. We value honesty and transparency. We are accountable for our actions and we adhere to the highest professional standards and conduct in carrying out all of our responsibilities.

Excellence. We seek to deliver high quality and sound advice that addresses senators' needs in a timely fashion. We strive for excellence and take pride in our work. We encourage initiative and we are committed to our own professional development and growth.

Respect for people. We treat others the way we would like to be treated. We are considerate and respectful of the feelings and opinions of others. We value each other's strengths and accept our differences. We welcome constructive assessment and suggestions for improvement.

Teamwork. Teamwork is at the heart of everything we do and is critical to our success. By working together and supporting one another, we foster exceptional teamwork and achieve common goals. We value each other's opinions. We address problems constructively and we engage in healthy debates.

Quality of life. While we are committed and dedicated to our work, we also recognize the importance of balancing our professional lives with our private family lives and outside interests. We value positive attitudes and we celebrate achievements. We strive to make a difference, not only in our work, but in our families and in our communities.



4. THE CODE IN PRACTICE

In last year's Annual Report, we provided a description of the various compliance measures which senators might be required to follow in order to meet their obligations under the *Conflict of Interest Code for Senators* in two very specific areas, namely, outside activities and contracts with the federal government. This year, we have used a model that has been followed in the annual reports of the Ontario Integrity Commissioner whereby a broader spectrum of issues has been covered. It is hoped that a short description of the application of the rules to specific situations will assist the reader in better understanding how the Code works in practice.

The examples that follow are based on the experience gained during the office's two years of operation; however, it is important to note that they are illustrative only and are abbreviated. The advice given by the Senate Ethics Officer is based on a careful analysis of the Code and each senator's circumstances. Obviously, each situation must be evaluated on its own particular facts and different circumstances will lead to different conclusions. Senators are expected to contact the Office of the Senate Ethics Officer for specific advice and guidance where they have any doubts about the best course of action.

"....we wish to remind Senators of something that the Committee has been mindful of from the beginning: the Conflict of Interest Code for Senators is a work in progress. It is our Code, and only time and experience will tell if the choices reflected in this draft were the best possible."

Third Report of the Standing Senate Committee on Rules, Procedures and the Rights of Parliament, the Honourable Senator David Smith, former Chair, and the Honourable Senator John Lynch-Staunton, former Deputy Chair, May 11, 2005



Definition of “Conflict of Interest”, The Canadian Encyclopedia, 2006 (Kenneth Gibbons, University of Winnipeg)

Conflict of Interest may be defined as a situation in which politicians and public servants have an actual or potential interest (usually financial) that may influence or appear to influence the conduct of their official duties. Even when this conflict is not illegal, it may create doubts or suspicions concerning the integrity or fairness of decisions made by such officials, and over time recurring conflicts may increase the level of distrust and cynicism toward government....

...Whether in statute, guideline or code form, conflict of interest documents require that those covered, be they politicians or public servants or both, shall avoid behaviour which places their private interest ahead of the public interest. Typically, this may mean that they may be required to remove themselves from decisions where they have a financial interest, to avoid giving preferential treatment, to not use insider information or government property for personal benefit, to refuse gifts or other benefits of more than nominal value, or to avoid employment after leaving public office that takes improper advantage of their previous position.

A. Activities Outside Official Parliamentary Duties

Issue

1. A senator asks to what extent the Code permits senators to engage in activities outside their parliamentary duties.

Considerations

Paragraph 2 (1) (a) of the Code provides that senators are “to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities.” As is the case for members of the House of Commons under the *Conflict of Interest Code for Members of the House of Commons*, senators who are not ministers of the Crown may engage in a wide range of activities, some of which are listed in section 5 of the Code. For example,



senators are permitted to sit as members of boards of directors of not-for-profit and for-profit organizations. However, under the Code, they are required to disclose certain positions they hold to the Senate Ethics Officer who then makes this information available to the public.

Moreover, senators must ensure that they arrange their affairs to prevent their private interests from coming in conflict, or appearing to come in conflict, with the public interest and, where this occurs, they are expected to resolve the matter in favour of the public interest. A number of sections of the Code highlight the importance of ensuring that the public interest always prevails over private interests (paragraph 2(1)(c) and sections 10, 11, and 12).

It is worth noting that the rules that apply to Cabinet ministers are much more restrictive than those that apply to senators and members of the House of Commons, reflecting the fact that Cabinet ministers have considerable executive powers. The role, responsibilities and powers of legislators are, however, quite distinct with the result that both senators and members of the House of Commons are permitted a wide range of outside activities.

“Identifying the appropriate boundary between private and public interests is an immensely complex task, and the boundary itself changes over time as public expectations of the behaviour of politicians and public office holders change.”

*Professor C.E.S. Franks,
Queen’s University, 2005*

Issue

2. A senator is asked to become a member of the Board of Directors of a not-for-profit organization which receives federal financial assistance.

Considerations

Although it is acceptable for a senator to sit as a director of a not-for-profit organization (paragraph 5(c) of the Code), this outside activity is subject to certain limitations. For example, the senator would be asked to refrain from making any representations on behalf of the organization for the continued receipt of federal financial assistance. The senator would also be asked to refrain from dealing with federal officials in order to obtain contracts from the federal government or any of



its agencies or bodies. These restrictions would address the perception that might be created that the organization is receiving financial assistance due to the senator's involvement with it (section 11 and paragraph 2(1)(c)). The senator would also be asked to abstain from being involved in any future announcements of federal funding to the organization, again, in order to address the perception of a conflict. Finally, public disclosure of the senator's position on the Board of Directors of this organization would be required pursuant to paragraph 33(1)(b) of the Code.

Issue

3. A senator asks whether it would be permissible to approach a minister or a federal official in order to seek funds for a not-for-profit organization. He does not sit on the Board of Directors nor does he hold any other official position in this organization.

Considerations

Since the senator does not hold an official position in the organization, the senator could make representations on its behalf, including those that concern financial assistance.

Issue

4. A senator is asked by a not-for-profit organization, in which she is an honorary patron, to be the Chairperson of its fundraising campaign which is expected to last for several years.

Considerations

The activity is permissible under section 5 of the Code. However, due to the senator's involvement with the organization, she would be advised not to make representations on its behalf in order to obtain federal financial assistance or contracts, nor to be involved in the announcement of such funding should it be provided at some point. However, the senator could make representations on behalf of the organization on other matters. Finally, public disclosure of the senator's position as an honorary patron of the organization would be required under paragraph 33(1)(b).

Issue

5. A senator asks whether he may accept an invitation to be an Honorary Patron of a one-time event organized by a not-for-profit organization.



Considerations

This activity is permissible pursuant to section 5 of the Code. Since it is a one-time event, public disclosure is not required under paragraph 33(1)(b). However, until the event is completed, the senator would be advised not to make representations in order to obtain federal financial assistance or contracts for the organization in question (section 11 and paragraph 2(1)(c)).

B. Sponsored Travel

Issue

6. A senator asks under what circumstances the Code permits senators to accept sponsored travel.

Considerations

Subsection 20(1) of the Code provides that a senator and guests of the senator may accept sponsored travel if it arises or relates to the senator's position. Where the cost of any such travel exceeds \$500.00 and is not paid for by the senator or any guests of the senator, or through international and interparliamentary affairs programs recognized by the Parliament of Canada, or by the Senate, the Government of Canada or the senator's political party, the trip must be disclosed to the Senate Ethics Officer within 30 days after the end of it. As well, paragraph 33(1)(i) requires that any such trip be publicly disclosed.

"The problem of power is how to achieve its responsible use rather than its irresponsible and indulgent use – of how to get men of power to live for the public rather than off the public."

Robert F. Kennedy, 1964

Issue

7. A senator is asked by a commercial corporation of which she is a director to attend an event abroad as its representative. The organization offers to pay the senator's accommodation and airfare.

Considerations

These benefits are acceptable under the Code and are not subject to public disclosure under sections 19 and 20 since they relate to the senator's professional outside activities.



Issue

8. A senator asks whether he must declare to the Senate Ethics Officer sponsored travel paid by an interparliamentary group for the purpose of attending a conference.

Considerations

Subsection 20(1) of the Code provides that sponsored travel paid through the programs for international and interparliamentary affairs of the Parliament of Canada need not be reported to the Senate Ethics Office nor must they be publicly declared.

Issue

9. A senator asks whether her attendance at a conference abroad is subject to public disclosure if all travel costs will be paid by a foreign government.

Considerations

Sponsored travel paid by a foreign government must be publicly declared since it is not an exception listed under subsection 20(1) of the Code.

C. Gifts and Other Benefits

Issue

10. A senator is offered a gift which relates to his position in the Senate.

Considerations

Since the gift relates to the senator's position, it is not acceptable under subsection 19(1) of the Code, unless it falls under subsection 19(2) as a normal expression of courtesy or protocol or is within the customary standards of hospitality. In the latter case, the gift is acceptable but a public declaration is required under subsection 19(3) if the value of the gift exceeds \$500.

Issue

11. A senator asks whether she may accept a free membership in a golf club, which has been offered to her in her capacity as a senator.

Considerations

The senator should not accept this benefit since it relates to her position in the Senate and would fall under subsection 19(1) of the Code.



Issue

12. A senator asks whether he may accept free tickets to an NHL hockey game. They have been offered to him by an organization of which he is a member of the Board of Directors.

Considerations

The senator may accept the tickets because they are provided by an organization in which he sits as a member of its board. Section 19 of the Code does not apply in cases where a gift is received in connection with an outside activity. However, care must be taken to avoid any conflict of interest situation. For example, the senator should not, either at the present time or in the foreseeable future, act in any way to further the organization's private interests when performing his parliamentary duties and functions.

*It takes 20 years to build
a reputation for character
and five minutes to ruin it.*

Warren Buffett

Issue

13. A senator asks whether she may accept free accommodation abroad for a month from a friend.

Considerations

Section 19 of the Code prohibits the acceptance of gifts and benefits that could reasonably be considered to relate to a senator's position, with some limited exceptions. If the gift or benefit is **not** related to a senator's parliamentary duties and functions because it is provided on the basis of a friendship, it may be acceptable depending upon the particular circumstances. Both the nature of the relationship, and whether the senator's judgment could be influenced in the performance of his or her official duties in the particular circumstances, are key. Some of the questions that would require consideration are as follows: were there any exchanges of gifts and benefits in the past; did the relationship exist prior to the senator's appointment to the Senate; were there occasional and social meetings between the senator and the donor where Senate business was not discussed; and does the donor have any official dealings with the Senate or any of its committees. In other words, whether someone qualifies as a "friend" depends entirely on the particular circumstances.

Issue

14. A senator asks whether he may accept an honorarium for giving a speech at a conference.



Considerations

If the senator's participation at the conference is related to his parliamentary duties and responsibilities, the honorarium may not be accepted (subsection 19(1) of the Code). However, the senator may accept an honorarium if the speech is given in connection with an outside or professional activity.

Issue

15. A senator is invited as a guest speaker at a symposium outside the country. The travel and accommodation costs would be paid by the Canadian embassy.

Considerations

The sponsored trip and any related benefits are acceptable in this scenario and a public declaration is not required since section 20 of the Code does not apply when the travel is paid by the Government of Canada.

D. Family Members and Federal Contracts

Issue

16. A senator asks whether her spouse may be a party to a contract with the federal government.

Considerations

A senator's spouse may be a party to a federal government contract under the Code. However, confidential disclosure to the Senate Ethics Officer is necessary under paragraph 30(1)(f) and a public declaration is required under paragraph 33(1)(f) of the Code. Furthermore, the senator would be advised to refrain from making representations, on behalf of her spouse, to the Government of Canada or any federal agency or body in order to obtain or extend contracts, or from acting in any way to further her spouse's private interests, or her own private interests, as defined under subsection 13(1) of the Code. Under section 11 and paragraph 2(1)(c) of the Code, her spouse should not receive, or appear to receive, preferential treatment or unfair advantage in the awarding of federal contracts due to representations made by the senator on her spouse's behalf.

E. Declarations of Private Interests

Issue

17. A senator inquires about his obligation to make a declaration in the Senate where he has a private interest that might be affected by a matter, for example a bill, that is before the Senate.



Considerations

When performing their parliamentary duties and functions, senators are prohibited from acting or attempting to act in any way to further their private interests, or those of a family member, or to improperly further another person's or entity's private interests (section 10). Moreover, they are not to use or attempt to use their position to influence the decisions of others in order to further these interests (section 11). The Code sets out what is covered by the phrase "furthering private interests" (section 13). It is the senator's responsibility to declare all situations where a real or apparent conflict may exist between his private interests and his official duties as a senator. He may do so, orally or in writing, by declaring the general nature of the private interest that might be affected by the matter that is before the Senate (section 14). Having made a declaration, the senator would not be permitted to vote (section 16). Moreover, the declaration would be sent to the Senate Ethics Officer who would then file it in the senator's public file.

Issue

18. A senator asks whether she should make a declaration of a private interest. She is a member of the Board of Directors and owns shares in company "A". A matter that is before a Senate committee relates to a competitor company.

Considerations

Since the matter relates to a competitor of company "A", a declaration of a private interest is required. While the senator may then participate in the debate in committee on the matter (subsection 15(2)), she may not vote (section 16) since, in doing so, she would be furthering her own private interests as defined under subsection 13(1) of the Code. A declaration of a private interest may be made orally on the record or in writing to the Clerk of the Senate committee, in accordance with the procedure set out in sections 14 to 16 of the Code.

Issue

19. A senator asks whether he must make a declaration of a private interest where he owns shares in company "A" and a matter before the Senate relates to the company's sector of the economy (e.g. transportation).



Considerations

Since the matter in question is of general application and it affects the senator as one of a broad class of the public, it is not necessary to make a declaration of a private interest (paragraphs 13(2) (a) and (b)).

Issue

20. A senator asks whether she must make a declaration of a private interest where she is a member of the Board of Directors of company “A” and a matter before the Senate specifically relates to company “A”.

Considerations

Under sections 10 and 14 of the Code, a declaration of a private interest would be required since the subject matter being discussed in the Senate affects the senator’s private interests as defined under subsection 13(1) of the Code. The senator may participate in debate on the matter (section 15), but may not vote (section 16). A declaration of a private interest may be made orally on the record or in writing to the Clerk of the Senate, in accordance with the procedure set out in sections 14 to 16 of the Code.



5. CONCLUDING REMARKS

The *Conflict of Interest Code for Senators* is a solid foundation on which the Senate has begun to build in the area of conflict of interest. Having said that, two years of experience with the Code has provided an opportunity to examine and assess how it works in practice. As noted earlier in this Report, the Code itself has a built-in review process. Section 52 requires the Standing Committee on Conflict of Interest for Senators to undertake a comprehensive review of the provisions of the Code within three years after its coming into force, and every five years thereafter. The Committee has already begun reflecting on this review, as have I.

I will be recommending to the Committee a series of technical changes to some of the provisions in the hope of providing more clarity and, in some cases, addressing gaps that have become evident in the course of working with the Code on a daily basis.

I will also be recommending that the Committee turn its mind to at least three broad issues that I feel require some thought and attention. First, and as I noted in last year's Annual Report, certain provisions of the Code do not accurately reflect the relationship between the Standing Committee on Conflict of Interest for Senators and the Senate Ethics Officer. In practice, the relationship between my office and the Committee has been very much at arm's length. As I have stated earlier in this Report, there has been no attempt to compromise the independence of my office since my appointment. The Committee has been helpful in providing some guidance and direction on forms, process and other matters of a broad and general nature. However, the interpretation and application of the Code, as it relates to individual senators, has been my responsibility alone. In my view, this should be clearly reflected in the explicit provisions of the Code.

Second, and as I already mentioned earlier in this Report, the Code does not require an annual meeting between senators and the Senate Ethics Officer as part of the annual disclosure process. Yet the meetings I have had with ninety senators over the last year have been of enormous benefit both to myself and, I believe, to senators as well. For me, they are helpful in the discharge of my duties and responsibilities under the Code. One of my functions is to prepare a public disclosure summary for each senator and this is done on the basis of the confidential disclosure statements that senators provide to me. A face-to-face meeting provides an opportunity for me to obtain clarification, raise questions, and seek additional information where necessary in the course of the disclosure process. For senators, an annual meeting is an opportunity to raise their own questions and concerns and to discuss any matters in which they feel some guidance would



“Ethical thinking must occur before a decision is made, before it can be qualified as ethical or non-ethical, whereas concepts of “imputabilité,” “reddition de comptes” and “accountability” are concepts that refer to a time after a decision is made.”

*René Villemure
President, Institut québécois
d'éthique appliquée, 2006*

be helpful to them. It is also an opportunity to begin to look at possible courses of action, where necessary, in order to ensure that senators remain in compliance with the Code.

It is for these reasons that an annual meeting is statutorily required in most other jurisdictions in Canada and I will be recommending that the Committee consider the law and practice in these other jurisdictions with a view to reexamining the approach for the Senate in this regard.

Finally, I will be suggesting that the Committee consider whether the Senate Code should be amended to relieve senators

who are also ministers of the Crown from their obligation of complying with the annual disclosure process under it. These senators are already subject to the disclosure process under the *Conflict of Interest and Post-Employment Code for Public Office Holder*, for which the Ethics Commissioner is responsible. Moreover, senators who are ministers will be subject to the disclosure process set out under the new *Conflict of Interest Act* (enacted under Bill C-2, the *Federal Accountability Act*) when it comes into force. This new legislation will be administered and interpreted by the new Conflict of Interest and Ethics Commissioner. Since senators who are also ministers are already subject to the more stringent disclosure process that is applicable to public office holders annually, it might seem unnecessary to also require them to be subject to the process set out under the *Conflict of Interest Code for Senators*.

In any event, with a view to being helpful, my office has put in place a practical arrangement in which the timing of the disclosure requirements for these senators under the Senate Code is being coordinated with the timing of the disclosure requirements for public office holders under the rules applicable to public office holders. Our office will, again, be working with the Ethics Commissioner's office to obtain the necessary information for this year's annual review in order to simplify the process for the few senators who find themselves in this unusual situation.



Of course, it will be within the discretion of the Committee to decide on which changes to recommend to the Senate and, ultimately, the Senate will determine which amendments should be made to the Code. However, I look forward to the opportunity to share some of my thoughts on this, based on two years of working with the Code, and to a dialogue with the Committee in this regard.

Notwithstanding some of the challenges the office faced this past year, it was nonetheless a very productive one and we, again this year, met all of our objectives on time and on budget.

I am also pleased that the *Conflict of Interest Code for Senators* is, in general, working well. Its adoption is, in my view, a positive step in the right direction, and while morality cannot be legislated, nor can it be imposed through a myriad of rules and regulations, conflict of interest rules signal to the public that their changing expectations in the area of ethics are seriously being considered, addressed and acted upon by their representatives. For those who strive to act with integrity and ethics, a common set of standards helps to better define for them those grey areas where private interests may impact on public duties. The rules guide behaviour and, if followed, help to ensure that the public interest is given precedence over private interests. Finally, they provide guidance with respect to how a conflict should be resolved if one should arise.

"It is necessary that the morality of a people be decided by the people themselves; hence the need for a new kind of democracy: the democracy of ethics."

Albert Jacquard, 1997

Notwithstanding the above, however, the rules should not be so restrictive as to preclude qualified individuals from offering their service in public life. For this reason, it is important that a conflict of interest regime strike a fair balance between setting reasonable standards of behaviour, while permitting outside activities and interests as long as these interests do not interfere with the public interest.

This next year will provide an opportunity through the review process to reflect on some of these important issues and to build on the existing system in the Senate. I look forward to working with senators to improve on an already strong and solid foundation.

"The central purpose of ethics is to secure valid principles of conduct and values that can be instrumental in guiding human actions and producing good character. As such it is the most important activity known to humans, for it has to do with how we are to live."

Louis P. Pojman, Philosopher

A p p e n d i c e s



Appendix **A**





Appendix A

OVERVIEW OF THE CONFLICT OF INTEREST CODE FOR SENATORS

The *Conflict of Interest Code for Senators* outlines a series of rules that are aimed at fostering transparency, accountability and public confidence in the Senate. They are set in the context of a number of overarching principles that serve to guide the interpretation of the rules.

What follows is a short description of some of the more important aspects of the Code in order to illustrate the nature of the obligations that senators are expected to meet.

A. Principles

The Code contains certain principles set out at the outset that serve to guide the interpretation of the various provisions of the Code. These principles read as follows:

2. (1) Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected
 - (a) to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities;
 - (b) to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate; and
 - (c) to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.
- (2) The Senate further declares that this Code shall be interpreted and administered so that Senators and their families shall be afforded a reasonable expectation of privacy.

The first principle is an important one given the unique role the Senate plays in Canada's constitutional framework. The Senate's one hundred and five members



are summoned by the Governor General on the advice of the Prime Minister. They are expected to represent regional interests and to reconcile the national interest with regional aspirations. In order to do so, it is key for them to foster a better understanding of the issues that affect the regions they represent. They are able to do so by remaining connected to their communities and regions.

Moreover, senators come from various backgrounds, professions and fields of expertise. This diversity enhances the knowledge and experience they are able to bring to their examination of public policy issues that are being studied and considered by the Senate and its various committees.

Having said that, these outside activities may give rise to situations in which a conflict, or the appearance of a conflict, may develop between a senator's private activities and the public interest. In such cases, paragraph (c) of the principles is important; it indicates that any such conflict or apparent conflict is to be resolved in favour of the public interest.

B. Opinions and Advice (section 8)

The Senate Ethics Officer provides opinions and advice to senators regarding their obligations under the *Conflict of Interest Code for Senators* pursuant to section 8. Although the Code requires that these opinions and advice be kept confidential, they may be made public by the senator to whom they were given, or by the Senate Ethics Officer with the senator's written consent (subsection 8(4)). Moreover, some opinions related to contracts with the federal government must be made public under section 33 of the Code.

The importance of this advisory function should not be underestimated. While each senator is responsible for arranging his or her affairs in such a way as to prevent any foreseeable, real or apparent conflicts of interest, if a senator has any doubt about whether there may be a conflict or a perceived conflict, the senator is encouraged to consult the Senate Ethics Officer on a confidential basis to resolve the matter. This approach is preventative, not punitive. The focus is not on addressing conflicts of interest once they have arisen, but rather on preventing them from arising.



C. Rules of Conduct

(a) Private Interests (sections 10 to 18)

Senators are prohibited from acting or attempting to act in any way to further their private interests, or those of a family member, or to improperly further another person's or entity's private interests (section 10). Moreover, they are not to use or attempt to use their position to influence the decisions of others in order to further these interests (section 11).

The use of, attempt to use, and the conveying of, information that is not generally available to the public to further these private interests is also prohibited (section 12).

The Code sets out what is covered by the phrase "furthering private interests" (section 13). It includes taking action to increase or preserve the value of assets, to eliminate or reduce liabilities, and to become a director or officer in a corporation or organization. However, it excludes, for example, matters of general application and those that apply to a broad class of the public.

A senator is expected to declare, orally or in writing, the general nature of a private interest where the senator has reasonable grounds to believe that he or she, or family members, have a private interest that is before the Senate, or a Senate committee in which the senator is a member. Moreover, the senator is not permitted to vote in such cases (sections 14, 15 and 16).

(b) Gifts and Sponsored Travel (sections 19 and 20)

Senators and their family members are not permitted to accept any gifts or benefits that could reasonably be considered to relate to the senator's position (subsection 19 (1)). An exception is made for gifts or benefits that are expressions of courtesy, protocol or that are within the customary standards of hospitality that generally accompany a senator's position. However, even if the gift or benefit falls under the exception, if its value exceeds \$500.00, or if the total value received from one source in one year exceeds \$500.00, then the senator must file a statement with the Senate Ethics Officer disclosing the nature, value, and source of the gifts or benefits, and the circumstances under which they were received.



This disclosure must occur within thirty days after the receipt of the gift or benefit, or within thirty days after the value of all such gifts or benefits received from the same source in a one year period exceeds \$500.00, as the case may be (subsection 19(3)).

A senator and guests of the senator may, however, accept sponsored travel that relates to the senator's position. Where the cost of any such travel exceeds \$500.00, and where the travel is not paid for by the senator, or the guests, or through international and interparliamentary affairs programs recognized by the Parliament of Canada, the Senate, the Government of Canada, or the senator's political party, the trip must, however, be disclosed to the Senate Ethics Officer within thirty days after the end of the trip (section 20).

(c) Government Contracts (sections 22 to 28)

A senator may not be a party, directly or indirectly, to a contract or other business arrangement with the federal government or any federal agency or body under which the senator receives a benefit. There are two exceptions to this rule: (1) the contract or arrangement is in the public interest due to special circumstances; and (2) the contract or arrangement is unlikely to affect the senator's obligations under the *Conflict of Interest Code for Senators*. In the case of either exception, the Senate Ethics Officer must provide a written opinion regarding the matter (section 22). Participation in federal government programs is also permissible if certain conditions are met (section 25).

A senator may own securities in a public corporation that has contracts with the federal government or any federal agency or body unless the interest is so significant that the Senate Ethics Officer is of the view that it is likely to affect the senator's obligations under the Code (subsection 23(1)). Again, there is a public interest exception in the case of interests in a public corporation (subsection 23(2)) and participation in a federal government program is not considered to be a contract (subsection 23(3)). Moreover, a senator may comply with the Code by placing the securities in a trust under such terms as are set by the Senate Ethics Officer (subsection 23(4)).

A senator is prohibited from having an interest in a partnership or a private corporation that is a party, directly or through a subcontract, to a contract or other business arrangement with the federal government or any federal agency or body under which the partnership or corporation receives a benefit. Again, the two



exceptions outlined above (i.e., public interest and obligations not affected under the Code) apply (section 24). Participation in federal government programs is also permissible provided certain conditions are met (section 25). Finally, such an interest is permissible if a trust, with certain specified conditions, is established (section 26).

(d) Disclosure Process (section 29 to 36)

The *Conflict of Interest Code for Senators* requires each senator to submit to the Senate Ethics Officer an annual confidential disclosure statement listing sources of income, assets, liabilities, outside activities, and government contracts pursuant to sections 29 and 30. Senators who held office on the day the Code came into effect were required to submit the statements within one hundred and twenty days after that day and newly appointed senators were required to submit the statements within one hundred and twenty days after being summoned to the Senate.

The Senate Ethics Officer reviews the information, advises individual senators on possible conflicts, or apparent conflicts, and then recommends measures, if necessary, to ensure senators are in compliance with the provisions of the Code (section 31).

Senators must continue to remain in compliance with the Code at all times. This is done by reporting to the Senate Ethics Officer any material changes to the information provided in their confidential disclosure statements within sixty days of any such change occurring (subsection 30(4)). Moreover, an annual review of the senators' confidential disclosure statements and compliance arrangements is conducted by the Senate Ethics Officer (subsection 29(1)).

Based on the information contained in the confidential disclosure statement and any other additional information provided that may be relevant, the Senate Ethics Officer must prepare a public disclosure summary related to each senator (section 32). These summaries are then made available for public inspection at the Office of the Senate Ethics Officer (section 35).

D. Inquiries

The Senate Ethics Officer may initiate an inquiry to determine whether a senator has complied with his or her obligations under the *Conflict of Interest Code for Senators*:
(i) at the direction of the Standing Committee on Conflict of Interest for Senators



(subsection 44(1)); (ii) at the request of another senator (subsections 44(2) to (6)); and (iii) where the Officer has reasonable grounds to believe that an inquiry is warranted and has obtained the approval of the committee (subsection 44(7) to (9)).

Inquiries are confidential (subsection 44(11)) and senators are required to cooperate with the Senate Ethics Officer (subsection 44(12)). The Senate Ethics Officer has the power to send for persons, papers, and records, for the purpose of an inquiry (subsection 44(13)).

Once an inquiry is completed, the Officer is required to prepare a report, including the Officer's recommendations, to the Conflict of Interest Committee for Senators (section 45), which may then report to the Senate. Any appropriate action or sanctions would be determined by the Senate (subsection 46(7)).

E. Committee Review

The Standing Committee on Conflict of Interest for Senators is required to undertake a review of the provisions of the *Conflict of Interest Code for Senators* within three years after the Code came into force (i.e., May 18, 2005), and every five years thereafter. The Committee is required to submit a report to the Senate on this review, including recommendations respecting changes to the Code (section 52).

Appendix B





Appendix B

**RELEVANT EXCERPTS FROM THE PARLIAMENT OF CANADA ACT,
R.S.C. 1985, c. P-1, as am. by S.C. 2004, c.7; S.C. 2006, c.9, sections 20.1 to 20.7**

Senate Ethics Officer

Appointment	20.1 The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.
Tenure	20.2 (1) The Senate Ethics Officer holds office during good behaviour for a term of seven years and may be removed for cause by the Governor in Council on address of the Senate. He or she may be reappointed for one or more terms of up to seven years each.
Interim appointment	(2) In the event of the absence or incapacity of the Senate Ethics Officer, or if that office is vacant, the Governor in Council may appoint any qualified person to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor in Council.
Remuneration	20.3 (1) The Senate Ethics Officer shall be paid the remuneration set by the Governor in Council.
Expenses	(2) The Senate Ethics Officer is entitled to be paid reasonable travel and living expenses incurred in the performance of his or her duties or functions while absent from his or her ordinary place of residence, in the case of a part-time appointment, and ordinary place of work, in the case of a full-time appointment.
Functions - part-time	(3) In the case of a part-time appointment, the Senate Ethics Officer may not accept or hold any office or employment - or carry on any activity - inconsistent with his or her duties and functions under this Act.



Functions - full-time	(4) In the case of a full-time appointment, the Senate Ethics Officer shall engage exclusively in the duties and functions of the Senate Ethics Officer and may not hold any other office under Her Majesty or engage in any other employment for reward.
Deputy head	20.4 (1) The Senate Ethics Officer has the rank of a deputy head of a department of the Government of Canada and has the control and management of the office of the Senate Ethics Officer.
Powers to contract	(2) The Senate Ethics Officer may, in carrying out the work of the office of the Senate Ethics Officer, enter into contracts, memoranda of understanding or other arrangements.
Staff	(3) The Senate Ethics Officer may employ any officers and employees and may engage the services of any agents, advisers and consultants that the Senate Ethics Officer considers necessary for the proper conduct of the work of the office of the Senate Ethics Officer.
Authorization	(4) The Senate Ethics Officer may, subject to the conditions he or she sets, authorize any person to exercise any powers under subsection (2) or (3) on behalf of the Senate Ethics Officer that he or she may determine.
Salaries	(5) The salaries of the officers and employees of the office of the Senate Ethics Officer shall be fixed according to the scale provided by law.
Payment	(6) The salaries of the officers and employees of the office of the Senate Ethics Officer, and any casual expenses connected with the office, shall be paid out of moneys provided by Parliament for that purpose.
Estimates to be prepared	(7) Prior to each fiscal year, the Senate Ethics Officer shall cause to be prepared an estimate of the sums that will be required to pay the charges and expenses of the office of the Senate Ethics Officer during the fiscal year.



Inclusion in Government estimates	(8) The estimate referred to in subsection (7) shall be considered by the Speaker of the Senate and then transmitted to the President of the Treasury Board, who shall lay it before the House of Commons with the estimates of the government for the fiscal year.
Duties and functions	20.5 (1) The Senate Ethics Officer shall perform the duties and functions assigned by the Senate for governing the conduct of members of the Senate when carrying out the duties and functions of their office as members of the Senate.
Privileges and immunities	(2) The duties and functions of the Senate Ethics Officer are carried out within the institution of the Senate. The Senate Ethics Officer enjoys the privileges and immunities of the Senate and its members when carrying out those duties and functions.
General direction of committee	(3) The Senate Ethics Officer shall carry out those duties and functions under the general direction of any committee of the Senate that may be designated or established by the Senate for that purpose.
Clarification – ethical principles, etc.	(4) For greater certainty, the administration of any ethical principles, rules or obligations established by the Prime Minister for public office holders within the meaning of section 72.06 and applicable to ministers of the Crown, ministers of state or parliamentary secretaries is not part of the duties and functions of the Senate Ethics Officer or the committee. ¹
Clarification - powers, etc., of the Senate	(5) For greater certainty, this section shall not be interpreted as limiting in any way the powers, privileges, rights and immunities of the Senate or its members.

¹ This subsection has been amended by the Statutes of Canada 2006, chapter 9, but this amendment has not yet been brought into force. At the time of its coming into force, the subsection will read as follows:
(4) For greater certainty, the administration of the *Conflict of Interest Act* in respect of public office holders who are ministers of the Crown, ministers of state or parliamentary secretaries is not part of the duties and functions of the Senate Ethics Officer or the committee.



No summons	20.6 (1) The Senate Ethics Officer, or any person acting on behalf or under the direction of the Senate Ethics Officer, is not a competent or compellable witness in respect of any matter coming to his or her knowledge as a result of exercising any powers or performing any duties or functions of the Senate Ethics Officer under this Act.
Protection	(2) No criminal or civil proceedings lie against the Senate Ethics Officer, or any person acting on behalf or under the direction of the Senate Ethics Officer, for anything done, reported or said in good faith in the exercise or purported exercise of any power, or the performance or purported performance of any duty or function, of the Senate Ethics Officer under this Act.
Clarification	(3) The protection provided under subsections (1) and (2) does not limit any powers, privileges, rights and immunities that the Senate Ethics Officer may otherwise enjoy.
Annual report	20.7 (1) The Senate Ethics Officer shall, within three months after the end of each fiscal year, submit a report on his or her activities under section 20.5 for that year to the Speaker of the Senate, who shall table the report in the Senate.
Confidentiality	(2) The Senate Ethics Officer may not include in the annual report any information that he or she is required to keep confidential.

Appendix *C*





Appendix C

CONFLICT OF INTEREST CODE FOR SENATORS

PURPOSES

1. The purposes of this Code are to
 - (a) maintain and enhance public confidence and trust in the integrity of Senators and the Senate;
 - (b) provide for greater certainty and guidance for Senators when dealing with issues that may present foreseeable real or apparent conflicts of interest; and
 - (c) establish clear standards and a transparent system by which questions relating to proper conduct may be addressed by an independent, non-partisan adviser.

PRINCIPLES

2. (1) Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected
 - (a) to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities;
 - (b) to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate; and
 - (c) to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.
- (2) The Senate further declares that this Code shall be interpreted and administered so that Senators and their families shall be afforded a reasonable expectation of privacy.



INTERPRETATION

Definitions

3. (1) The following definitions apply in this Code.

“Committee”

« Comité »

“Committee” means the Committee designated or established under section 37.

“common-law partner”

« conjoint de fait »

“common-law partner” means a person who is cohabiting with a Senator in a conjugal relationship, having so cohabited for at least one year.

“Intersessional Authority”

« autorité intersessionnelle »

“Intersessional Authority on Conflict of Interest for Senators” means the committee established by section 41.

“parliamentary duties and functions”

« fonctions parlementaires »

“parliamentary duties and functions” means duties and activities related to the position of Senator, wherever performed, and includes public and official business and partisan matters.

“Senate Ethics Officer”

« conseiller sénatorial en éthique »

“Senate Ethics Officer” means the Senate Ethics Officer appointed under section 20.1 of the *Parliament of Canada Act*.

“spouse”

« époux »

“spouse” means a person to whom a Senator is married but does not include a person from whom the Senator is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.



Family members

(2) The following are the family members of a Senator for the purposes of this Code:

- (a) a Senator's spouse or common-law partner; and
- (b) a child of a Senator, a child of a Senator's spouse or common-law partner, or a person whom a Senator treats as a child of the family, who
 - (i) has not reached the age of 18 years, or
 - (ii) has reached that age but is primarily dependent on a Senator or a Senator's spouse or common-law partner for financial support.

ACTIVITIES AND JURISDICTION PRESERVED

Assisting the public

4. Senators are encouraged to continue to assist members of the public as long as their actions are consistent with their obligations under this Code.

Carrying on activities

5. Senators who are not ministers of the Crown may participate in any outside activities, including the following, as long as they are able to fulfil their obligations under this Code:

- (a) engaging in employment or in the practice of a profession;
- (b) carrying on a business;
- (c) being a director or officer in a corporation, association, trade union or not-for-profit organization; and
- (d) being a partner in a partnership.

Existing Committee jurisdiction

6. Nothing in this Code affects the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

Role of the Speaker

7. Procedural matters referred to in this Code that are expressly provided for in *The Rules of the Senate* are under the jurisdiction and authority of the Speaker rather than the Senate Ethics Officer.



OPINIONS AND ADVICE

Request for opinion

8. (1) In response to a request in writing from a Senator on any matter respecting the Senator's obligations under this Code, the Senate Ethics Officer shall provide the Senator with a written opinion containing any recommendations that the Senate Ethics Officer considers appropriate.

Opinion binding

(2) An opinion given by the Senate Ethics Officer to a Senator is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the opinion as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

Written advice binding

(3) Any written advice given by the Senate Ethics Officer to a Senator on any matter relating to this Code is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the advice as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

Confidentiality

(4) A written opinion or advice is confidential and may be made public only by the Senator or with his or her written consent.

Committee consideration

(5) A written opinion or advice given by the Senate Ethics Officer under subsection (2) or (3) and relied on by a Senator is conclusive proof that the Senator has fully complied with the Senator's obligations under this Code in any subsequent consideration by the Committee of the subject matter of the opinion or advice as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

Publication

(6) Nothing in this section prevents the Senate Ethics Officer, subject to the approval of the Committee, from publishing opinions and advice for the guidance of Senators, provided that no details are included that could identify a Senator.



Guidelines

9. Subject to the approval of the Committee, the Senate Ethics Officer may publish Guidelines for the assistance of Senators on any matter concerning the interpretation of this Code that the Senate Ethics Officer considers advisable.

RULES OF CONDUCT

Furthering private interests

10. When performing parliamentary duties and functions, a Senator shall not act or attempt to act in any way to further his or her private interests, or those of a family member, or to improperly further another person's or entity's private interests.

Use of influence

11. A Senator shall not use or attempt to use his or her position as a Senator to influence a decision of another person so as to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

Use of information

12. (1) If as a result of his or her position, a Senator obtains information that is not generally available to the public, the Senator shall not use or attempt to use the information to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

Conveying information

(2) A Senator shall not convey or attempt to convey information referred to in subsection (1) to another person if the Senator knows, or reasonably ought to know, that the information may be used to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

Clarification: furthering private interests

13. (1) In sections 10 to 12, furthering private interests of a person or entity, including the Senator's own private interests, means actions taken by a Senator for the purpose of achieving, directly or indirectly, any of the following:



- (a) an increase in, or the preservation of, the value of the person's or entity's assets;
- (b) the elimination, or reduction in the amount, of the person's or entity's liabilities;
- (c) the acquisition of a financial interest by the person or entity;
- (d) an increase in the person's or entity's income from a contract, a business or a profession;
- (e) an increase in the person's income from employment;
- (f) the person becoming a director or officer in a corporation, association or trade union; or
- (g) the person becoming a partner in a partnership.

Clarification: not furthering private interests

(2) A Senator is not considered to further his or her own private interests or the private interests of another person or entity if the matter in question

- (a) is of general application;
- (b) affects the Senator or the other person or entity as one of a broad class of the public; or
- (c) concerns the remuneration or benefits of the Senator as provided under an Act of Parliament or a resolution of the Senate or of a Senate committee.

Declaration of a private interest: Senate or committee

14. (1) If a Senator has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before the Senate or a committee of which the Senator is a member, the Senator shall, on the first occasion at which the Senator is present during consideration of the matter, make a declaration regarding the general nature of the private interest. The declaration can be made orally on the record or in writing to the Clerk of the Senate or the Clerk of the committee, as the case may be. The Speaker of the Senate shall cause the declaration to be recorded in the *Journals of the Senate* and the Chair of the committee shall, subject to subsection (4), cause the declaration to be recorded in the Minutes of Proceedings of the committee.

Subsequent declaration

(2) If a Senator becomes aware at a later date of a private interest that should have been declared under subsection (1), the Senator shall make the required declaration forthwith.



Declaration recorded

(3) The Clerk of the Senate or the Clerk of the committee, as the case may be, shall send the declaration to the Senate Ethics Officer, who shall, subject to subsection (4), file it with the Senator's public disclosure summary.

Where declaration *in camera*

(4) In any case in which the declaration was made during an in camera meeting, the Chair of the committee and Senate Ethics Officer shall obtain the consent of the subcommittee on agenda and procedure of the committee concerned before causing the declaration to be recorded in the Minutes of Proceedings of the committee or filing it with the Senator's public disclosure summary, as the case may be.

Declaration of a private interest: other circumstances

(5) In any circumstances other than those in subsection (1) that involve the Senator's parliamentary duties and functions, a Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected shall make an oral declaration regarding the general nature of the private interest at the first opportunity.

Debate in the Senate

15. (1) A Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before the Senate may participate in debate on that matter, provided that an oral declaration is made on the record prior to each intervention.

Debate in Committee

(2) A Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before a committee of which the Senator is a member may participate in debate on that matter, provided that a declaration is first made orally on the record.

Prohibition on voting

16. A Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest in a matter before the Senate or a committee of which the Senator is a member shall not vote on that matter, but may abstain.



Procedure

17. If a Senator reasonably believes that another Senator has failed to make a declaration of a private interest as required by section 14 or 15, or that another Senator has voted contrary to the prohibition in section 16, the matter may be raised with the Senate Ethics Officer.

Clarification: having a private interest

18. For the purpose of sections 14 to 16, private interest means those interests that can be furthered in subsection 13(1), but does not include the matters listed in subsection 13(2).

Prohibition: gifts and other benefits

19. (1) Neither a Senator, nor a family member, shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that could reasonably be considered to relate to the Senator's position.

Exception

(2) A Senator, and a family member, may, however, accept gifts or other benefits received as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Senator's position.

Statement: gift or other benefit

(3) If a gift or other benefit that is accepted under subsection (2) by a Senator or his or her family members exceeds \$500 in value, or if the total value of all such gifts or benefits received from one source in a 12-month period exceeds \$500, the Senator shall, within 30 days after that value is exceeded, file with the Senate Ethics Officer a statement disclosing the nature and value of the gifts or other benefits, their source and the circumstances under which they were given.

Statement: sponsored travel

20. (1) Notwithstanding subsection 19(1), a Senator may accept, for the Senator and guests of the Senator, sponsored travel that arises from or relates to the Senator's position. If the travel costs of a Senator or any guest exceed \$500 and are not paid personally by the Senator or the guest, and the travel is not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada, or the Senator's political party, the Senator shall, within 30 days after the end of the trip, file a statement with the Senate Ethics Officer.



Contents of statement

(2) The statement shall disclose the name of the person or organization paying for the trip, the destination or destinations, the purpose and length of the trip, whether or not any guest was also sponsored, and the general nature of the benefits received.

Duplication

(3) Any disclosure made in relation to sponsored travel does not need to be disclosed as a gift or other benefit.

Consent of Senate

21. Gifts, other benefits and sponsored travel accepted in compliance with the requirements of sections 19 and 20 are deemed to have received the consent of the Senate thereto for all purposes.

Government contracts

22. A Senator shall not knowingly be a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the Senator receives a benefit unless the Senate Ethics Officer provides a written opinion that

- (a) due to special circumstances the contract or other business arrangement is in the public interest; or
- (b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

Public corporations

23. (1) A Senator may own securities in a public corporation that contracts with the Government of Canada or any federal agency or body unless the holdings are so significant that the Senate Ethics Officer provides a written opinion that they are likely to affect the Senator's obligations under this Code.

Public interest

(2) A contract between a public corporation and the Government of Canada or any federal agency or body that, in the Senate Ethics Officer's opinion is in the public interest due to special circumstances, shall not preclude a Senator from holding securities in that public corporation.



Government programs

(3) For the purpose of subsection (1), a public corporation shall not be considered to contract with the Government of Canada or any federal agency or body merely because the corporation participates in a Government program that meets the criteria described in section 25.

Trust

(4) If the Senate Ethics Officer is of the opinion that the Senator's obligations under this Code are likely to be affected under the circumstances of subsection (1), the Senator may comply with the Code by placing the securities in a trust under such terms as the Senate Ethics Officer considers appropriate.

Partnerships and private corporations

24. A Senator shall not have an interest in a partnership or in a private corporation that is a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the partnership or corporation receives a benefit unless the Senate Ethics Officer provides a written opinion that

- (a) due to special circumstances the contract or other business arrangement is in the public interest; or
- (b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

Clarification: Government programs

25. For the purposes of sections 22 and 24, it is not prohibited to participate in a program operated or funded, in whole or in part, by the Government of Canada or any federal agency or body under which a Senator, or a partnership or private corporation in which a Senator has an interest, receives a benefit if

- (a) the eligibility requirements of the program are met;
- (b) the program is of general application or is available to a broad class of the public;
- (c) there is no preferential treatment with respect to the application; and
- (d) no special benefits are received that are not available to other participants in the program.



Trust

26. Section 24 does not apply if the Senator has entrusted his or her interest in a partnership or private corporation to one or more trustees on all of the following terms:

- (a) the provisions of the trust have been approved by the Senate Ethics Officer;
- (b) the trustees are at arm's length from the Senator and have been approved by the Senate Ethics Officer;
- (c) except as provided in paragraph (d), the trustees may not consult with the Senator with respect to managing the trust, but they may consult with the Senate Ethics Officer;
- (d) the trustees may consult with the Senator, with the approval of the Senate Ethics Officer and in his or her presence, if an extraordinary event is likely to materially affect the trust property;
- (e) in the case of an interest in a corporation, the Senator resigns any position of director or officer in the corporation;
- (f) the trustees provide the Senate Ethics Officer annually with a written report setting out the nature of the trust property, the value of that property, the trust's net income for the preceding year and the trustees' fees, if any; and
- (g) the trustees give the Senator sufficient information to permit the Senator to submit returns as required by the *Income Tax Act* and give the same information to the appropriate taxation authorities.

Pre-existing contracts

27. The rules in sections 22, 23 and 24 do not apply to a contract or other business arrangement that existed before a Senator's appointment to the Senate, but they do apply to its renewal or extension.

Interest acquired by inheritance

28. The rules in sections 22, 23 and 24 do not apply to an interest acquired by inheritance until the first anniversary date of the transfer of legal and beneficial ownership. In special circumstances, the Senate Ethics Officer may extend this time period.



DUTY TO DISCLOSE

Confidential disclosure statement: sitting Senators

29. (1) A Senator who holds office on the day this Code comes into force shall, within 120 days after that day, and annually thereafter on or before the date established by the Senate Ethics Officer under subsection (2), file with the Senate Ethics Officer a confidential statement disclosing the information required by section 30.

Filing date

(2) The date on or before which the annual confidential disclosure statements are required to be filed shall be established by the Senate Ethics Officer following approval by the Committee.

Confidential disclosure statement: new Senators

(3) A Senator shall, within 120 days after being summoned to the Senate, and annually thereafter on or before the date established by the Senate Ethics Officer under subsection (2), file with the Senate Ethics Officer a confidential statement disclosing the information required by section 30.

Submission to Committee

(4) Thirty days after the date established under subsection (2), the Senate Ethics Officer shall submit to the Committee the name of any Senator who has not complied with his or her duty to file a confidential disclosure statement.

Errors or Omissions

(5) If, at any time after the date established under subsection (2), the Senate Ethics Officer has reason to believe that a Senator's confidential statement contains an error or omission, the Senate Ethics Officer shall notify the Senator concerned and request the Senator to provide the relevant information.

Response within 60 days

(6) Upon receipt of a request under subsection (5), the Senator shall provide the information within 60 days.

Family members

(7) A Senator may file with the Senate Ethics Officer a confidential disclosure statement relating to the Senator's family members so that the Senator may discuss their interests in relation to the Senator's obligations under this Code and receive advice in that regard.



Confidentiality

(8) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep all statements confidential.

Initial meeting with Senate Ethics Officer

(9) Senators, and in particular newly-summoned Senators, who may have questions regarding their confidential disclosure duties should make every effort to meet with the Senate Ethics Officer before submitting their confidential disclosure statement.

Contents of confidential disclosure statement

30. (1) Subject to subsection (2) regarding excluded matters, and any Guidelines published by the Senate Ethics Officer under section 9, the confidential disclosure statement shall list :

- (a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;
- (b) any associations and not-for-profit organizations in which the Senator is a director, officer or patron, including memberships on advisory boards and any honorary positions;
- (c) the nature but not the amount of any source of income over \$2,000 that the Senator has received in the preceding 12 months and is likely to receive during the next 12 months; for this purpose,
 - (i) a source of income from employment is the employer,
 - (ii) a source of income from a contract is a party with whom the contract is made,
 - (iii) a source of income arising from a business or profession is that business or profession, and
 - (iv) a source of income arising from an investment is that investment;
- (d) the source, nature and value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has directly, or through a subcontract;
- (e) the source, nature and value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries;



- (f) the source, nature and value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation, that the Senator is able to ascertain by making reasonable inquiries;
- (g) information regarding the nature but not the value of any assets and liabilities over \$10,000; and
- (h) any additional information that the Senator believes to be relevant to this Code.

Excluded matters

(2) For the purpose of subsection (1), it is not required to disclose properties used by the Senator or family members as residences; mortgages or hypothecs on such residences; household goods; personal effects; deposits with a financial institution; guaranteed investment certificates; financial instruments issued by any Canadian government or agency; and obligations incurred for living expenses that will be discharged in the ordinary course of the Senator's affairs.

Additional excluded matters

(3) The Senate Ethics Officer may, with the approval of the Committee, establish additional matters not required to be disclosed on the basis that they present no potential to interfere with the obligations of a Senator under this Code.

Material change

(4) A Senator shall report in writing any material change to the information relating to the confidential disclosure statement to the Senate Ethics Officer within 60 days after the change.

Meeting with the Senate Ethics Officer

31. After reviewing a Senator's confidential statement, the Senate Ethics Officer may request to meet with the Senator to discuss the statement and the Senator's obligations under this Code.

Public disclosure summary

32. The Senate Ethics Officer shall prepare a public disclosure summary based on each Senator's confidential statement and submit it to the Senator for review.



Contents of public disclosure summary

33. (1) The public disclosure summary shall list
- (a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;
 - (b) any associations and not-for-profit organizations in which the Senator is a director, officer or patron, including memberships on advisory boards and any honorary positions;
 - (c) the source and nature but not the amount of any income that the Senator has received in the preceding 12 months and is likely to receive in the next 12 months that the Senate Ethics Officer has determined could relate to the parliamentary duties and functions of the Senator or could otherwise be relevant;
 - (d) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has, directly or through a subcontract, including the Senate Ethics Officer's written opinion authorizing them;
 - (e) the source and nature but not the value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries, including the Senate Ethics Officer's written opinion authorizing them;
 - (f) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation, that the Senator is able to ascertain by making reasonable inquiries;
 - (g) information regarding the nature but not the value of any assets and liabilities that the Senate Ethics Officer has determined could relate to the parliamentary duties and functions of the Senator or could otherwise be relevant;
 - (h) any declarations of a private interest under section 14, unless the Senate Ethics Officer is of the opinion that the information need not have been declared;
 - (i) any statements filed under sections 19 and 20 in relation to gifts and sponsored travel; and
 - (j) any statements of material change that pertain to the contents of this summary.



Discretion

(2) The Senate Ethics Officer need not include in the public disclosure summary information that he or she determines should not be disclosed because

- (a) the information is not relevant to the purposes of this Code or is inconsequential, or
- (b) a departure from the general principle of public disclosure is justified in the circumstances.

Disagreement

34. In cases of disagreement between a Senator and the Senate Ethics Officer regarding the contents of the public disclosure summary, the Senate Ethics Officer shall refer the disputed matter to the Committee for decision.

Public inspection

35. Each public disclosure summary is to be placed on file at the office of the Senate Ethics Officer and made available for public inspection.

Evasion

36. A Senator shall not take any action that has as its purpose the evasion of the Senator's obligations under this Code.

COMMITTEE

Designation or Establishment

37. (1) At the beginning of each session, a Committee of the Senate shall be designated or established for the purposes of this Code.

Membership

(2) The Committee shall be composed of five members, three of whom shall constitute a quorum.

No *ex officio* members

(3) The Committee shall have no *ex officio* members.

Election of members

(4) Two of the Committee members shall be elected by secret ballot in the caucus of Government Senators at the opening of the session; two of the Committee members shall be elected by secret ballot in the caucus of Opposition Senators at the opening of the session; the fifth member shall be elected by the



majority of the other four members after the election of the last of the other four members.

Presentation and adoption of motion

(5) The Leader of the Government in the Senate, seconded by the Leader of the Opposition in the Senate, shall present a motion on the full membership of the Committee to the Senate, which motion shall be deemed adopted without any debate or vote.

Chair

(6) The Chair of the Committee shall be elected by four or more members.

Removal

- (7) A member is deemed removed from the Committee as of the time that:
- (a) the Senate Ethics Officer informs the Committee that a request for an inquiry made by the Senator is warranted; or
 - (b) the Senator becomes the subject of an inquiry under the Code.

Substitutions

(8) Where a vacancy occurs in the membership of the Committee, the replacement member shall be elected by the same method as the former member being replaced.

Meetings *in camera*

38. (1) Subject to subsection (2), meetings of the Committee shall be held *in camera*.

Meetings in public

(2) At the request of a Senator who is the subject of an investigation, the Committee may hold meetings at which the investigation is being conducted in public.

Attendance

(3) Subject to subsection (4), the Committee may limit attendance at its meetings.

Affected Senator

(4) The Committee shall give notice to a Senator who is the subject of an investigation of all meetings at which the investigation is being conducted, and shall



admit the Senator to those meetings, but the Committee may exclude that Senator from those meetings or portions of meetings at which the Committee is considering a draft agenda or a draft report.

Withdrawal

(5) A member of the Committee who is the subject of a matter being considered by the Committee relating to that specific Senator shall withdraw from the Committee during its deliberations.

Jurisdiction

39. (1) The Committee is responsible for all matters relating to this Code, including all forms involving Senators that are used in its administration, subject to the general jurisdiction of the Senate.

Senate Ethics Officer

(2) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Committee.

Directives

(3) The Committee may give Directives to the Senate Ethics Officer concerning the interpretation and administration of this Code.

Appeals to the Committee

(4) All decisions of the Senate Ethics Officer may be appealed to the Committee.

Decisions binding

(5) All decisions of the Committee made under subsection (4) are binding on the Committee in relation to any subsequent consideration of the same subject matter as long as all the relevant facts that were known to the Senator were disclosed to the Committee.

Confidentiality

40. All information relating to the private interests of Senators and those of their family members is to be kept confidential, except in accordance with this Code.



INTERSESSIONAL AUTHORITY

Intersessional Authority created

41. During a period of prorogation or dissolution of Parliament and until the members of a successor Committee are appointed by the Senate, there shall be a committee known as the Senate Intersessional Authority on Conflict of Interest for Senators.

Composition

42. The Intersessional Authority on Conflict of Interest for Senators shall be composed of the members of the Committee.

General authority

43. (1) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Intersessional Authority on Conflict of Interest for Senators.

Additional functions

(2) Subject to the rules, direction and control of the Senate and of the Committee, the Intersessional Authority on Conflict of Interest for Senators shall carry out such other of the Committee's duties and functions as the Committee gives to it by resolution.

INQUIRIES AND INVESTIGATIONS

Direction by the Committee

44. (1) The Committee may direct the Senate Ethics Officer to conduct an inquiry to determine whether a Senator has complied with his or her obligations under this Code.

Request for an inquiry

(2) A Senator who has reasonable grounds to believe that another Senator has not complied with his or her obligations under this Code may request that the Senate Ethics Officer conduct an inquiry into the matter.

Form of request

(3) The request shall be in writing, shall be signed by the requesting Senator, shall identify the alleged non-compliance with this Code and shall set out the reasonable grounds for the belief that the Code has not been complied with.



Request to be sent

(4) The Senate Ethics Officer shall forward the request for an inquiry to the Senator who is the subject of the request and afford the Senator a reasonable opportunity to respond.

Preliminary review

(5) After a preliminary review to determine whether or not an inquiry is warranted, the Senate Ethics Officer shall notify both the requesting Senator and the Senator who is the subject of the request of his or her decision.

If inquiry warranted

(6) If the Senate Ethics Officer's decision under subsection (5) is that an inquiry is warranted, the Senate Ethics Officer shall so inform the Committee.

Receipt of information

(7) If, after receiving significant evidence, the Senate Ethics Officer believes that an inquiry may be warranted to determine whether a Senator has complied with his or her obligations under this Code, the Senate Ethics Officer shall provide the Senator written notice of his or her concerns and any documentation upon which those concerns are based, and shall afford the Senator a reasonable opportunity to address the issues.

Committee to approve

(8) Following the measures taken in subsection (7), if the Senate Ethics Officer has reasonable grounds to believe that an inquiry is warranted to determine whether the Senator has complied with his or her obligations under this Code, the Senate Ethics Officer shall request the Committee to approve the inquiry, and may proceed when approval has been received.

Notice

(9) Once approval to conduct an inquiry has been received under subsection (8), the Senate Ethics Officer shall provide the Senator concerned with his or her reasons for the opinion that an inquiry is warranted.

Respect for the inquiry process

(10) Once a request for an inquiry has been made, or direction or approval for an inquiry has been given, Senators should respect the process established by this Code.



Inquiry to be confidential

(11) The Senate Ethics Officer shall conduct a confidential inquiry as promptly as the circumstances permit, provided that at all appropriate stages throughout the inquiry the Senate Ethics Officer shall give the Senator a reasonable opportunity to be present and to make representations to the Senate Ethics Officer in writing or in person, by counsel or by any other representative.

Cooperation

(12) Senators shall cooperate without delay with the Senate Ethics Officer with respect to any inquiry.

Powers of Senate Ethics Officer

(13) In carrying out an inquiry, the Senate Ethics Officer may send for persons, papers, things and records, which measures may be enforced by the Senate acting on the recommendation of the Committee following a request from the Senate Ethics Officer.

Report to the Committee

45. (1) Following an inquiry the Senate Ethics Officer shall report confidentially in writing to the Committee.

Contents of report

(2) The Senate Ethics Officer may make findings and recommendations, including:

- (a) that the complaint appears to be unfounded and should be dismissed;
- (b) that the request for an inquiry was frivolous or vexatious or was not made in good faith, or that there were no grounds or insufficient grounds to warrant an inquiry or the continuation of an inquiry;
- (c) that the complaint appears to be founded and that remedial action has been agreed to by the Senator involved; or
- (d) that the complaint appears to be founded, but that no remedial action was available or agreed to by the Senator involved.

Bad faith

(3) Where the Senate Ethics Officer makes a finding that the complaint or request for an inquiry was frivolous or vexatious or was not made in good faith, he or she may recommend that action be considered against the person who made the complaint or request.



Mitigation

(4) If the Senate Ethics Officer concludes that a Senator has not complied with an obligation under this Code but that the Senator took all reasonable measures to prevent the non-compliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgement made in good faith, the Senate Ethics Officer shall so state in the report and may recommend that no sanction be imposed.

General recommendations

(5) The Senate Ethics Officer may include in the report any recommendations arising from the matter that concern the general interpretation of this Code.

Reasons

(6) The Senate Ethics Officer shall include in the report reasons and any supporting documentation for any findings and recommendations.

Consideration of report

46. (1) The Committee shall take into consideration a report received from the Senate Ethics Officer under section 45 as promptly as circumstances permit.

Due process

(2) The Committee shall provide, without delay, a copy of the report of the Senate Ethics Officer to the Senator who was the subject of the inquiry, and shall afford that Senator the opportunity to be heard by the Committee.

Investigation

- (3) In considering a report, the Committee may:
- (a) conduct an investigation; or
 - (b) direct that the Senate Ethics Officer's inquiry be continued and refer the report back to the Senate Ethics Officer for such further information as the Committee specifies.

Committee report

(4) Subject to subsection (5), following its consideration under this section of a report of the Senate Ethics Officer, the Committee shall report to the Senate.

No report required

(5) Where the Committee finds that a complaint against a Senator was unfounded, the Committee is not required to report to the Senate unless the Senator concerned requests that it do so.



Contents of report

(6) In its report to the Senate, the Committee shall report the fact of the inquiry and give its findings with respect thereto, its recommendations if any, and its reasons and the supporting documentation for any findings or recommendations.

Remedial action

(7) The Committee may recommend that the Senator be ordered to take specific action or be sanctioned.

Anonymity

(8) Where the Committee finds that a complaint is unfounded and reports to the Senate, its report may, at the Senator's request, keep the Senator's name anonymous in order to protect the Senator's reputation.

Suspension of investigation or inquiry: Act of Parliament

47. (1) The Committee or the Senate Ethics Officer may suspend the investigation or inquiry if

- (a) there are reasonable grounds to believe that the Senator has committed an offence under an Act of Parliament in relation to the same subject matter, in which case the Committee or Senate Ethics Officer, subject to subsection (4), shall refer the matter to the proper authorities; or
- (b) it is discovered that
 - (i) the subject matter under investigation or inquiry is also the subject matter of an investigation to determine if an offence under an Act of Parliament has been committed, or
 - (ii) a charge has been laid with respect to that subject matter.

Investigation or inquiry continued

(2) If the Committee or the Senate Ethics Officer has suspended the investigation or inquiry, it may resume once the other investigation or charge regarding the same subject matter has been finally disposed of.

Suspension of investigation or inquiry: other laws

(3) The Committee or the Senate Ethics Officer may suspend the investigation or inquiry and subject to subsection (4), refer the matter to the proper authorities if there are reasonable grounds to believe that the Senator has committed an offence under the law of a Canadian province or territory in relation to the same subject matter, and may continue the investigation or inquiry when any actions arising from the referral have been completed.



Advice of Committee

(4) The Senate Ethics Officer shall seek the advice of the Committee before making a referral to the proper authorities.

Notice for motion to adopt

48. (1) A motion that the Senate adopt a report referred to in subsection 46(4) shall be put pursuant to the notice provisions of paragraph 58(1)(g) of the *Rules of the Senate*.

Motion

(2) A motion to adopt a report referred to in subsection 46(4) shall be deemed to have been moved on the fifth sitting day subsequent to the presentation of the report if the motion has not yet been moved.

Senator may speak

(3) After a motion to adopt a report has been moved, or has been deemed to have been moved, no vote may be held for at least five sitting days, or until the Senator who is the subject of the report has spoken to the motion for its adoption, whichever is the sooner.

Right to speak last

(4) The Senator who is the subject of the report may exercise the right of final reply.

Senate vote

(5) If a motion for the adoption of a report has not been put to a vote by the 15th sitting day after the motion was moved or deemed to have been moved, the Speaker shall immediately put all necessary questions to dispose of the matter when the item is called.

Referral back

(6) The Senate may refer any report back to the Committee for further consideration.

MISCELLANEOUS

Privacy to be minimally impaired

49. In interpreting and administering this Code, reasonable expectations of privacy shall be impaired as minimally as possible.



Confidentiality

50. The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep confidential all matters required to be kept confidential under this Code. Failure to do so shall constitute behaviour sufficient to justify either or both of the following

- (a) a resolution by the Senate under subsection 20.2(1) of the *Parliament of Canada Act* requesting the Governor in Council to remove the Senate Ethics Officer from office;
- (b) dismissal of any officers, employees, agents, advisers or consultants involved.

Retention of documents

51. (1) The Senate Ethics Officer shall retain all confidential documents relating to a Senator for a period of 12 months after he or she ceases to be a Senator, after which the documents shall be destroyed, subject to subsection (2), unless there is an inquiry in progress under this Code concerning them or a charge has been laid against the Senator and the documents may relate to that matter.

(2) At a Senator's request, confidential documents originating with the Senator may be returned to the Senator instead of being destroyed.

Committee review

52. The Committee shall, within three years after the coming into force of this Code and every five years thereafter, undertake a comprehensive review of its provisions and operation, and shall submit a report to the Senate thereon, including a statement of any changes the Committee recommends.

Appendix D





Appendix D

FINANCIAL INFORMATION

van Berkom & Ritz

CHARTERED ACCOUNTANTS

100-1750 COURTWOOD CRESCENT, OTTAWA, ON K2C 2B5 T: 613.828.8282 F: 613.721.8504

AUDITORS' REPORT ON SUMMARIZED FINANCIAL STATEMENTS

To Mr. Jean T. Fournier, Senate Ethics Officer:

The accompanying summarized statements of operations, financial position and equity of Canada are derived from the complete financial statements of the Office of the Senate Ethics Officer as at March 31, 2006 and for the year then ended on which we expressed an opinion without reservation in our report dated April 23, 2007. The fair summarization of the complete financial statements is the responsibility of the Office's management. Our responsibility, in accordance with the applicable Assurance Guideline of The Canadian Institute of Chartered Accountants, is to report on the summarized financial statements.

In our opinion, the accompanying financial statements fairly summarize, in all material respects, the related complete financial statements in accordance with the criteria described in the Guideline referred to above.

These summarized financial statements do not contain all the disclosures required by Canadian generally accepted accounting principles. Readers are cautioned that these statements may not be appropriate for their purposes. For more information on the Office's financial position, results of operations and cash flows, reference should be made to the related complete financial statements.

“van Berkom & Ritz”

Ottawa, Ontario
April 23, 2007

Chartered Accountants
Licensed Public Accountants



Office of the Senate Ethics Officer
Summarized Financial Statements

As at March 31 and for the year then ended
(in dollars)

SUMMARIZED STATEMENT OF OPERATIONS

	(Unaudited) 2007	2006
OPERATING EXPENSES		
Salaries and employee benefits	853,249	650,553
Accommodation	83,939	68,269
Professional and special services	34,274	56,159
Amortization	22,753	10,634
Furniture and equipment	14,721	18,043
Information	11,878	7,007
Travel	9,029	14,339
Communications, telecommunications	3,553	4,030
Utilities, materials and supplies	2,599	3,678
Rentals	1,182	575
Repairs and maintenance	193	5,127
TOTAL COST OF OPERATIONS	1,037,370	838,414



SUMMARIZED STATEMENT OF FINANCIAL POSITION

	(Unaudited) 2007	2006
ASSETS		
Financial assets		
Accounts receivable and advances	25,372	-
Total financial assets	25,372	
Non-financial assets		
Tangible capital assets	73,435	96,188
Total non-financial assets	73,435	96,188
TOTAL	98,807	96,188
LIABILITIES		
Accounts payable and accrued liabilities	126,308	35,519
Vacation pay and compensatory leave	58,045	25,897
Employee severance benefits	246,377	229,883
	430,730	291,299
EQUITY OF CANADA	(331,923)	(195,111)
TOTAL	98,807	96,188

SUMMARIZED STATEMENT OF EQUITY OF CANADA

	(Unaudited) 2007	2006
EQUITY OF CANADA, BEGINNING OF YEAR	(195,111)	-
Total cost of operations	(1,037,370)	(838,414)
Services provided without charge from other government departments	135,594	110,280
Vacation pay and compensatory leave liability assumed on startup	-	(20,281)
Employee severance benefits liability assumed on startup	-	(229,883)
Current year appropriations used	764,964	783,187
EQUITY OF CANADA, END OF YEAR	(331,923)	(195,111)

Appendix *E*





Appendix E

**REMARKS BY JEAN T. FOURNIER, SENATE ETHICS OFFICER, BEFORE THE
STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ON BILL C-2, THE *FEDERAL ACCOUNTABILITY ACT*, AS IT AFFECTS THE OFFICE
OF THE SENATE ETHICS OFFICER,
SEPTEMBER 6, 2006.**

Honourable Senators, thank you for the invitation to be here today.

I intend to limit my remarks to those aspects of Bill C-2, the *Federal Accountability Act*, which would have an impact on the Office of the Senate Ethics Officer and, as such, on the Senate as a whole.

I am referring specifically to clause 26 of the Bill which would repeal sections 20.1 to 20.7 of the *Parliament of Canada Act*, establishing the position of the Senate Ethics Officer; and to clause 28 which would add sections 81 to 91 to that Act. These provisions combine the functions of the Ethics Commissioner and the Senate Ethics Officer and create a new position of the Conflict of Interest and Ethics Commissioner who would administer and interpret three sets of rules i.e. those applicable to senators, those applicable to members of the House of Commons, and those applicable to public office holders. Under the new ethical structure, senators would continue to be subject to the existing rules, i.e. the *Conflict of interest Code for Senators* adopted on May 18, 2005 would still govern the conduct of senators.

The proposed structure raises an obvious and important question – whether one Ethics Commissioner administering three sets of rules on conflicts of interest would be more efficient and effective than having two or three Commissioners. This is really the key question for the Committee to consider and to ultimately decide when it makes its recommendations to the Senate.

As senators know, this is certainly not a new issue – indeed, the advantages of the one-person model, the two-person model and the three-person model have been the subject of discussions dating back several years, including the Stanbury-Blenkarn Report (1992), the Milliken-Oliver Report (1997) and the Milne-Andreychuk Report (2003).



The previous government proposed a single ethics commissioner for both parliamentarians and public office holders. This gave rise to serious discussions in the Senate. Senators were united and determined in their opposition to the proposal. The government relented and Bill C-4 was adopted in 2004 establishing two ethics positions, one for senators and one for both members of the House of Commons and public office holders. Two years later, to everyone's surprise, the issue was reopened with the tabling of Bill C-2, the *Federal Accountability Act*, on April 11th of this year. This led me to review the earlier discussions in the Senate and the very good presentations that had been made by witnesses at the time on this particular matter.

During the Senate deliberations, a variety of views were expressed by parliamentarians, government officials, academics and others. For example, government officials generally favoured the one-Commissioner model for senators, members of the House of Commons and public office holders, citing administrative efficiency and consistency of opinions as the justification. Others, including the Honourable Herb Gray, supported the three-Commissioner model on the basis that the responsibilities of senators, members of the House of Commons, and public office holders are significantly different and this reality should be reflected through separate and distinct institutional arrangements.

Several senators focused on the constitutional questions that having one Commissioner for both Houses raises, namely, issues respecting the independence of the Senate from the House and the Executive and its constitutional right to govern its own internal affairs free from interference, including the disciplining of its own members. Constitutionally, the Senate, like the House, is a self-regulating body and has exclusive jurisdiction over the conduct of its members. In the words of Mr. Joseph Maingot, the learned and well known former Law Clerk and Parliamentary Counsel to the House of Commons: "The privilege and the control over its own affairs and proceedings is one of the most significant attributes of an independent legislative institution." The constitutional questions are no less important now and the Committee will want to address them carefully.

For my part, what I may be able to contribute today is a practitioner's perspective based on my personal, first-hand experience as the Senate Ethics Officer as well as my knowledge of provincial and international ethics regimes and structures. I hope that this will be helpful to you in your deliberations and I would be pleased to answer any of your questions afterwards.



The Advisory Function: Direct Relationship with Members

I want to start by underlining the importance of the advisory function of the Senate Ethics Officer. The primary function of the Senate Ethics Officer (and in my view of any other ethics commissioner) is to provide independent, judicious and timely advice to senators in order to ensure that they remain in compliance with the *Conflict of Interest Code for Senators*.

This involves working closely with senators so that conflicts of interest are prevented, as opposed to trying to deal with them once they have already arisen. This approach is proactive and preventative, not reactive or punitive. But in order for this system to work well, it is essential that the Senate Ethics Officer be regularly available to senators and, in working with them personally, develop a trust relationship in which they feel comfortable disclosing information, both personal and financial, and seeking my advice. This aspect of my role occupies a large measure of my time. And this is as it should be. The inquiries and investigative roles, which I have not had to exercise to date, ideally would comprise only a small fraction of my time.

Over the last year, I met with most senators and, in some cases, more than once at their request. I view the Code as an opportunity to work with senators to arrange their private affairs so that conflicts of interest are avoided and, to this end, I have made myself available to them for advice and guidance throughout the year. When a senator recognizes that there may be some doubt about how to proceed in a given situation, he or she is encouraged to discuss it with me with a view to obtaining confidential advice regarding the conflict of interest rules and how they would apply to those particular circumstances. I then recommend a course of action that will bring the senator in compliance with the rules.

From June 2005 to March 31, 2006, there were well over 300 requests from senators for opinions and advice.

If my experience is consistent with the provincial experience in this area, I would expect this number to grow as senators gain more confidence in the process and seek advice before taking action. In general, my policy has been to respond to requests for advice within a 24 hour time period whenever possible, as is the practice in the Office of the Integrity Commissioner in Ontario to which I refer later on in my remarks. For more information on my advisory activities of last year, I refer you to my Annual Report.



With 1,350 full-time public office holders and 1,940 part-time Governor in Council appointees, plus 308 members of the House of Commons, the direct relationship to which I have referred above may already be difficult to establish for one ethics commissioner. If one were to add 105 members of the Senate, there would be a large number of clients for a single commissioner, some 3,700 in total. This would, in my opinion, make it very difficult to establish direct relations with clients and for a single commissioner to provide, and for senators to receive judicious and timely advice.

As senators know, the members of the Senate, the members of the House of Commons and the various public office holders play very different roles in the system and, as such, require the application of different rules. While there are similarities between the Code applicable to senators and that applicable to members of the House, there are in fact some important differences which reflect the unique role the Senate plays in Canada's constitutional framework. For example, senators are expected to remain involved in activities in their communities and regions, and to engage in a wide range of activities outside their parliamentary duties. Some of these activities may give rise to real or apparent conflicts. Under the Code, senators are expected to resolve these in a way that upholds the highest standards and protects the public interest. This underlines again the importance of the Senate Ethics Officer's advisory function and of a close and ongoing relationship between senators and the Senate Ethics Officer.

Another important point to keep in mind is that the two codes are still relatively new. They have only been in effect for two years in the case of the House of Commons, and one year in the case of the Senate. Any new conflict of interest regime requires that considerable thought be given to the interpretation and proper explication of the rules, especially at the outset. I am not convinced that the existing system has been in place long enough for a single individual, however competent he or she may be, to have the knowledge, time and experience to apply all three sets of rules effectively, giving some 3,700 parliamentarians and public office holders the attention they want and deserve.

As senators know, Bill C-2 would codify into law the rules on conflict of interest for public office holders and would also enhance the powers and functions of the new Conflict of Interest and Ethics Commissioner, thereby significantly increasing the office's already heavy workload. Consider that during 2005-2006, six inquiries were conducted by the Ethics Commissioner under the House of Commons' Code



and a further seven requests for inquiries were made but not pursued. As well, an additional five requests for investigations were made under the Public Office Holders' Code, although they did not lead to formal investigations. Moreover, the Ethics Commissioner's office is still relatively new and experiencing inevitable growing pains. Their latest Annual Report outlines the work being done to address staffing, operational and organizational problems, and to improve the quality of the workplace for staff.

Again, I ask myself whether a single person can be expected, under such trying conditions, to find the necessary time to meet with individual senators to provide them with the advice they seek bearing in mind that, as stated earlier, this year alone involved over 300 requests for opinions and advice from senators.

The Ontario, British Columbia and Alberta Experience

In considering the importance of the direct relationship between members and ethics commissioners in carrying out the advisory function, the provincial experience is instructive. Let's examine briefly the case of three provinces that have long established and well respected ethics officers, namely Alberta (1991), Ontario (1988) and British Columbia (1990).

A direct relationship with clients is considered to be so critical that, in Alberta, the legislation that establishes the Office of the Ethics Commissioner requires an annual meeting of each of the 83 members of the Legislature with the Commissioner (section 13 of the *Conflicts of Interest Act*.) Bob Clark, Alberta's first and long time Ethics Commissioner describes his role as "90% priest and 10% policeman", reflecting the fact that most of his time is occupied with meeting members to advise them on how to comply with the legislation.

Ontario has a similar requirement (subsection 20(3) of the *Members' Integrity Act*, 2004). In his 2005-2006 Annual Report, Ontario's Integrity Commissioner, The Honourable Coulter Osbourne, emphasizes the importance he attaches to his direct relationship with the 103 members of the Assembly, a job which keeps him fully occupied: "Last year there were 446 inquiries under the *Members' Integrity Act*. We try to respond to all of these inquiries within 24 hours. Occasionally, where additional information is required, the response may take slightly longer. The number of requests for opinions under s. 28 is encouraging. Almost all of these requests are made before the event. This confirms that members, to their credit,



are asking before acting or deciding. At a minimum this works to avoid more serious problems. It seems to me that there is an inverse relationship between the number of requests for an opinion under s. 28 of the Act and the number of complaints of *Members' Integrity Act* breaches – the more requests for an opinion, the fewer formal complaints.” Osbourne makes another interesting point in his Annual Report: “My office remains small and is thus able to preserve the confidentiality which is required in the administration of the *Members' Integrity Act*. It operates with a staff of four.” In other words, size matters.

Ontario's approach has been proactive and, because of this, has produced solid results over the years in raising public confidence in the integrity of the government. This did not happen overnight. In the words of Ontario's first Integrity Commissioner, the Honourable Greg Evans: “...in the early days of my office, few people called me. They didn't know I was there or they didn't care. But now we find there are many many requests asking whether members can do this or that. I think that one of the duties of the Commissioner is to protect the members from getting into trouble. I know we have to represent the public and protect the public, but you're protecting the public if you protect the member from getting into difficulties through prudent advice”.

I would also note that the Ontario Integrity Commissioner's jurisdiction is limited to conflicts of interest with respect to members of the Legislative Assembly including ministers. There are separate institutional arrangements in place regarding deputy ministers and other Governor in Council appointees.

British Columbia has also pursued a preventative approach based on a close and ongoing relationship between the 75 members of its Legislature and the Commissioner (the Honourable Bert Oliver, Q.C.), the latter of whom describes his role in these terms in his 2004-2005 Annual Report: “By far the greatest portion of the Commissioner's time is taken up by informal, confidential meetings with Members...to discuss Members' problems...or to provide assistance to Members in identifying potential future problems not readily observable at first glance with a view to their avoidance. It is in the exercise of this informal and confidential consultative function that the most valuable aspect of the Commissioner's work may be found”. Mr. Oliver also emphasizes the importance of having a direct relationship with his clients: “I have throughout my time in office tried to encourage all Members to make the widest possible use of the consultative or advisory services of my office and have made myself available to every Member of the House for



confidential advice 24 hours a day on all 365 days of the year. The effectiveness of that informal confidential advisory process depends very largely on the measure of trust which can be developed between the Commissioner and each Member...”.

Similar thoughts were expressed by the Honourable Ted Hughes, the province’s first Ethics Commissioner, who will be known to some of you, some fifteen years ago: “I have endeavored to encourage Members to bring their concerns to me, no matter how insignificant they might believe them to be. The telephone is frequently used and having established a relationship with each Member as a result of the meeting I must have annually with each of them, a rapport has been built that facilitates that kind of approach. I hope that close contact will continue, particularly where the Member feels the need for immediate assistance and also in situations that are likely trivial in nature”.

York University professors Ian Greene and D.P. Shugarman have studied the ethics regimes put in place in Ontario, British Columbia and Alberta. In their book *Honest Politics*, they conclude that the provincial experiments with independent ethics commissioners have been a “remarkable success” in raising the level of ethical behaviour in politics and raising public confidence in the integrity of government. They attribute this to the fact that most of the commissioners’ time is spent meeting elected officials and providing advice on how to comply with their ethics rules and, but only rarely, investigating complaints about possible breaches. Internationally, this is sometimes referred to as the “Canadian model” – A model that is being emulated in all provinces and territories as well as in other countries.

The International Experience

Speaking of other countries, it is also useful to examine the international experience, not so much to imitate but to be aware of what works in countries that have well established ethical structures.

We find that the ethics regimes in a number of other bicameral jurisdictions to which Canada often compares itself on parliamentary matters, have clearly separated the executive and legislative branches as well as the two legislative chambers, for example, the United Kingdom, the United States and Australia.

In other words, in all three countries, each House controls its own ethics regime, including its own Code, as does the Executive. No one officer has jurisdiction over more than one of these bodies.



These separate and distinct institutional arrangements allow sufficient time for a direct relationship to be established – something which is key if parliamentarians are to be properly informed regarding conflicts of interest and how they may be avoided.

The reasons given for these separate regimes relate to the different rules and responsibilities of these bodies, the differences in their respective conflict of interest rules, as well as the legislatures' long-standing tradition of managing their own internal affairs, including disciplining of their members. In these countries, there has been to my knowledge no discussion regarding combining the various regimes or otherwise modifying them and it would seem that the existing arrangements are considered to be satisfactory.

For additional information, I refer senators to a paper dated July 18, 2006, prepared by Margaret Young from the Research Branch at the Library of Parliament, entitled "Structures to enforce ethics in The United Kingdom, The United States and Australia".

Conclusion

In closing, I am not aware of any serious work that has been done on the advantages and disadvantages for Canada, federally, of alternative ethics structures. Perhaps such a study should be undertaken. In any event, in terms of efficiency, I do not believe that there are any significant cost savings to be had; you will note from my Annual Report that I have a small office with only four members, but notwithstanding this, we had a successful first year and met all of our objectives, on time and under budget.

In particular, I was pleased that all senators filed their confidential disclosure statements on time. All senators are in compliance with the Code and the Senate Public Registry was officially opened on May 9, 2006. This would not have been possible without the excellent cooperation we received from senators during a period that was very much a learning experience for all concerned. As senators know, the 2006-2007 Annual Review will start shortly.

In terms of consistency in interpretation, as noted earlier, there are important differences between the Senate and the House conflict of interest codes, reflecting in part the historic differences in the roles and responsibilities of the members of



the two Houses. Notwithstanding this, through regular discussions between my Office and the Office of the Ethics Commissioner's, we ensure consistency in our interpretation of the two codes when this makes sense, but also apply different interpretations where the circumstances warrant it. We have close contacts with our provincial colleagues as well – Ontario in particular since there are a number of similarities between the Senate Code and the conflict of interest rules in Ontario. A national organization of the various ethics commissioners (the Canadian Conflict of Interest Network) meets yearly to discuss issues of common interest and share best practices, thereby ensuring a measure of consistency across the country. These informal arrangements, and the flexibility they provide, have always been one of the strengths of Canadian federalism.

Moreover, and as already noted, other bicameral legislatures, i.e., the United Kingdom, the United States and Australia, have adopted a model whereby each of their two Houses have their own ethics regime. Lack of efficiency and consistency does not appear to have become a problem in those jurisdictions. In fact, as is the case in the Canadian provinces and territories where the number of clients for each commissioner is manageable, the separate ethics regime for each House in these countries also ensures that the conflict of interest system is not overwhelmed, due to an excessive number of members being subject to a regime administered by one body. This in turn results in an effective and timely service overall, protects the public interest and enhances public confidence in government. This is also the approach I have adopted with respect to my responsibilities under the *Conflict of Interest Code for Senators* since my appointment on April 1, 2005.

Appendix *F*





Appendix F

CHRONOLOGY OF KEY EVENTS

October 23, 2002	“Proposals to amend the Parliament of Canada Act (Ethics Commissioner) and other Acts as a consequence” and “Proposals to amend the Rules of the Senate and the Standing Orders of the House of Commons to implement the 1997 Milliken-Oliver Report” were tabled by the then Leader of the Government in the Senate.
February 4, 2003	The proposals were referred to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament.
April 10, 2003	The Standing Senate Committee on Rules, Procedures and the Rights of Parliament tabled its Report on the Proposals.
October 2, 2003	Bill C-34, <i>An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence</i> , was introduced in the Senate.
October 27, 2003	Bill C-34 was referred to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament.
November 3, 2003	The Standing Senate Committee on Rules, Procedures and the Rights of Parliament tabled its report on Bill C-34.
November 12, 2003	Parliament was prorogued and Bill C-34 died on the Order Paper.
February 11, 2004	Bill C-4, <i>An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence</i> , formerly Bill C-34, was introduced in the Senate.



February 13, 2004	Order of Reference to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament for the consideration of a code of conduct for Senators.
February 26, 2004	Bill C-4 was referred to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament.
March 23, 2004	The Standing Senate Committee on Rules, Procedures and the Rights of Parliament tabled its report on Bill C-4.
March 31, 2004	Bill C-4 received Royal Assent.
February 24, 2005	Motion to approve the appointment of Mr. Jean T. Fournier as Senate Ethics Officer (SEO) was debated in the Senate. Mr. Fournier appeared before the Senate sitting in Committee of the Whole. Motion to approve the appointment was adopted that day.
February 25, 2005	Governor in Council appointment of Mr. Jean T. Fournier as the first Senate Ethics Officer effective April 1, 2005.
April 1, 2005	Mr. Fournier assumed his duties along with Louise Dalphy, Executive Assistant.
May 11, 2005	The Standing Senate Committee on Rules, Procedures and the Rights of Parliament tabled its Third Report recommending the adoption of a <i>Conflict of Interest Code for Senators</i> .
May 18, 2005	The <i>Conflict of Interest Code for Senators</i> was adopted by the Senate.
June 6, 2005	The Standing Committee on Conflict of Interest for Senators was established in accordance with subsection 20.5(3) of the <i>Parliament of Canada Act</i> .
September 15, 2005	Deadline for senators to submit their annual Confidential Disclosure Statements for the first annual review (2005-06) to the SEO.



October 2005 to
April 2006

The SEO reviewed the Confidential Disclosure Statements submitted by senators to identify potential conflicts of interest and to determine the compliance measures required in each case. The SEO also prepared public disclosure summaries.

May 9, 2006

Public disclosure summaries were placed in the Public Registry located at the office of the Senate Ethics Officer and made available for public inspection.

June 20, 2006

Tabling of the first Annual Report of the Senate Ethics Officer.

October 20, 2006

Deadline for senators to submit their annual Confidential Disclosure Statements for the second annual review (2006-07) to the SEO.

November 2006 to
April 2007

The SEO reviewed the Confidential Disclosure Statements submitted by senators to identify potential conflicts of interest and to determine the compliance measures required in each case. The SEO also prepared public disclosure summaries.

