



Office of the Commissioner  
of Lobbying of Canada

Commissariat au lobbying  
du Canada

# Report on Investigation

## The Lobbying Activities of Trina Morissette

November 2017

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Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1P 6A9

The Honourable George J. Furey  
Speaker of the Senate  
The Senate  
Ottawa, Ontario  
K1A 0A4

Dear Mr. Speaker:

Pursuant to section 10.5 of the *Lobbying Act*, I have the honour of presenting to you a Report on Investigation on the lobbying activities of Trina Morissette for tabling in the Senate. The investigation was conducted in accordance with the provision of section 10.4 of the Act.

Sincerely yours,

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line.

Karen E. Shepherd



Commissioner of Lobbying



Commissaire au lobbying

Ottawa, Canada K1P 6A9

The Honourable Geoff Regan, M.P.  
Speaker of the House of Commons  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Mr. Speaker:

Pursuant to section 10.5 of the *Lobbying Act*, I have the honour of presenting to you a Report on Investigation on the lobbying activities of Trina Morissette for tabling in the House of Commons. The investigation was conducted in accordance with the provision of section 10.4 of the Act.

Sincerely yours,

A handwritten signature in blue ink, consisting of a stylized 'K' and 'S'.

Karen E. Shepherd



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## Commissioner's comments

As Commissioner of Lobbying, I have the responsibility to investigate allegations of activities that might be in breach of laws and rules concerning lobbying at the federal level. This case came to my attention as a result of a disclosure by the Canadian Red Cross in December 2014. The Investigations Directorate of my Office carried out an administrative review following the disclosure. At the conclusion of the administrative review, I opened an investigation under subsection 10.4(1) of the Lobbying Act. This Report on Investigation is prepared pursuant to subsection 10.5(1) of the Lobbying Act and contains the findings and conclusions of my investigation.

### Issue

Lobbyists have certain legal and professional obligations to follow when they work on behalf of clients or employers. Individual consultant lobbyists are required to file a return with the Commissioner when they engage in registrable lobbying activity. Persons who are employed by corporations and organizations to undertake lobbying activities are required to be named in a return filed with the Commissioner by the responsible officer of that corporation or organization, in the manner specified in the Lobbying Act. Those lobbying activities are set out in the Act, and include communicating with public office holders in respect of: the development of any legislative proposal; the introduction, passage, defeat or amendment of any Bill or resolution; the making or amendment of any regulation; the development or amendment of any policy or program; or, the awarding of any grant, contribution or financial benefit.

Since the legislative changes to the Lobbying Act that came into effect on July 2, 2008, certain former public office holders known as designated public office holders have been subject to a post-employment five-year prohibition on lobbying activity. The purpose of the prohibition is to ensure that designated public office holders do not use information and personal connections derived from those positions to the advantage of interests that they lobby on behalf of. The prohibition applies to former ministers and ministers of state, and many of their staff, former deputy ministers and assistant deputy ministers or equivalent senior executives in federal government departments, along with a limited number of positions designated by regulation. This category has included all members of the Senate and the House of Commons since regulatory amendments came into effect on September 20, 2010.

The five-year prohibition is set out in section 10.11 of the Lobbying Act. It applies to all lobbying activities carried out by consultant lobbyists and employees of organizations as they are defined in the Lobbying Act. However, there is an important distinction under the Lobbying Act between organizations and corporations regarding the five-year prohibition. The prohibition applies to all lobbying activities conducted by in-house lobbyists employed by organizations. However, former designated public office holders who are employed by corporations are permitted to lobby under the prohibition, provided that their lobbying activities do not exceed the “significant part of duties” threshold under the Act (often referred to as the “20% Rule”).



## **Investigation**

An administrative review concerning this matter was opened in February of 2015. It involved interviews, a review of correspondence and other materials and an examination of Ms. Trina Morissette's work on behalf of the Canadian Red Cross (CRC). In November of 2015, I opened an investigation based upon information provided to me in an administrative review report prepared by the Investigations Directorate of my Office. In accordance with subsection 10.4(8) of the Act, I immediately suspended my investigation and referred this matter to the Royal Canadian Mounted Police (RCMP), as I had reasonable grounds to believe that a breach of the Lobbying Act had occurred.

In December of 2016, I was informed by the RCMP following their investigation that no charges would be laid in the matter. The RCMP had determined that it was not in the public interest to prosecute Ms. Morissette.

I determined that I had sufficient grounds to continue with a Lobbyists' Code of Conduct investigation. Upon completion of the investigation, Ms. Morissette was provided with an opportunity to present her views on the investigation report. After considering Ms. Morissette's comments, I prepared this Report to Parliament.

## **Conclusions**

In this Report, I conclude that Ms. Morissette, while employed by the Canadian Red Cross, lobbied on behalf of the CRC in 2014. As a result, she engaged in registrable lobbying activity under subsection 7(1) of the Lobbying Act. However, at the time, Ms. Morissette was subject to the five-year prohibition on lobbying set out in section 10.11 of the Lobbying Act, and was thus prohibited from engaging in lobbying activities requiring registration on behalf of an organization.

The disclosure by the Canadian Red Cross identified a number of occasions that Ms. Morissette had engaged in lobbying activity. The CRC considered that she was prohibited from doing so as an in-house lobbyist for an organization, as she was subject to the five-year prohibition on lobbying.

Section 10.3 of the Lobbying Act provides that individuals who are required to register under the Act are subject to the Lobbyists' Code of Conduct. This is the case whether or not that person is actually registered under the Lobbying Act.

I have concluded that Ms. Morissette was in breach of Rule 2 (Accurate Information) of the Lobbyists' Code of Conduct (1997), as well as the Principles of Professionalism and Integrity and Honesty in the Code.

## **Lessons learned**

This Report on Investigation clarifies the following:

- lobbying is a legitimate activity when it is carried out in accordance with the Lobbying Act and the Lobbyists' Code of Conduct;
- the purpose of the five-year prohibition is to ensure that designated public office holders do not use information and personal connections derived from those positions to the advantage of interests that they lobby on behalf of. This is in the public interest because it ensures that Canadians can have confidence in the integrity of government decision-making; and
- the five-year prohibition on lobbying applies to all former designated public office holders, regardless of the nature of their lobbying activities and the goals that lobbying activity seeks to achieve.

# The Lobbyists' Code of Conduct

Lobbying is a legitimate activity. Exposure to a wide range of views is essential to effective policy making and better decision-making by governments. However, lobbying public office holders should be done in a transparent manner and in conformity with high standards of conduct.

The first Lobbyists' Code of Conduct came into effect on March 1, 1997, as a complement to the former Lobbyists Registration Act. It was instituted to assure Canadians that the lobbying of federal public office holders is carried out in a manner that ensures public confidence and trust in the integrity, objectivity and impartiality of government decision-making. Individuals who engage in activity deemed registrable under the Lobbying Act must also comply with the Lobbyists' Code of Conduct. On December 1, 2015, I amended the Lobbyists' Code of Conduct. The events covered by this Report took place prior to that date and thus were covered by the Lobbyists' Code of Conduct (1997). The Lobbyists' Code of Conduct described in this Report and contained in Appendix A is the Lobbyists' Code of Conduct (1997).

The Lobbyists' Code of Conduct establishes mandatory standards of conduct for persons who engage in activity that must be registered under the Act. The Lobbyists' Code of Conduct begins with a preamble that states its purpose and places it in a broader context. The principles of Integrity and Honesty, Openness and Professionalism are overriding principles that set out, in positive terms, the goals and objectives that should be pursued by lobbyists. They are intended as general guidance to the profession.

The principles are followed by a series of eight rules that place specific obligations and requirements on lobbyists. The rules are organized into three categories: Transparency; Confidentiality; and, Conflict of Interest. Under the rules of Transparency, lobbyists have an obligation to provide accurate information to public office holders, and to disclose the identity of the person or organization on whose behalf their representation is made, as well as the purpose of the representation. They must also disclose to their client, employer or organization their obligations under the Lobbying Act and the Lobbyists' Code of Conduct.

## **Investigations of alleged breaches of the Lobbyists' Code of Conduct**

Lobbyists have a legal obligation to comply with the Lobbyists' Code of Conduct. Under the Lobbying Act, the Commissioner is required to conduct an investigation if the Commissioner has reason to believe that an investigation is necessary to ensure compliance with the Act or the Code, as applicable.

Breaches of the Lobbyists' Code of Conduct do not result in sanctions of a penal nature, as they do not carry fines or jail sentences, but the Commissioner is required to table a report of the investigation, including the findings, conclusions, and reasons for those conclusions, in both Houses of Parliament. There is no limitation period for investigating breaches of the Lobbyists' Code of Conduct.

## Background

### History of the case prior to the Lobbyists' Code of Conduct investigation

On December 23, 2014, the Office of the Commissioner of Lobbying received a letter from the Secretary General and Chief Executive Officer of the Canadian Red Cross (CRC) regarding a possible breach of the Act by a person who had been employed by the CRC. That letter identified four occasions on which the person in question had lobbied on behalf of the CRC "...before the fact of her non-eligibility was discovered through an internal review." The CRC identified four dates upon which that person had lobbied the federal government in 2014. Subsequently, in January 2015, the employee was identified as Ms. Trina Morissette.

The Canadian Red Cross is federally incorporated as a not-for-profit corporation. The CRC has been registered to lobby the federal government for many years. It had been registered as an organization that employed in-house lobbyists during the period during which Ms. Morissette worked for the CRC.

Prior to starting work as the CRC's manager of Government Relations in 2014, Ms. Morissette had worked as a member of a federal minister's staff from 2009 to 2013. Her final day as a member of a minister's staff was on June 14, 2013. She held a position that falls within the definition of "designated public office holder" in subsection 2(1) of the Lobbying Act. As a result of being a former designated public office holder under the Lobbying Act, Ms. Morissette was subject to the five-year prohibition on lobbying found in section 10.11 of the Lobbying Act.

The Investigations Directorate conducted an administrative review. Based upon the report of that administrative review, I formed the belief that Ms. Morissette had engaged in registrable lobbying activity while subject to the five-year prohibition on lobbying. As a result, on November 5, 2015, I determined that an investigation was necessary to ensure compliance with the Act and the Lobbyists' Code of Conduct.

Based on that investigation, I formed the belief that an offence under the Lobbying Act had been committed, as Ms. Morissette had engaged in lobbying activities as an in-house lobbyist on behalf of the CRC, while prohibited from doing so under the Lobbying Act. On November 6, 2016, I referred the matter to the RCMP as required under subsection 10.4(7) of the Act. I followed my practice of providing a copy of the Administrative Review Report and supporting documentation to the RCMP. Subsection 10.4(9) of the Lobbying Act requires that I may not continue an investigation until any investigation or charge regarding the same subject-matter has been finally disposed of. As a result, I placed my file in suspension.

In a meeting on December 22, 2016, and in subsequent correspondence, the RCMP indicated that the police investigation had been completed and that it would not be in the public interest for charges under the Lobbying Act to be laid. However, I determined that I had sufficient grounds to continue with a Lobbyists' Code of Conduct investigation.

## **The Lobbyists' Code of Conduct investigation**

The Lobbyists' Code of Conduct investigation of Ms. Morissette covered her activities on behalf of the Canadian Red Cross during the period of her employment. The objectives of the investigation were to determine if Ms. Morissette had engaged in registrable lobbying activity under paragraph 7(1)(a) of the Lobbying Act while employed by the CRC and as a result, to determine whether Ms. Morissette, with knowledge that she was prohibited from engaging in registrable lobbying activity under the Act, lobbied on behalf of the CRC, notwithstanding that prohibition.

The investigation also sought to determine whether Ms. Morissette had breached the Lobbyists' Code of Conduct. A failure to provide accurate information to the CRC regarding being subject to the prohibition would constitute a breach of Rule 2 (Transparency – Accurate Information) of the Lobbyists' Code of Conduct. In addition, the investigation also sought to determine whether Ms. Morissette, by engaging in lobbying activities while subject to the prohibition, had breached the Principles of Professionalism and Integrity and Honesty of the Lobbyists' Code of Conduct by lobbying with knowledge that she was prohibited from engaging in registrable lobbying activity under the Act.

## **The subject**

Ms. Trina Morissette is the former Senior Manager of Government Relations for the Canadian Red Cross (CRC). She previously worked in various positions in the offices of the federal Ministers of Health, Justice and National Revenue and in the office of the Minister of State (Agriculture) between 2009 and 2013. Later in 2014, she returned to work in the office of the Minister of Health. She no longer works in the public sector.

Ms. Morissette is a designated public office holder under the Lobbying Act because she was a political staff member in a number of minister's offices from 2009 to 2013. Ministerial exempt staff are appointed by the minister pursuant to section 128 of the Public Service Employment Act. As a result, they are designated public office holders for the purposes of the Lobbying Act. Pursuant to subsection 10.11(1) of the Lobbying Act, when Ms. Morissette ceased being a designated public office holder from 2013 until her return to work as a ministerial exempt staff in October of 2014, she was subject to the prohibition on lobbying.

## **The organization**

### **Canadian Red Cross (CRC)**

The Canadian Red Cross is federally incorporated as a not-for-profit corporation.

It is comprised of thousands of volunteers divided among hundreds of branches across Canada. As part of the International Red Cross and Red Crescent Movement, the Canadian Red Cross Society considers itself part of the largest humanitarian network in the world.

## Process

The Lobbyists' Code of Conduct investigation of Ms. Morissette by the Investigations Directorate covered the period from July 2, 2014 to October 14, 2014. This was the period during which Ms. Morissette was employed by the Canadian Red Cross. The investigation involved an examination of materials available publicly, including information in the Registry of Lobbyists. The investigation also involved an examination of documents provided by the CRC, including correspondence with federal public office holders. Interviews were conducted with a number of federal public office holders, officials at the CRC, including the Secretary General of the CRC, as well as Ms. Morissette.

Following the investigation, a copy of the Investigations Directorate's report was sent to Ms. Morissette to provide her with an opportunity to present her views. She provided a response in a letter dated June 2, 2017.

The report of the Investigations Directorate and Ms. Morissette's views were taken into consideration, and form the basis of my Report on Investigation.

## Lobbyist registration

### Restriction on lobbying activity

Section 10.11 of the Lobbying Act establishes the five-year prohibition on lobbying activity. It provides as follows:

#### **Five-year prohibition — lobbying**

10.11 (1) No individual shall, during a period of five years after the day on which the individual ceases to be a designated public office holder,

(a) carry on any of the activities referred to in paragraph 5(1)(a) or (b) in the circumstances referred to in subsection 5(1);

(b) if the individual is employed by an organization, carry on any of the activities referred to in paragraph 7(1)(a) on behalf of that organization; and

(c) if the individual is employed by a corporation, carry on any of the activities referred to in paragraph 7(1)(a) on behalf of that corporation if carrying on those activities would constitute a significant part of the individual's work on its behalf.

#### **Exception**

(2) Subsection (1) does not apply in respect of any designated public office that was held only because the individual participated in an employment exchange program.

## **The requirement to file a return (in-house lobbyists)**

Section 7 of the Lobbying Act sets out the requirement for corporations and organizations that employ in-house lobbyists to register the lobbying activities of the corporation or organization. It provides as follows:

### **Requirement to file return**

7 (1) The officer responsible for filing returns for a corporation or organization shall file with the Commissioner, in the prescribed form and manner, a return setting out the information referred to in subsection (3) if

(a) the corporation or organization employs one or more individuals any part of whose duties is to communicate with public office holders on behalf of the employer or, if the employer is a corporation, on behalf of any subsidiary of the employer or any corporation of which the employer is a subsidiary, in respect of

(i) the development of any legislative proposal by the Government of Canada or by a member of the Senate or the House of Commons,

(ii) the introduction of any Bill or resolution in either House of Parliament or the passage, defeat or amendment of any Bill or resolution that is before either House of Parliament,

(iii) the making or amendment of any regulation as defined in subsection 2(1) of the Statutory Instruments Act,

(iv) the development or amendment of any policy or program of the Government of Canada, or

(v) the awarding of any grant, contribution or other financial benefit by or on behalf of Her Majesty in right of Canada; and

(b) those duties constitute a significant part of the duties of one employee or would constitute a significant part of the duties of one employee if they were performed by only one employee.



### **The elements of prohibited lobbying activity for in-house lobbyists**

The following elements were considered in the analysis of whether Ms. Morissette engaged in a prohibited lobbying activity as prescribed in paragraph 10.11(1)(b) of the Lobbying Act:

- the individual was employed by an organization as defined in the Lobbying Act;
- the individual, on behalf of the organization, communicated with a public officer holder in respect of one of the subject-matters listed in paragraph 7(1)(a) of the Lobbying Act; and
- the activity took place during the five-year period after the employee ceased to be a designated public office holder, during which the five-year prohibition on lobbying activity applies to persons employed by organizations, as defined in the Lobbying Act.

# Findings

## Report of the Investigations Directorate

The Investigations Directorate examined whether Ms. Morissette engaged in activities that required registration as a lobbyist for the Canadian Red Cross, and whether she was subject to the five-year prohibition on lobbying under the Lobbying Act.

### The Canadian Red Cross – an organization that is registered to lobby

The Canadian Red Cross is incorporated under the Canada Not-for-profit Corporations Act. It falls within the Lobbying Act definition of “organization”, which includes a not-for-profit corporation incorporated to pursue philanthropic or charitable purposes. The CRC is registered as an organization that lobbies the federal government in the Registry of Lobbyists. Employees of the CRC are subject to the requirements of the Lobbying Act and the Lobbyists’ Code of Conduct as in-house (organizations) lobbyists if they engage in registrable activities on behalf of the CRC.

### Lobbying on behalf of the Canadian Red Cross

The Secretary General and Chief Executive Officer of the Canadian Red Cross sent a letter to my Office in December, 2014. It disclosed the fact that an employee of the CRC, identified as Ms. Morissette, had engaged in lobbying activities on behalf of the CRC.

Ms. Morissette’s work description as the Senior Manager of Government Relations listed responsibilities that included “... works collaboratively with internal clients to plan, develop, manage and execute the federal government relations strategy that will most effectively advance the interests of the Canadian Red Cross Society. This includes communicating the role, values and activities of the Red Cross; proactive monitoring of government procedural activities ... and seeks opportunities to proactively position the Red Cross within government...”.

Ms. Morissette was hired by the Canadian Red Cross to work in the government relations department, where she provided advice to CRC officials meeting with public office holders. Initially, her tasks were limited to setting up meetings between CRC officials and public office holders and briefing senior management. However, her role evolved and she commenced lobbying on behalf of the CRC.

During the investigation, Ms. Morissette indicated that she had discussed whether she could lobby for the Canadian Red Cross during her employment interview with the CRC. She indicated that her position at the Canadian Red Cross was originally characterized as a “behind the scenes” position. As her role evolved, she acted as a link between government and her employer, answering questions from ministers’ offices concerning CRC’s proposals. Ms. Morissette advised that she had reported her lobbying activities to her supervisor at the CRC.

Ms. Morissette also indicated that when she started working for the CRC she called the Office of the Commissioner of Lobbying (OCL) and asked what she was able to do in terms of lobbying, as she understood that the “significant part of duties” test (the “20% rule”) applied to her as a former ministerial exempt staff. At this point, it appears that Ms. Morissette misunderstood the impact of the Lobbying Act prohibition upon her ability to lobby on behalf of the CRC, as she was employed by an organization for purposes of the Lobbying Act.

The investigation determined that a second telephone conversation with a registration advisor at the OCL took place in September 2014. This occurred following the determination by the CRC that the Lobbying Act prohibition applied to Ms. Morissette. The registration advisor confirmed to Ms. Morissette that she would be unable to engage in lobbying activity on behalf of the CRC due to her status as a former designated public office holder who was employed by a not-for-profit corporation – an organization under the Lobbying Act.

Ms. Morissette was never listed as an in-house lobbyist on the CRC’s registration. The CRC’s view was that this omission was an error, as Ms. Morissette had initially been hired to work as an advisor. However, once her role at the CRC changed, the CRC’s registration was not updated to include her. This matter has been addressed with the CRC by means of education and monitoring, an approach set out in the compliance program of the OCL.

### **Alleged involvement in communications with public office holders**

#### **July 25, 2014 – Meeting**

The investigation revealed that on July 25, 2014, Ms. Morissette was involved in a meeting with a member of the minister’s staff of the Department of Foreign Affairs, Trade and Development (DFATD). The discussion concerned the Maternal, Newborn and Child Health Program of DFATD and funding for that program, aligning with the interest of the CRC in the area of maternal, newborn and child health. The CRC sought the perspective of the Government of Canada and shared a draft proposal. The unsolicited proposal had not been accepted by DFATD at that time.

#### **August 11, 2014 – Meeting**

The investigation revealed that on August 11, 2014, Ms. Morissette met with a member of the minister’s staff in the Office of the Minister of Foreign Affairs. The meeting was to discuss the “Gaza proposal”, a proposal for providing aid for the people in Gaza that the Canadian Red Cross had submitted in response to a request from the Government of Canada. The CRC sought to enquire about the status of the proposal, including whether the government intended to fund the CRC’s Gaza proposal. Following her discussion about the CRC’s request for funds for the Gaza proposal, Ms. Morissette followed up by forwarding a copy of the proposal by email.

### **September 15, 2014 – Meeting**

The investigation revealed that Ms. Morissette participated in a meeting on September 15, 2014, between officials of the Canadian Red Cross and two Members of Parliament, the Member of Parliament for the riding of Newmarket – Aurora and Parliamentary Secretary to the Minister of International Development and the Member of Parliament for the riding of Niagara West – Glanbrook. The meeting was arranged by Ms. Morissette. The purpose of the meeting was to discuss whether there was any interest by the Government of Canada to send financial assistance to North Korea. In addition, the topic of the CRC’s “Syria proposal”, an unsolicited request for \$90 million by the CRC, was also discussed.

### **September 22, 2014 – Correspondence**

The investigation revealed that Ms. Morissette sent an email to various designated public office holders, including staff members in the Prime Minister’s Office (PMO) and the Department of Foreign Affairs, Trade and Development. The email concerned a response to the outbreak of Ebola virus in West Africa and indicated that CRC had been asked to “...put forward a proposal to address the situation ...” by officials at Canadian International Development Agency (CIDA), an agency within DFATD. The CRC’s response included an attached document entitled “Canadian Red Cross Ebola Case Management Proposal”, seeking funding of nearly 12 million dollars for the CRC.

### **Telephone Call with the Prime Minister’s Office**

The investigation revealed that Ms. Morissette participated in a telephone call involving Canadian Red Cross officials and the ministerial staff in the Prime Minister’s Office during this period of time, in late September or early October 2014. The call was about concerns over the return to Canada of personnel such as doctors and nurses from Ebola affected regions and reference was made to the Ebola funding proposal previously made by the CRC.

## **The five-year prohibition on lobbying activity**

Ms. Morissette is a former designated public office holder. As such, she is subject to the five-year prohibition on lobbying. Ms. Morissette’s prohibition started on June 15, 2013. She returned to work for Minister Rona Ambrose, then Minister of Health, in mid-October of 2014. Ms. Morissette no longer works in the public sector.

Although officials of the Canadian Red Cross and Ms. Morissette indicated that her position with the CRC was initially to be “behind the scenes,” they recalled having discussed the topic of lobbying during her interview. Once she was employed by the CRC, Ms. Morissette was asked to lobby on behalf of the organization. In fact, the CRC submitted monthly communication reports in the Registry of Lobbyists for meetings in which Ms. Morissette was the only representative of the organization. Ms. Morissette’s employment description, the CRC letter of disclosure to the OCL and other information obtained during the investigation indicate that, on the occasions when Ms. Morissette communicated with designated public office holders, she did so on behalf of her employer, the CRC.

While subject to that five-year restriction, she was hired as an employee by the Canadian Red Cross, from July until mid-October of 2014. During that time, she engaged in activities that required her to be listed on the in-house lobbyist registration of the CRC as an employee whose duties include lobbying activities as set out in paragraph 7(1)(a) of the Lobbying Act.

On five occasions, Ms. Morissette communicated with federal public office holders about a registrable subject-matter, on behalf of the organization that employed her, the Canadian Red Cross:

- on July 25, 2014, during a meeting with officials from DFATD, she discussed the awarding of a grant, contribution or other financial benefit, a registrable subject matter as defined in subparagraph 7(1)(a)(v) of the Lobbying Act;
- on August 11, 2014, during a telephone call with the Director of Policy in the Office of the Minister of Foreign Affairs, she discussed a request for funding, a registrable subject matter as defined in subparagraph 7(1)(a)(v) of the Lobbying Act;
- on September 15, 2014, during a meeting with Members of Parliament, she communicated about a funding proposal, a registrable subject matter as defined in subparagraph 7(1)(a)(v) of the Lobbying Act;
- on September 22, 2014, in correspondence sent to various public office holders, including ministerial staff in PMO and DFATD, she communicated in respect of a proposal for federal funding, a registrable subject matter as defined in subparagraph 7(1)(a)(v) of the Lobbying Act; and
- during a late September or early October 2014 telephone call with a designated public office holder in the PMO, she communicated about the Ebola funding proposal, a registrable subject matter as defined in subparagraph 7(1)(a)(v) of the Lobbying Act.

## **Conclusion**

Communication in respect of the awarding of a grant, contribution or other financial benefit is registrable lobbying activity for an in-house (organization) lobbyist under subparagraph 7(1)(a)(v) of the Lobbying Act. Ms. Morissette was prohibited from lobbying on behalf of an organization during the time that she worked for the CRC. However, on five occasions, she communicated with federal public office holders, on behalf of her employer, about a registrable subject-matter. Ms. Morissette was, therefore, in breach of the five-year prohibition on lobbying pursuant to paragraph 10.11(b) of the Lobbying Act.

## **Ms. Morissette's views and my perspective on those views**

Subsection 10.4(5) of the Lobbying Act provides that, before finding that a person under investigation has breached the Lobbyists' Code of Conduct, the Commissioner must give that person a reasonable opportunity to present their views. On May 2, 2017, I sent a copy of the report of the Investigations Directorate to Ms. Morissette and requested that she provide written comments within 30 days.

Ms. Morissette replied on June 2, 2017. The letter addressed the issues raised in the report of the Investigations Directorate. I have reviewed and considered the representations of Ms. Morissette.

Ms. Morissette was very cooperative during the course of this investigation by my Office. In her letter of response to me, she acknowledged her obligations as a former designated public office holder and recognized that there could be consequences arising from her mistake. She confirmed that once she discovered that she had made an error regarding the application of the five-year prohibition to her, she took steps to remedy her error. She offered to disclose the fact of her error to my Office, and she offered to resign as an employee of the CRC.

It is clear that Ms. Morissette was very concerned with the Ebola crisis in West Africa. She was motivated to assist the Canadian Red Cross in its offer to assist the Government of Canada in dealing with the crisis. She considered that she had an opportunity to "...serve as a liaison..." between the CRC and the Government of Canada, during a time of crisis in West Africa. She indicated that she felt that she had been placed into a situation in which she was "...faced with a decision to either do what was best for [her] (avoid any possible breaches to the Lobbying Act), or do what was best for the country and the people of West Africa."

Ms. Morissette also offered her perspective on a number of factual findings in the report of the Investigations Directorate. To the extent that there are discrepancies between her recollections and those of other persons interviewed by the Investigations Directorate, I have accepted Ms. Morissette's recollection of events.

## Conclusions

This chapter summarizes my conclusions regarding the activities of Ms. Morissette on behalf of the Canadian Red Cross, and my reasons for reaching these conclusions.

I take the view that all lobbying activity must be conducted transparently and ethically. This is the case regardless of the nature of the activity or the goal that is sought to be achieved.

Lobbying is a legitimate activity on the part of companies and organizations and consultant lobbyists that they may hire. The Lobbying Act acknowledges this legitimacy but imposes certain obligations of disclosure and behaviour on those who, for payment, engage in lobbying activities, whether as consultant or in-house lobbyists. I take the view that individuals who are engaged in registrable lobbying activity, whether registered or not, must comply with the Lobbyists' Code of Conduct.

I have taken the investigation report prepared by my Office and the representations of Ms. Morissette into consideration in reaching my conclusions.

### **1. Whether Ms. Morissette communicated with a federal public office holder in respect of subjects listed in subsection 7(1) of the Lobbying Act**

I have concluded that, on five occasions, Ms. Morissette communicated with federal public office holders about a registrable subject-matter, on behalf of the organization that employed her, the Canadian Red Cross. Those communications concerned a registrable subject-matter, as defined in subparagraph 7(1)(a)(v) of the Lobbying Act. They took place during July, August and September or early October, 2014.

### **2. Whether Ms. Morissette communicated with federal public office holders as an employee of the Canadian Red Cross**

I have concluded that Ms. Morissette engaged in lobbying activities while employed by the Canadian Red Cross, an organization that was registered to lobby under the Lobbying Act. Ms. Morissette was the Senior Manager, Government Relations. That position involved government relations. Ms. Morissette was required to communicate with public office holders, on behalf of the Canadian Red Cross, and did so. Thus, she was subject to the Lobbyists' Code of Conduct.

### **3. Whether Ms. Morissette engaged in registrable lobbying activity under the Lobbying Act, in breach of the five-year prohibition**

I have concluded that Ms. Morissette was aware that her activities could potentially be in breach of the five-year prohibition upon lobbying activity prescribed in the Lobbying Act. Nonetheless, Ms. Morissette used the knowledge and experience that she had gained as a former designated public office holder to assist the Canadian Red Cross in its dealings with the Government of Canada.

As a result, I have concluded that Ms. Morissette engaged in these lobbying activities on behalf of the Canadian Red Cross while subject to the five-year prohibition upon lobbying activities prescribed in the Lobbying Act.

### **4. Whether Ms. Morissette was in breach of Rule 2 of the Lobbyists' Code of Conduct (Accurate information)**

Rule 2 (Accurate information) of the Lobbyists' Code of Conduct is set out as follows:

Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

When Ms. Morissette's employer inquired of her what activities she could undertake on behalf of the Canadian Red Cross and remain in compliance with the Lobbying Act, she had a responsibility to fully inform the CRC of the nature and extent of the prohibition that applied to her. Included in this responsibility is a duty to take the necessary steps to fully understand the activities that constitute lobbying, and to recognize the distinction under the Lobbying Act between organizations and corporations. This is important because the five-year prohibition on former designated public office holders under section 10.11 of the Lobbying Act applies to in-house lobbyists employed by organizations differently from how it applies to in-house lobbyists employed by corporations.

When Ms. Morissette provided information about the Lobbying Act to the Canadian Red Cross, relying, in part, on her own interpretation of the Lobbying Act, Ms. Morissette provided information that was inaccurate to her employer. Ms. Morissette did not use proper care to avoid providing that inaccurate information regarding the application of the five-year prohibition on lobbying. As a result, Ms. Morissette was in breach of Rule 2 (Accurate information) of the Lobbyists' Code of Conduct.



## **5. Whether Ms. Morissette was in breach of the Principles of Integrity and Honesty**

Individuals who conduct activities requiring registration as a lobbyist must comply with the Lobbyists' Code of Conduct, which is based on a body of overriding principles, one of which is the Principle of Integrity and Honesty. It is set out in the Code as follows:

### **Integrity and Honesty**

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

Following Ms. Morissette's inquiries to the OCL concerning the application of the five-year prohibition to her lobbying activities, Ms. Morissette continued to engage in lobbying. By engaging in registrable lobbying activity while prohibited from lobbying under the Lobbying Act, Ms. Morissette was in breach of the Principle of Integrity and Honesty in the Code.

Under this principle, I take the view that former public office holders should determine their post-employment obligations under the Lobbying Act and follow them. These obligations include observing the Rules in the Lobbyists' Code of Conduct. A failure to do so, in this case, by a former designated public office holder, does not meet the standard set for lobbyists in the Principle of Integrity and Honesty.

## **6. Whether Ms. Morissette was in breach of the Principle of Professionalism**

Another principle in the Lobbyists' Code of Conduct is the Principle of Professionalism. It is set out in the Code as follows:

### **Professionalism**

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the Lobbyists' Code of Conduct as well as all the relevant laws, including the Lobbying Act and its regulations.

By engaging in registrable lobbying activity while prohibited from lobbying under the Lobbying Act, Ms. Morissette did not observe the highest professional and ethical standards. The breach of Rule 2 (Accurate information) and of the prohibition on lobbying do not meet the high standards for lobbyists that are necessary to ensure Canadians that lobbying is conducted transparently and ethically in accordance with the Lobbying Act. As a result, Ms. Morissette was in breach of the Principle of Professionalism in the Code.

# **Appendix A – Lobbyists’ Code of Conduct (1997)**

## **Preamble**

The Lobbyists’ Code of Conduct is founded on four concepts stated in the Lobbying Act:

- Free and open access to government is an important matter of public interest;
- Lobbying public office holders is a legitimate activity;
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities; and,
- A system for the registration of paid lobbyists should not impede free and open access to government.

The Lobbyists’ Code of Conduct is an important initiative for promoting public trust in the integrity of government decision-making. The trust that Canadians place in public office holders to make decisions in the public interest is vital to a free and democratic society.

To this end, public office holders, when they deal with the public and with lobbyists, are required to honour the standards set out for them in their own codes of conduct. For their part, lobbyists communicating with public office holders must also abide by standards of conduct, which are set out below.

Together, these codes play an important role in safeguarding the public interest in the integrity of government decision-making.

## **Principles**

### **Integrity and Honesty**

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

### **Openness**

Lobbyists should, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

### **Professionalism**

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the Lobbyists’ Code of Conduct as well as all the relevant laws, including the Lobbying Act and its regulations.

## **Rules**

### **Transparency**

#### **1. Identity and purpose**

Lobbyists shall, when making a representation to a public office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.

#### **2. Accurate information**

Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

#### **3. Disclosure of obligations**

Lobbyists shall indicate to their client, employer or organization their obligations under the Lobbying Act, and their obligation to adhere to the Lobbyists' Code of Conduct.

### **Confidentiality**

#### **4. Confidential information**

Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

#### **5. Insider information**

Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

### **Conflict of interest**

#### **6. Competing interests**

Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

#### **7. Disclosure**

Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

#### **8. Improper influence**

Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.