



The Vennard Report

made under the
CONFLICT OF INTEREST ACT

and reporting on a referral from the
Public Sector Integrity Commissioner



September 13, 2016

**Mary Dawson
Conflict of Interest and
Ethics Commissioner**

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PREFACE

The *Conflict of Interest Act*, S.C. 2006, c. 9, s. 2 (Act) came into force on July 9, 2007.

An examination under the Act may be initiated at the request of a member of the Senate or House of Commons pursuant to subsection 44(1) of the Act or on the initiative of the Conflict of Interest and Ethics Commissioner (Commissioner) pursuant to subsection 45(1).

When an examination is initiated under section 45 of the Act, the Commissioner is required, under subsection 45(3), to provide a report to the Prime Minister setting out the facts in question as well as the Commissioner's analysis and conclusions in relation to the examination, unless the examination is discontinued. Subsection 45(4) provides that, at the same time that a report is provided to the Prime Minister, a copy of the report is also to be provided to the public office holder or former public office holder who is the subject of the report and made available to the public.

On receipt of a referral from the Public Sector Integrity Commissioner pursuant to subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, the Commissioner may, if she has reason to believe that a public office holder or former public office holder has contravened the Act, decide to examine the matter on her own initiative pursuant to section 45 of the Act.

Whether or not the Commissioner initiates an examination under section 45 of the Act, the Commissioner must, pursuant to section 68 of the Act, provide a report to the Prime Minister setting out the facts in question as well as her analysis and conclusions where there has been a referral from the Public Sector Integrity Commissioner. A copy of the report must also be provided to the public office holder or former public office holder who is the subject of the report and to the Public Sector Integrity Commissioner. The report is also made public.

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EXECUTIVE SUMMARY

This report presents the findings of my examination under the *Conflict of Interest Act* (Act) of the conduct of Dr. Linda Vennard, Canadian Radio-television and Telecommunications Commission (CRTC) Commissioner for Alberta and the Northwest Territories, in connection with gifts that she accepted.

In January 2016, I received a referral from the Public Sector Integrity Commissioner under the *Public Servants Disclosure Protection Act* that raised three concerns about Dr. Vennard's conduct. Based on information obtained during my preliminary review, I had no reason to believe that Dr. Vennard had breached her obligations under the Act in relation to those concerns, so did not pursue them further.

My inquiries provided information, however, that raised another concern on my part. It appeared that Dr. Vennard had accepted gifts from a CRTC stakeholder. I therefore decided to examine the matter under subsection 11(1) of the Act, which prohibits public office holders from accepting any gift that might reasonably be seen to have been given to influence them in the exercise of an official power, duty or function.

In July 2015, Dr. Vennard, a newly appointed Commissioner, accepted a bouquet of flowers and a box of chocolates that had been sent to her at the CRTC office in Calgary on her birthday by representatives of companies that operate two radio stations commercially branded as RED FM, including one in Calgary. She had only recently met them.

As broadcasting licensees, the two companies are stakeholders of the CRTC, an administrative tribunal with quasi-judicial decision-making authority that issues, revokes and suspends broadcasting licences, and administers licence amendments and renewals. The responsibilities of CRTC commissioners include participating in public hearings and consultations, making CRTC decisions, and consulting with members of the broadcasting and telecommunications industries. The only connection that RED FM representatives who gave Dr. Vennard the gifts had with her was as stakeholders of the CRTC.

I found that the flowers and chocolates given to Dr. Vennard by RED FM might reasonably be seen to have been given to influence her as the company is a stakeholder of the CRTC. I further found that those gifts did not come under the exception to the Act's acceptability test for gifts that are received as a normal expression of courtesy or protocol or are within the customary standards that normally accompany the public office holder's position.

I therefore concluded that Dr. Vennard contravened subsection 11(1) of the Act by accepting the bouquet of flowers and box of chocolates from RED FM.





CONCERNS

On January 13, 2016, the Public Sector Integrity Commissioner referred to me, under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, a protected disclosure that his office had received on October 19, 2015. The disclosure raised three conflict of interest concerns about Dr. Linda Vennard, Canadian Radio-television and Telecommunications Commission (CRTC) Commissioner for Alberta and the Northwest Territories.

Under section 68 of the *Conflict of Interest Act* (Act), I am required to prepare a report and make the report available to the public when a matter is referred to me by the Public Sector Integrity Commissioner.

While collecting information during my consideration of the three matters referred to me by the Public Sector Integrity Commissioner, I obtained information that raised another concern of my own. This additional concern warranted an examination under subsection 45(1) of the Act and will be addressed in this report as well.

The three concerns referred to me by the Public Sector Integrity Commissioner

First concern

As a first concern, it was alleged that the expenses of Dr. Vennard's spouse, who was travelling with her when she was attending CRTC business meetings with stakeholders, were covered by the CRTC. Preliminary inquiries revealed that no claim was submitted to the CRTC for those expenses. I therefore had no reason to believe that Dr. Vennard had breached her obligations under the Act in this regard. I did not pursue this matter further.

Second concern

As a second concern, it was alleged that, Dr. Vennard had not, in her role as a CRTC commissioner, acted independently of her firm, Vennard Consulting Group Inc. Dr. Vennard's spouse was alleged to have attended meetings with CRTC stakeholders while he was a registered lobbyist for Vennard Consulting Group Inc.

Previously, on October 19, 2015, the same date on which the Public Sector Integrity Commissioner had received the protected disclosure referred to above, I received information from a member of the public raising a concern about this same matter. My Office looked into this matter in the following days and found that registered lobbying activities of Dr. Vennard's spouse were unrelated to the CRTC and had taken place several years before Dr. Vennard's appointment as a CRTC commissioner. Furthermore, Alberta Corporate Registry records showed that Vennard Consulting Group Inc. was inactive and had been struck from the registry since



2008. I therefore had no reason to believe that Dr. Vennard breached her obligations under the Act with respect to this allegation, so I did not pursue this matter further. No new information has been brought forward to change this assessment.

Third concern

As a third concern, it was alleged that Dr. Vennard had received gifts from CRTC stakeholders: invitations for her and her spouse to attend The Rosies Gala in May 2015 and the Digital Futures Symposium on Rural Broadband Enablement in October 2015. It was also alleged that these gifts had not been disclosed to my Office.

Our research revealed that Dr. Vennard had attended these events in her official capacity as the CRTC Commissioner for Alberta and the Northwest Territories. She was invited to the gala to present one or two awards on stage that evening but, due to a program change, she did not have the opportunity to present an award despite the fact that she was present for the entire event. As for her attendance at the symposium, she gave an official presentation on behalf of the CRTC. Consequently, Dr. Vennard attended these events on official business, representing the CRTC. An invitation to attend a function where the invitation is duty-related is not considered to be a gift.

As for the attendance of Dr. Vennard's spouse at these events, when a public office holder is invited to take part in such an event as part of his or her official duties, it is a normal practice for a guest to be included. I had no reason to believe that Dr. Vennard had breached her obligations under the Act with respect to this allegation, so I did not pursue this matter.

The additional concern

As I mentioned at the outset of this report, while considering the three concerns just discussed above, information came to my attention that raised an additional concern on my part.

It appeared that a bouquet of flowers and a box of chocolates had been received and accepted by Dr. Vennard at the CRTC office in Calgary on the occasion of her birthday from representatives of Multicultural Broadcasting Corporation Inc., a CRTC stakeholder that operates the RED FM 106.7 radio station in Calgary.

Subsection 11(1) of the Act prohibits public office holders from accepting any gift that might reasonably be seen to have been given to influence them in the exercise of an official power, duty or function. Dr. Vennard's acceptance of the flowers and chocolates gave me reason to believe that she had contravened section 11 of the Act.

The remainder of this report addresses this concern.

PROCESS

I wrote to Dr. Linda Vennard on March 17, 2016 informing her that I had had a disclosure referred to me by the Public Sector Integrity Commissioner, but that I would not be pursuing any of the concerns raised in that disclosure.

In the same letter, I informed her that, as a result of information that I obtained while conducting my preliminary review resulting from the disclosure referred to me by the Public Sector Integrity Commissioner, I had reason to believe that she had contravened subsection 11(1) of the *Conflict of Interest Act* (Act) in that she had accepted gifts of flowers and chocolates from RED FM, a CRTC stakeholder. I asked her, in the letter, to provide me in writing with any factual information and any records relating to my examination and to provide me with her views as to whether or not she believes she had breached her obligations under the Act with respect to the acceptance of the flowers and chocolates.

On April 18, 2016, I received Dr. Vennard's reply to my letter. My Office conducted an initial interview with Dr. Vennard on April 22, 2016, and she subsequently provided me with additional documents. I also contacted one witness, who provided written statements and supporting documents. Dr. Vennard was interviewed for a second time on July 22, 2016.

In keeping with the practice I have established, Dr. Vennard was given the opportunity to comment on a draft of the factual sections of this report (Concerns, Process, Findings of Fact, and Dr. Vennard's Position) before it was finalized.





FINDINGS OF FACT

The CRTC Commissioner: Dr. Linda Vennard

On April 30, 2015, Dr. Linda Vennard was appointed a full-time member of the Canadian Radio-television and Telecommunications Commission (CRTC) to hold office during good behaviour for a five-year term starting on May 11, 2015. She was designated the Commissioner for Alberta and the Northwest Territories. As a CRTC commissioner, Dr. Vennard is subject to the *Conflict of Interest Act* (Act) as a reporting public office holder.

Dr. Vennard is alleged to have received and accepted at the CRTC office in Calgary a bouquet of flowers and a box of chocolates as birthday gifts from a CRTC stakeholder, raising the question of whether she was in contravention of subsection 11(1) of the Act.

The CRTC website indicates that the commissioners' responsibilities include participating in public hearings and consultations, making CRTC decisions, and consulting with members of the broadcasting and telecommunications industries. Pursuant to the *Broadcasting Act*, the CRTC issues, revokes and suspends broadcasting licences. The CRTC also administers licence amendments and renewals.

Under the *Broadcasting Act*, the CRTC Chairman establishes panels consisting of at least three members of the Commission to hear and determine applications before the CRTC. In making their decision, the members of a panel are required to consult with other members of the CRTC.

Dr. Vennard told me that her role includes getting to know stakeholders in her region and forging good relationships with them in order to work in tandem with them. She added that her role includes being aware of what is happening in her region, working on the ground by visiting stakeholders.

During her first interview, Dr. Vennard told me that when she became a CRTC commissioner, she attended a week-long orientation session, during which she was informed of the CRTC's ethics and conflict of interest rules. She told me that she remembers hearing about the *Conflict of Interest Act* rules regarding gifts, particularly her understanding of the obligation to refuse gifts valued at over \$200.

According to Dr. Vennard, during the two years before she began her term, the former Commissioner, who had become the Vice-Chairman of Telecommunications, also took on the role of Acting Commissioner for Alberta and the Northwest Territories. During that period, the assistant of the former Commissioner continued to work in the Calgary office with the support of headquarters in Gatineau.



Dr. Vennard informed me that, after she began working at the Calgary office, the assistant remained in the office as Dr. Vennard's assistant. That assistant invited stakeholders to meetings at that office and arranged site tours to visit stakeholders. Dr. Vennard added that this assistant had provided stakeholders with personal information about her. This is confirmed in some of the documentation that was provided to my Office.

Dr. Vennard also spoke to me at length about her understanding as to how her Office had operated prior to her appointment and how it operated during the first few weeks after she became a commissioner. She told me that it was common for her assistant to solicit meetings with stakeholders without her knowledge. The tone of the documents shows that these communications were quite friendly.

The stakeholder: RED FM

RED FM is the commercial identification for two radio stations, one in Calgary at 106.7 FM, and one in Surrey, British Columbia, at 93.1 FM. The stations are commercially branded as Reflecting Ethnic Diversity (RED). Both are owned by Mr. Kulwinder Sanghera through corporations, Multicultural Broadcasting Corporation Inc. and Asia Broadcasting Corporation Inc., and managed by Mr. Bijoy Samuel. Mr. Samuel identified them as ethnic radio stations.

The CRTC had issued a broadcasting licence for RED FM 106.7 in Calgary on May 24, 2012. That broadcasting licence ends on August 31, 2018, and the licence for the other RED FM radio station, 93.1 in Surrey, ends on August 31, 2019. Dr. Vennard's term with the CRTC ends on May 10, 2020.

Interactions between Dr. Vennard and RED FM

Dr. Vennard began her five-year term on May 11, 2015. At the invitation of Dr. Vennard's assistant, Mr. Samuel and Mr. Sanghera of RED FM expressed an interest in meeting Dr. Vennard at her office so they could become acquainted with the new Commissioner for Alberta and the Northwest Territories. Dr. Vennard told me that she didn't know Mr. Sanghera or Mr. Samuel prior to being a CRTC commissioner.

Her assistant arranged to have a "meet and greet" with Mr. Samuel and Mr. Sanghera at a restaurant near Dr. Vennard's office on May 29, 2015. According to Mr. Samuel, the purpose of the meeting was to introduce themselves and provide some background regarding their ethnic radio stations. In a document that he provided to my Office, Mr. Samuel wrote that these radio stations are very different in their operation from English-language and French-language radio stations.

Dr. Vennard told me that she had a light lunch at the restaurant. A receipt provided by RED FM showed that they had paid \$8.95 for Dr. Vennard's bowl of soup. Dr. Vennard told me that she was not in the habit of holding lunch meetings with stakeholders as she was respectful of the line between personal socializing and professional interaction. There is no evidence of a pattern of payments for other meals for Dr. Vennard by RED FM. I did not consider this small gesture sufficient to raise an additional concern under section 11 of the Act. I concluded that in the circumstances it could not reasonably be seen to have been given to influence her in the exercise of her official powers, duties or functions.

In July 2015, on the occasion of Dr. Vennard's birthday, the Calgary radio station RED FM 106.7 arranged for a bouquet of flowers and a box of chocolates to be delivered to Dr. Vennard at her Calgary office. According to Dr. Vennard, her assistant had organized a small surprise birthday party in her office with banners, a cake and small presents.

According to documents provided by Mr. Samuel, Dr. Vennard's assistant told him that morning that it was Dr. Vennard's birthday and invited him and Mr. Sanghera to come by the CRTC's Calgary office during the day to help celebrate. Since Mr. Samuel was not in Calgary that day, he and Mr. Sanghera decided to email Dr. Vennard their best wishes and send flowers and chocolates.

During her first interview, Dr. Vennard said that the flowers and chocolates likely arrived while she was on the phone, since immediately after that phone conversation her assistant entered her office with the flowers and chocolates. As mentioned again below, that conversation was with an advisor from my Office.

That same day, Dr. Vennard emailed Mr. Samuel and Mr. Sanghera to tell them she was delighted and to thank them for thinking of her. Dr. Vennard's email said that the flowers were beautiful, as they could see in the photo attached, and that she and her assistant would enjoy the chocolates. The photo showed Dr. Vennard with the bouquet of flowers and box of chocolates.

In one of her written submissions, Dr. Vennard said that she would estimate the flowers and chocolates to be worth about \$50 to \$60. The invoice provided by RED FM showed that they cost \$123.90.

Dr. Vennard provided me with a copy of a few emails she received for that birthday. Three of the emails came from CRTC stakeholders, one of them containing an e-card. Two other emails came from CRTC colleagues. Dr. Vennard said she also received a few telephone calls from CRTC stakeholders wishing her a happy birthday. No other birthday gifts were received by her at the office.



On August 11, 2015, at the invitation of Mr. Samuel and Mr. Sanghera, Dr. Vennard visited the studio of RED FM 106.7 in Calgary. According to Dr. Vennard, part of the visit was a 20-minute private meeting with Mr. Samuel and Mr. Sanghera during which they raised an issue about another Surrey-area ethnic radio station serving a very small market that did not require a licence. They said that station appeared to exceed the usual criteria for broadcasting without a licence. In correspondence with my Office, Mr. Samuel also noted that he had raised the issue with Dr. Vennard. Dr. Vennard told me that she informed them of the procedure to follow if they wished to file a complaint with the CRTC. Subsequently, counsel for RED FM provided a full submission to the CRTC and to Dr. Vennard.

According to Mr. Samuel, during the August 11 meeting, they also discussed problems that listeners of RED FM in Surrey were having with interference caused by a U.S. private radio station on a neighbouring frequency. Before Dr. Vennard left the radio station, Mr. Samuel and Mr. Sanghera gave her a couple of small souvenirs: a RED FM T-shirt and a coffee mug. These token gifts were acceptable.

Interactions between my Office and Dr. Vennard

All reporting public office holders go through what is commonly called the initial compliance process. They must submit a *Confidential Report* to my Office within 60 days of appointment. This confidential report provides information about their assets and liabilities, income, and certain outside activities. My Office received Dr. Vennard's *Confidential Report* on July 13, 2015.

Once the *Confidential Report* is received, a conversation generally takes place with an advisor from my Office to validate the information reported and to obtain any needed clarifications. This conversation also serves to provide guidance to new reporting public office holders, in respect of their obligations under the Act.

Accordingly, an advisor from my Office contacted Dr. Vennard by phone and had a 45-minute conversation with her. Coincidentally this happened on her birthday, just before she received the gifts at issue in this report. The advisor from my Office, in his notes on the conversation, indicated that the acceptability of gifts was discussed at length and that Dr. Vennard had asked questions specifically about two different gifts that had been offered by stakeholders: free use of a cottage and invitations to the Calgary Stampede. During the second interview, Dr. Vennard confirmed that she had had this discussion with the advisor.

Despite the fact that Dr. Vennard had spoken with the advisor from my Office just minutes before she received the bouquet of flowers and box of chocolates, Dr. Vennard said she did not think to call the advisor back to ask whether those gifts were considered acceptable.

DR. VENNARD'S POSITION

In her written representation, Dr. Vennard stated that she believed that accepting the gifts of flowers and chocolates was acceptable and that she was not in a conflict of interest as a Governor in Council appointee. As well, she stated that she considers the gifts to be merely a token gesture to acknowledge her birthday and believed that refusing it would have been impolite.

In any event, Dr. Vennard stated that in her view the only reason that these gifts were sent was because her assistant had notified the representatives of RED FM that it was her birthday. This was done without Dr. Vennard's knowledge.

Dr. Vennard believed that the flowers and chocolates were not sent to influence her, but rather as a gesture to acknowledge her birthday. According to her estimate, the total value of the gifts was less than \$60. She saw no difference between these gifts and the birthday emails and e-cards she received from a few of her professional contacts.

Dr. Vennard noted that she accepted those gifts early in her tenure at the CRTC and she said that she expected that she could rely on her assistant to familiarize her with established and accepted CRTC procedures.





ANALYSIS AND CONCLUSION

Analysis

I must determine whether Dr. Linda Vennard contravened section 11 of the *Conflict of Interest Act* (Act) by accepting a bouquet of flowers and box of chocolates from a stakeholder of the Canadian Radio-television and Telecommunications Commission (CRTC) on the occasion of her birthday while she was the CRTC Commissioner for Alberta and the Northwest Territories and a reporting public office holder subject to the Act.

The relevant provisions of section 11 read as follows:

11. (1) No public office holder or member of his or her family shall accept any gift or other advantage, including from a trust, that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.

(2) Despite subsection (1), a public office holder or member of his or her family may accept a gift or other advantage

(a) that is permitted under the Canada Elections Act;

(b) that is given by a relative or friend; or

(c) that is received as a normal expression of courtesy or protocol, or is within the customary standards that normally accompany the public office holder's position.

In July 2011, I released a guideline on gifts for public office holders entitled *Gifts (including Invitations, Fundraisers and Business Lunches)*. In this guideline I provide examples of situations that might reasonably be seen to suggest that a gift was given to influence a public office holder's decision-making, including the following:

1. The donor or the donor's client or firm has or may, in the future, have dealings with the public sector entity of the public office holder.

2. The donor or the donor's client or firm is or may, in the future, be affected by programs, policies or regulations reviewed or controlled by the public sector entity of the public office holder.



I must determine whether the flowers and chocolates given to Dr. Vennard, a CRTC commissioner, by representatives of RED FM, a stakeholder holding broadcasting licences, could reasonably be seen to have been given to influence Dr. Vennard in her official capacity.

The responsibilities of CRTC commissioners include participating in public hearings and consultations, making CRTC decisions, and consulting with members of the broadcasting and telecommunications industries. Dr. Vennard testified that a CRTC commissioner of a given region could take part in hearings involving stakeholders from that region.

Dr. Vennard explained that her role also includes getting to know stakeholders in her region and forging good relationships with them so that she can fully appreciate stakeholder concerns. She stated that it was in her official capacity that she agreed to meet with Mr. Samuel and Mr. Sanghera on May 29 and August 11, 2015.

When Mr. Samuel and Mr. Sanghera of RED FM, as CRTC stakeholders, offered Dr. Vennard the bouquet of flowers and box of chocolates, they were representing two companies with CRTC broadcasting licences.

The fact that RED FM was a CRTC stakeholder as a broadcasting licensee to operate RED FM 106.7 in Calgary should have been enough to put Dr. Vennard on notice that the gifts offered might reasonably be seen to have been given to influence her as the CRTC Commissioner for Alberta and the Northwest Territories. As well, the very day that the gifts were offered, Dr. Vennard had a telephone conversation with an advisor from my Office about her obligations, and they specifically discussed the gift rules under the Act.

An information notice released in 2013 and posted on my Office website addresses the subject of gifts or other advantages offered to public office holders serving on administrative tribunals, particularly those with quasi-judicial decision-making authority. The CRTC has a quasi-judicial decision-making function and, consequently, this information notice applies to public office holders appointed to the CRTC, including Dr. Vennard. In the notice, I urge these public office holders to be especially careful, and I refer to the acceptability test set out in section 11 of the Act.

I am aware that little time had passed between Dr. Vennard's appointment and her acceptance of the gifts. Dr. Vennard was just learning the proper manner of carrying out her duties. Furthermore, Dr. Vennard's assistant at the time, on her own initiative, was suggesting to stakeholders that they meet with Dr. Vennard. She also provided them with personal information about the new Commissioner, including her birth date, without Dr. Vennard's knowledge. I found no evidence that Dr. Vennard solicited gifts (such as meals) from her stakeholders, nor did it appear that she expected to receive them.

One might ask whether the fact that the gifts were in recognition of Dr. Vennard's birthday made a significant difference as to whether these gifts could be reasonably seen to have been given to influence her in her position as Commissioner. I do not think this is the case.

Dr. Vennard had no previous relationship with Mr. Samuel or Mr. Sanghera. She met them for the first time on May 29, 2015. Her only connection with them was as stakeholders. A birthday gift in these circumstances would be unusual and unexpected.

I believe, despite the fact that the gifts were provided in part as a result of an intervention of Dr. Vennard's assistant, that it was an error in judgment on Dr. Vennard's part to accept them. I therefore conclude that these gifts "might reasonably be seen to have been given to influence" Dr. Vennard in the exercise of an official power, duty or function and that she should not have accepted them.

Regarding the exception outlined in paragraph 11(2)(c) of the Act concerning a gift that is received as a normal expression of courtesy or protocol, or is within the customary standards that normally accompany the public office holder's position, I am satisfied that this does not apply. My July 2011 guideline entitled *Gifts (including Invitations, Fundraisers and Business Lunches)* states that my Office considers a normal expression of "courtesy or protocol" to be a token expression of appreciation in the context of some official interaction. This was not the case in relation to Dr. Vennard's birthday gifts.

Conclusion

For the reasons set out above, I find that Dr. Vennard contravened section 11 of the Act by accepting a bouquet of flowers and a box of chocolates from a stakeholder.





SCHEDULE: LIST OF WITNESSES

Written submissions

RED FM 106.7 Calgary

- Mr. Bijoy Samuel, General Manager

