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• (1530)

[English]

The Chair (John Brassard (Barrie South—Innisfil, CPC)): Good afternoon, everyone.

I'm going to call the meeting to order.

[Translation]

Welcome to meeting number 31 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[English]

Pursuant to the order of reference of Thursday, February 12, 2026; section 14.1 of the Lobbying Act; and the motion adopted by the committee on Wednesday, September 17, 2025, the committee is commencing the statutory review of the Lobbying Act.

I would like to welcome, with great anticipation, our witness from the Office of the Commissioner of Lobbying, Nancy Bélanger.

[Translation]

Welcome, Ms. Bélanger.

[English]

Commissioner, you have up to five minutes. I invite you to take a little more time if you need it, because you're here for two hours to address the committee.

Go ahead, please.

Nancy Bélanger (Commissioner of Lobbying, Office of the Commissioner of Lobbying): Good afternoon, Mr. Chair and committee members.

Thank you for inviting me today. I don't think I need to tell you all how excited I am that you are studying the Lobbying Act. I look forward to discussing my recommendations, which are informed by my office's experience in administering the act and by that of my colleagues across the country overseeing their respective legislation.

My mandate is threefold: to maintain the registry of lobbyists, to expand awareness and understanding of the lobbying regime through education, and to conduct compliance work that supports respect of the act and the Lobbyists' Code of Conduct.

Last week, I shared with you 21 recommendations for improving and modernizing the Lobbying Act. These recommendations are

aimed at enhancing transparency, expanding enforcement measures and increasing efficiency.

• (1535)

[Translation]

It is my sincere hope that this study will lead to improvements to the Lobbying Act. Amendments that enhance transparency will foster increased accountability, integrity and trust in our federal institutions. In my view, these improvements would also serve to ensure Canada remains a global leader in the regulation of lobbying.

I remain available to work with this committee, Parliament and the Treasury Board Secretariat to move forward with any proposed amendments to the Lobbying Act and the associated regulations.

Once you have heard from all witnesses, I may present a further submission that reflects my views on the testimony and submissions that have been presented to you. I would also welcome the opportunity to return to answer any questions or provide the clarifications you may need to complete your study.

Thank you, Mr. Chair and members of the committee.

I welcome any questions you may have.

[English]

The Chair: Thank you, Ms. Bélanger.

Further to your comment about providing a response, I expect it may be the will of the committee to have you come back at the end of the study in order to review what the committee has heard during the course of the study.

Nancy Bélanger: I'm at your disposal.

The Chair: Mr. Barrett, we're going to start with you for six minutes.

Go ahead, please.

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): Commissioner, what is the threshold to require registration?

Nancy Bélanger: Currently, under the act, it's called "significant part of the duties", which means it's a threshold for the employer who wants, collectively, all of the employees' work amount to be a significant part of duties. That's been interpreted by the previous commissioners as being 20% of the collective work in a month, which was 32 hours. Last July, I announced that I was reducing that threshold and, since January 19, it is now eight hours. It should be zero, but it's now eight hours.

Michael Barrett: That is eight hours collectively for the organization.

Nancy Bélanger: Yes.

Michael Barrett: You said it should be zero.

Nancy Bélanger: Yes.

Michael Barrett: If it were zero, if the threshold were removed entirely and anyone who was doing lobbying had to be registered to do so, how many additional lobbyists do you estimate would then have to register with your office?

Nancy Bélanger: I'm not sure what that number would be. I can tell you that in the last two months, since January 19, we've had 70 new organizations and corporations register.

Michael Barrett: As a result of the change in the threshold...?

Nancy Bélanger: I'm assuming it's as a result of the change. They were never registered before, so I have to assume that's the case.

How many organizations and corporations lobbied less than 32 hours in a month? Probably a lot. I look at lobby days, for example, and for lobby days, it's impressive how a number of organizations lobby on a full day of lobby day and are not registered.

Michael Barrett: Right.

Nancy Bélanger: That's an example, so there will likely be a lot more that need to register.

Michael Barrett: Would your office be able to manage what you believe to be likely a lot more? With your existing envelope of funding that you have and with your current staff complement, would you be able to accommodate that?

Nancy Bélanger: So far, so good, because what happens is that the registrations are done by the organizations. All we do is review to ensure they're appropriate and well done, and then we just click buttons.

Are we busy? Yes. Can we handle it so far? Yes.

Michael Barrett: Your staff includes investigators, but I'm sure you also have folks who do media monitoring as well.

Nancy Bélanger: Of course, yes.

Michael Barrett: In your media monitoring, let's say your staff observe that an organization successfully had meetings with 200 MPs who posted that they met with an organization that is not registered to lobby. What do you do?

• (1540)

Nancy Bélanger: Currently what I do is write letters to these organizations to explain the regime. To ensure they understand, I ask them to respond that they understand the regime. They usually tell me that they stay under the 32 hours. That was the case then. Eight hours is going to be a little more difficult now.

I have not received any allegations of anyone under eight hours so far. I might turn it right into a preliminary assessment to evaluate, but I do want to give people time to get used to this eight hours, so I would likely write to them again, but that hasn't happened in the last two months.

Michael Barrett: Which came into force when?

Nancy Bélanger: On January 19, and of course organizations have two months to register, so technically they still have until March 19 to register. We haven't seen the full impact yet.

Michael Barrett: Were you to find an organization that you believe is exceeding the threshold and does not reply or does not reply positively to your letter, what's the remediation? What are the consequences?

Nancy Bélanger: Currently, I would do a preliminary assessment. If I had reason to believe they're not willing to comply or they're not complying, I would turn this into an investigation, because the threshold for investigation is that I have reason to believe it's necessary to ensure compliance. Then, if I have reason to believe an offence has occurred, I send it to the RCMP.

Michael Barrett: How many cases are currently with the RCMP that you have referred to them?

Nancy Bélanger: Four.

Michael Barrett: How many are you able to tell me that you did advise us of during your last appearance before this committee?

Nancy Bélanger: I have forwarded three in this fiscal year. In my whole nine years, I've referred 19.

I'm not sure what I would have said. It's probably 17 or 18.

Michael Barrett: They cleared a bunch of cases.

Nancy Bélanger: Yes. There have been two charges laid.

Michael Barrett: When were those charges laid?

Nancy Bélanger: One in 2024, and the other one in 2022, I believe, or 2023.

Michael Barrett: Of the four that are currently resting with the RCMP—

Nancy Bélanger: One of them is one of the charges that are laid. That case has not finished. It's still with the RCMP.

Michael Barrett: Okay. That includes one—

Nancy Bélanger: That counts as one of them, and then there are three that they're investigating.

Michael Barrett: For how long have they been with the RCMP?

Nancy Bélanger: It's in this last fiscal year.

Michael Barrett: Those three are all within fiscal year 2025-26.

Nancy Bélanger: Yes.

Michael Barrett: Okay. There will be more questions to follow. Thank you, ma'am.

The Chair: Thank you, Mr. Barrett.

Before I go to Madame Lapointe, it's been standard practice at this committee that we reset the clock after the first hour. We're going to do six minutes, so that everybody has a second round of six-minute questions at the top of the hour.

[Translation]

Ms. Lapointe, you have the floor for six minutes.

Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Welcome back to our committee, Ms. Bélanger.

We are also very pleased to have you here today and to know that we will get your recommendations, as well as the explanations for all your recommendations, including the ones you submitted recently.

The last time you appeared here, you told us about the lobbying regime in British Columbia. You alluded to it in saying that it's an almost perfect model. The legislation, in British Columbia, has a registration threshold requirement, which is zero. Right now, you're talking about an eight-hour threshold. That means that, in British Columbia, lobbying must be registered as soon as it occurs. In addition, there is an exemption for small organizations with fewer than six employees.

What aspects of the British Columbia model do you think work especially well?

Are there any specific aspects that could realistically be adapted to our federal system?

Nancy Bélanger: The British Columbia regime is very forward-thinking. I think it's a model. I invite you to have representatives from British Columbia appear before you. They could help you with difficulties related to certain aspects.

In that province, a few things have been put in place that I find worthwhile and that I have noted in my recommendations.

Right now, we have an eight-hour threshold. The obligation applies when the lobbying activity is a significant part of the employee's duties. Therefore, I have to interpret the Lobbying Act to establish a value representing a "significant part", and I gave it an eight-hour value.

British Columbia has registration by default, except for organizations with fewer than six members or those that spend less than 50 hours lobbying. However, these exceptions do not apply if the organization's main objective is to lobby and make representations.

We need to determine whether such an exclusion could be valid at the federal level. It may be valid. However, whenever a number of hours is associated with something, it always scares me because, once again, it's a sort of a threshold. There should really be objective criteria, such as the number of employees, or the number of lobbying activities provided for in the operational budget, which should be low. We should be careful when making exceptions, but we could certainly have some exceptions.

Would you like me to talk about other worthwhile aspects of the British Columbia system?

• (1545)

Linda Lapointe: When you say "registration by default", what exactly do you mean?

Nancy Bélanger: As stated on the first page of the document that was sent to you, as soon as there is a communication requesting a change regarding a registrable matter—a bill, regulations, a

program, a policy, grants or contracts for consultant lobbyists—it is a lobbying communication and it should be entered in the registry. That's done by default. It's automatic.

This communication can take place verbally, in writing or through public announcements.

Linda Lapointe: So the person who made the communication is responsible for registering with the registry of the Office of the Commissioner of Lobbying.

Is that correct?

Nancy Bélanger: If employees are involved in the communication, it's the senior officer who is responsible for registering on behalf of all their employees.

One of my recommendations is that these employees inform senior responsible officers that they must register. There must be a single registration per organization. The registration will include all the names of employees who are engaged in lobbying.

Linda Lapointe: You can continue on the British Columbia system. I'm interested in that. I wanted to clarify this point first.

Nancy Bélanger: Another worthwhile aspect of the British Columbia system are the communications reports. Once the registration is done, there is an additional obligation. Currently, the federal act provides for this obligation when there is an oral meeting organized with designated public office holders—that is to say, with senior officials. Lobbyists are responsible for preparing a report in which they indicate that they had that conversation orally during a meeting organized with a designated public office holder.

In British Columbia, that obligation also applies in cases of written communications, which I find worthwhile. There isn't really a reason to treat written communications and oral communications differently.

Linda Lapointe: Okay.

Nancy Bélanger: Lobbying does not need to be arranged in advance. That's another problem.

It is the substance of the communication that is important, not the form—whether it took place at the corner of the street, while waiting for the plane at the airport or at a coffee shop. All communications should be reported, not just those that were prearranged. So that's another worthwhile aspect of the British Columbia system.

Linda Lapointe: So if I am at the airport and I meet with someone who handles one of my files, I would have to report that I had an informal conversation, since I represent someone's interests.

Is that correct?

Nancy Bélanger: Yes.

Linda Lapointe: It's informal, when you meet someone like that.

Nancy Bélanger: You can say that it's informal, but the form of communication shouldn't affect the content. If the lobbyists gave you the information they wanted to give you and you listened to them, whether at the airport or in your office, the fact that you retained it indicates that you were the subject of a communication that I think matters.

This is about transparency, to which Canadians are entitled. The information is not for me or for organizations and businesses. It aims to increase trust in our public institutions. If there are too many secret conversations, that's not good.

Linda Lapointe: Thank you very much.

The Chair: Thank you, Ms. Lapointe.

Mr. Thériault, you have the floor for six minutes.

Luc Thériault (Montcalm, BQ): Thank you.

Let's continue the discussion.

I imagine that what could help ensure that no distinction is made between formal, informal and impromptu meetings would be precisely to establish not an eight-hour threshold, but a zero threshold. If I meet with someone impromptu, they can always say that the conversation did not last eight hours.

In a way, we would be sidestepping that and circumventing the Lobbying Act.

Is that correct?

• (1550)

Nancy Bélanger: That's exactly what's happening right now. That is why the threshold should not be eight hours. That said, right now, I have no choice; I have to work with the words in the act in mind.

My first recommendation would be to remove the threshold. This notion of "significant part of duties" appears three times in the act. I'm sure we'll have a chance to talk about it again. Registration should be by default. That would remove the complexity of wondering whether or not the communication should be reported. If you have a communication, you report it.

By the way, registration takes five minutes, and entering the information takes less than 20 to 25 minutes. So it's a minimal effort to make. It's a small price to pay for communicating with you.

Luc Thériault: Have you been following our work on conflict of interest?

Nancy Bélanger: I'm always interested in that.

Luc Thériault: At one point, I asked the Prime Minister's chief of staff about the application of the conflict of interest screen.

He told us that he and his colleagues were not suggesting things, they were imposing an obligation on the Prime Minister not to meet with representatives of the companies listed on his disclosure form. I asked him if they were also prohibiting the Prime Minister from receiving or answering phone calls. Mr. Blanchard answered that Mr. Carney is aware of his obligations. I expected that they would have imposed that obligation, given that Mr. Sabia and Mr. Blanchard were boasting about imposing, not suggesting things to the Prime Minister, which I found to be quite ethically comforting.

The Lobbying Act, as it currently stands, was enacted in 2006. In 2011, there were 11 recommendations, which were never applied. We now find ourselves in a world of social media, which provides multiple ways to reach people. After the pandemic, we had Zoom meetings, for example. So this technological advance has taken place in the meantime.

Does the act, as it currently stands, provide a framework for all that according to its objectives?

If so, how does it do that? If not, should an additional amendment be made to the act on this subject?

Nancy Bélanger: One very positive aspect of the Lobbying Act is that it talks about any communication. It's very broad.

Unlike in most provinces, the concept of influence at the federal level has been removed. We're talking about communication regarding a request or a change to the act. When you make a request, you exercise some influence, but I interpret the word "communication" very broadly.

Communication through social media is communication. The same goes for telephone communications. The act includes written and oral communications or even communications through a public announcement. If someone takes out an ad in the newspaper asking Canadians to contact you, that counts as communication under the Lobbying Act.

So I would say that it's quite broad, and that's good. It could be specified that it includes all social media.

Luc Thériault: How do we monitor that? How do we manage that broader accessibility versus what existed before?

How can the Office of the Commissioner of Lobbying ensure that everything is done according to the rules?

Nancy Bélanger: I have 35 employees. Right now, there are more than 9,000 registered lobbyists, and I expect the numbers to rise.

Luc Thériault: Would you be able to ask the person in the highest office of the government, the Prime Minister, to provide you with his telephone communications?

Nancy Bélanger: Yes. I already do.

Luc Thériault: Is that right?

Nancy Bélanger: I do. I ask public office holders to submit any communication to me, and I have no trouble obtaining the information.

Luc Thériault: Could you provide those documents to us?

Nancy Bélanger: I couldn't, because I gained access as part of my investigations. So it's confidential information.

I still request access to all communications. I'm even checking to see—

• (1555)

Luc Thériault: Did you have to do that for the current Prime Minister, given his rather unique situation?

Nancy Bélanger: I can't confirm that, because I can't confirm whether or not I'm investigating this matter.

However, I can tell you that I ask for access to all communications, and I am given it. If there were phone calls, I would ask to see them.

Luc Thériault: When you conduct an investigation, the process is confidential.

Is that correct?

Nancy Bélanger: Yes.

Luc Thériault: When does it become public?

Nancy Bélanger: It rarely becomes public, given the way the Lobbying Act is currently written. I send all the information to the Royal Canadian Mounted Police, or RCMP.

I don't have the power to declare that someone did not comply with the Lobbying Act. If I have reasonable doubts that there is an offence, I have to tell the RCMP.

Luc Thériault: You would like to have that power.

Is that correct?

Nancy Bélanger: Yes, absolutely. I wish I had it.

Luc Thériault: Okay.

How much time do I have left, Mr. Chair?

The Chair: That's it.

Thank you, Mr. Thériault.

[*English*]

Mr. Cooper, you have five minutes. Go ahead, please.

Michael Cooper (St. Albert—Sturgeon River, CPC): Thank you, Mr. Chair.

Thank you, Commissioner.

I want to look at some potential loopholes under the Lobbying Act, with a view to closing them.

In September 2024, Mark Carney was appointed by then prime minister Justin Trudeau as the chair of the leader's task force on economic growth. In this capacity, Mr. Carney had direct access to the prime minister. Indeed, Justin Trudeau touted Mr. Carney as his economic adviser.

Normally, the economic adviser to the prime minister would be housed within the Prime Minister's Office. In this case, Mr. Carney technically was not. He was instead held out as an adviser to the leader of the Liberal Party, who just happened to be the prime minister. Had Mr. Carney been housed in the Prime Minister's Office, he would have been a designated public office holder under the Lobbying Act. Isn't that correct?

Nancy Bélanger: Yes, had he been appointed under section 128 of the Public Service Employment Act, he would have been a designated public office holder.

Michael Cooper: Since he was officially an adviser to the leader of the Liberal Party, he was not a designated public office holder under the Lobbying Act. Is that correct?

Nancy Bélanger: That's correct.

Michael Cooper: Consequently, any individual, corporation or entity that would be subject to the Lobbying Act—and would, therefore, have to report any meeting with a designated public officer holder on matters of government policy—would not have to report any meetings they had with Mark Carney discussing matters of government policy. Is that correct?

Nancy Bélanger: That's correct.

Michael Cooper: In simple terms, we have no idea who lobbied Mark Carney and what they lobbied him on while he was Justin Trudeau's economic adviser. Is that fair?

Nancy Bélanger: Unless there was some other transparent mechanism under the Lobbying Act, no.

Michael Cooper: Okay.

When you appeared before this committee on November 5, 2024, you said, with respect to the objectives of the Lobbying Act, "It is important for transparency, to make sure that Canadians know who's meeting whom and about what, and what leads to the decisions that decision-makers are making." Do you stand by those words?

Nancy Bélanger: Absolutely.

Michael Cooper: While Mark Carney served as Justin Trudeau's economic adviser and had the ear of the prime minister on matters of government policy, we'll never know who he met with, what was discussed and what influence those discussions had on decisions made by the prime minister and the government. Given that, would you agree that the arrangement Mark Carney had with Justin Trudeau was contrary to the spirit of the Lobbying Act?

Nancy Bélanger: There are different mechanisms by which you can enhance transparency. Did this fit into the Lobbying Act? No. As well, individuals who lobby the federal government also need to be paid. That's another requirement of the Lobbying Act currently. If someone is lobbying for free for a particular position, they're not covered by the act, which is also something that we should be looking into, if it's something that is of interest to this committee.

I'm not trying to reduce volunteer work and people who are coming to you as constituents, because they have an issue. That's not what we're looking at. In particular, when people are former designated public office holders, they are prohibited from lobbying for five years, mainly because of the network that they've created. But if they go and volunteer for an organization, any communication that they have with their former colleagues is not covered by the Lobbying Act, because they're doing it for free, possibly. This is something I think we need to put some thought into, for sure.

● (1600)

Michael Cooper: Commissioner, I agree with you on that point, but I would also add that in the case of Mark Carney serving as an adviser to the leader of the Liberal Party, who just happened to be the prime minister, it's not simply that it didn't fit into the Lobbying Act. It appears to be a clear circumvention, or an attempt to circumvent the Lobbying Act in the same way that Mark Carney tried to circumvent the Conflict of Interest Act, while he held that same role.

Nancy Bélanger: I'm not getting into what the intents were and whatever. That is the result.

Michael Cooper: Yes.

Nancy Bélanger: There is no monthly communication report with those individuals if this person was lobbied. I don't know to what extent there was lobbying occurring.

Michael Cooper: Whether or not you want to concede it was a circumvention, but you concede that it's certainly the result, do you have any recommendations so that this sort of thing doesn't happen in the future?

The Chair: We're going to have to come back to that, Mr. Cooper.

Ms. Church, you have five minutes.

Leslie Church (Toronto—St. Paul's, Lib.): Thank you, Mr. Chair.

Welcome, Commissioner.

I wanted to pick up on a couple of your later recommendations around the regulation-making power, for starters. Could you describe why those powers are necessary and what circumstances you think they would be most useful in? What would they encompass?

Nancy Bélanger: That recommendation is definitely out of the box. One of the reasons I made the recommendation is that the current regulations were in place in 2008, and they haven't been touched over the years. I'll give you a very specific example. On the subject matter, so the list of the types of things that people talk about—environment, health—these are topics that are provided by regulation. They were created in 2008. Some of the language in some of those is no longer appropriate, and they've never been updated.

In our office, we're the ones who know how to update the registry to make it more in line with the current times. For example, climate is not in that list. There's a category called "other", and people were writing all sorts of things. I took the liberty of adding climate, economic development and budget to that list of "other", which I'm not really sure I have the authority to do; but I added that as a list of items for people to add, because they've never been updated. That's one example.

I still think there should be a process in place—and this is not my asking for free power. As an independent agent of Parliament, it's somewhat uncomfortable to have to go through the department of the day to make changes to regulations that would help to modernize the registry, for example. I should have to come through this committee or through Parliament to be able to do that. I should be able to do that without having to go through the department.

Leslie Church: Just to clarify that, because you do mention having an oversight process in place, do you see this committee or Parliament as that appropriate oversight?

Nancy Bélanger: Yes, it could be, but this would probably be very novel.

Leslie Church: Are there examples of this in other regimes where these powers exist?

Nancy Bélanger: Not in the provincial... I know that Quebec is going to be asking for it. The other regimes at the federal level are

tribunals. The CRTC, for example, has powers to make regulations. It still goes through the Governor in Council. I think the Canadian Transportation Agency has a power to make regs that go through the Governor in Council. There aren't many models, and I know this is really pushing it, but it's to try to find a way to keep the registry, the issues and the items more modern without having to go through a big legislative review and do them through regulations, which is why some of the recommendations touch both.

Leslie Church: Is the primary issue there on the disclosures the nature of the theme of the communication or of the public policy area that's being communicated on?

Nancy Bélanger: That's one example, because there's a list. There is nothing about COVID, for example. None of us would have known in 2008 that there would have been communications about COVID and vaccines, for example. "Health" is the topic that people would write. If there's a way to constantly adapt, be flexible and be on top of creating a list that's more modern and more flexible, that would be a really good thing.

• (1605)

Leslie Church: The other recommendation I wanted to ask you about was with respect to enforcement of orders by the Federal Court. Could you help us understand a bit more about the circumstances where you think that would be necessary?

Nancy Bélanger: Currently, the Lobbying Act provides that I have the same powers as any superior court to issue production orders and subpoenas. Should somebody not abide by the production order or subpoena, you would have to have contempt proceedings. Those contempt proceedings currently would likely have to go to the province where the organization is instead of the Federal Court. The Federal Court is a statutory court that takes its powers through statute, and right now it can review my decisions, but it can't necessarily do contempt proceedings related to my orders.

Regarding the Canadian Human Rights Commission, I gave examples that we have precedents for, and all that would happen is I would table my production order or my subpoena in Federal Court and it would become an order of the court, and any contempt proceedings would be in front of the Federal Court.

The Chair: Thank you.

[Translation]

Mr. Thériault, you have the floor for five minutes.

Luc Thériault: Earlier, you talked about paid work and unpaid work.

In your practice, have you seen many cases where this situation arises?

Nancy Bélanger: Yes. There are a lot of people from associations, organizations and groups who say they aren't paid at all. According to them, they don't need to register. This happens on a regular basis.

Sometimes I tell them to be careful. These people belong to associations and all claim to be volunteers, but they wouldn't be in that association if it weren't for their employer. So I tell them that, if the communications benefit their employer, and not just the association, they must register.

My goal is not to prevent volunteer groups from contacting you or to impose an obligation. We have to find a happy medium. Some organizations are truly made up of volunteers, while others are associations whose members claim to be volunteers.

Luc Thériault: Okay.

In recommendation 21, I saw that you—

Nancy Bélanger: Are you talking about the last recommendation?

Luc Thériault: Yes. I was very surprised when I read it. You have no immunity. In a sense, that means that people could tell you that they'll sue you if you continue along this path.

Has that ever happened? Is that why you are making such a far-reaching recommendation?

Nancy Bélanger: No, it hasn't. We're lucky.

However, I think there is a common law principle that would protect us, because we do the work as part of our duties. That's obviously an oversight, because all agents of Parliament have that immunity. We're the only ones who don't. I think that oversight needs to be rectified.

Luc Thériault: In addition, it would provide a framework for your work or protect you from consequences with respect to certain tasks or powers that you want to have.

Is that correct?

Nancy Bélanger: Of course.

Luc Thériault: So we're talking about the power to issue orders, the power to disclose information and the power to do the work yourself, without having to communicate with the RCMP.

Is that correct?

Nancy Bélanger: Yes, that's exactly it.

I'm a firm believer in natural justice procedures. If we have the power to impose penalties, the act must provide for procedures.

There's always the principle of judicial review. However, I want to avoid criminal or civil proceedings, so I think we need that immunity.

Luc Thériault: One of your recommendations calls for the disclosure of each appeal to the public.

We don't see examples of that in other provinces. Can you give us an example of an appeal to the public that would require disclosure?

• (1610)

Nancy Bélanger: Currently, roughly 60% of organizations and 30% of registered companies indicate that calls to the general public will be a method of communication. Afterwards, we don't hear about it anymore. All of a sudden, there are things in the newspapers. I often hear from MPs and senators that they are bombarded with letters related to certain bills and have no idea who the authors of those communications are.

The purpose of this recommendation is to impose another obligation. When they undertake a public call campaign, in addition to indicating that it is a method of communication, lobbyists will have

to record in the registry the public office holders being targeted and the subject of the communication.

Thanks to this registry, you'll be able to see who is behind certain grassroots communications campaigns.

Luc Thériault: How do we operationalize that, because very often we don't know who they are?

Nancy Bélanger: We hope they will indicate that in the registry. If they do, you'll see when the campaign started, what it was about and the lobbyists involved.

Luc Thériault: In recommendation 18 of your brief, you say—

The Chair: Mr. Thériault, can we come back to this issue later? Your time is up.

Luc Thériault: Okay.

Thank you.

The Chair: Mr. Hardy, the floor is yours for five minutes.

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you for being with us.

Lobbying is the intent to communicate with public decision-makers to influence their decisions. The act has not been reviewed since 2012. We're reviewing it today, but it's been a while, and things have evolved a great deal. You were saying that the change you want to make affects 70 new organizations. You can imagine that things have changed quite a bit in the past 14 years.

You said you cover paid activities. In your opinion, there is some vagueness, and that should be clarified for activities that are not.

If a consortium owns 500 companies and, every week, a director from one of those companies holds a meeting lasting an hour and a half or two hours, that person doesn't exceed the threshold of eight hours a month.

In such a case, we would never audit that. It would fly under the radar. There would be no problem, despite the fact that these are recognized companies and that we could, at some point, see decisions aligning with the interests of those companies. Everything would be fine.

Is that correct?

Nancy Bélanger: That's right. All organizations and companies currently have a limit. If the threshold isn't reached, we don't know what's going on.

Gabriel Hardy: You said that the companies aren't necessarily lobbying firms. Any company can want to talk to ministers. If they respect the limit of eight hours a month, there isn't any issue.

This would mean that ministers could spend their time meeting with corporate representatives, despite potential conflicts of interest. As long as these meetings don't exceed the eight-hour limit, everything's fine.

Is that right?

Nancy Bélanger: That's right. There isn't any transparency.

Gabriel Hardy: Let me give you an example. A senior executive of a company is given a mandate by a minister or prime minister, on the grounds that the executive knows the industry, to provide economic advice and to help them. At the same time, the executive remains the head of a major corporation. As a result, we could see government decisions aligned with the interests of this company.

In your opinion, is this executive engaged in lobbying, if the executive receives payment from the office of a minister or prime minister and provides advice?

Nancy Bélanger: If the individual is hired under a service contract to provide advice, it's a service contract. The federal government has a number of these contracts, and it isn't lobbying.

Incidentally, I recently met with a number of groups and gave them advice. These groups included advisory and consultative groups. Although these people are part of the groups at the request of a particular minister, their activities and communications could be seen as benefiting their company. After all, their company pays them to be there. Without their company or their expertise, they wouldn't be there. They must see it as communicating.

• (1615)

Gabriel Hardy: You ask them and you suggest things.

Nancy Bélanger: I tell them. That's the advice that I give them.

Gabriel Hardy: It's advice. However, as we've seen in the past, a senior finance executive may indeed serve as an adviser to a prime minister. The government's decisions are then aligned with this person's advice, but the person has never done any lobbying in their life.

Nancy Bélanger: Exactly. It can happen.

Gabriel Hardy: Okay.

Can you think of a situation that you feel is quite conflictual, but that isn't covered by the current Lobbying Act? I'm thinking in particular of a situation that might have slipped under the radar.

It would be a situation that you know is conflictual and that shouldn't have happened, but that you couldn't do anything about. This would have basically led you to recommend improvements to the legislation.

Nancy Bélanger: The best example is probably when people leave their positions as public office holders to become consultant lobbyists or to take a job with an organization.

When they leave their positions, they're prohibited from lobbying for five years. However, if they take a job with a company, they may engage in lobbying as a significant part of their duties.

In the past, anyone could leave their position, take a job with a company and engage in lobbying activities. The limit used to be 32 hours. Nowadays, it's eight hours. The reason lies in the fact that an exception is made for companies when a person leaves their position. This is tied to the post-employment restriction on lobbying.

It's quite blatant. Moreover, no reasonable justification explains how an exception would apply to working for a company and engaging in lobbying, but not to a not-for-profit organization.

Gabriel Hardy: Basically, when a person knows many people in the government, it can help.

Nancy Bélanger: This has been the case since 2008. We need to find a way to address this shortcoming.

Gabriel Hardy: Is my time up, Mr. Chair?

The Chair: You have 15 seconds left.

Gabriel Hardy: I'm finished, Mr. Chair.

The Chair: Thank you, Mr. Hardy and Ms. Bélanger.

[English]

Mr. Saini, you have five minutes, sir. Go ahead, please.

Gurbux Saini (Fleetwood—Port Kells, Lib.): Thank you for appearing before the committee again.

In recommendation 21, you want you and your staff to have immunity. I know Mr. Thériault asked the same question. Can you give some explanation of why it is necessary?

Are we going to see that you, as the lobbying commissioner, want immunity so that you cannot be prosecuted if people don't agree with you on something?

Nancy Bélanger: If people don't agree with me, there are processes through the Federal Court and judicial reviews to review my decisions, and I have no problem with that whatsoever.

This immunity is the usual immunity that exists for all agents of Parliament to not be criminally prosecuted or civilly prosecuted for doing my job. It exists for all agents. I think it was simply forgotten and not added in. It's just—I don't know—an unfortunate event. Luckily, I've never been prosecuted or civilly charged. There's a concept in common law that would protect us, in any event.

This is a thing that needs to be fixed, because all other agents of Parliament have it. We just don't.

Gurbux Saini: In recommendation 19, you want to “Amend the Act to include a mechanism for the Federal Court to enforce orders...issued by [you]”. Does that power also rest with other bodies, like the Ethics Commissioner, or would you be the first one to get that authority?

Nancy Bélanger: It does not exist for the other agents of Parliament. In any event, my colleagues at access to information have order-making powers and there's a process in place.

My issue is if there are contempt proceedings. I can't decide the contempt proceedings of orders I've issued. I'd have to go to provincial courts. This is just a mechanism by which the production order would be tabled in the Federal Court. I've never had to do this. This is an administrative way to say that if somebody doesn't show up or doesn't send me the documents, the contempt proceedings would be at the Federal Court, which I think is the right place for a federal agent of Parliament.

That's all this is. It's very administrative in nature, but it's to save us problems in the future if ever we were to get there.

Gurbux Saini: In your recommendation 11, you want to "Amend the Act so that individuals occupying director general-level positions qualify as designated public office holders." What's your reasoning behind it? I understand that there are hundreds of people who have that position.

Would that not create a lot of extra work for nothing?

• (1620)

Nancy Bélanger: I don't know if it's for nothing. I will never say that work that enhances transparency is work for nothing.

Recommending that directors general be included as designated public office holders actually comes from this committee. It was the number one recommendation back in 2012. Usually the directors general are invited to meetings because they're the ones who are operationally hands-on in the departments. If people meet with them to get some work done, they should have to be transparent about those communications. That was the recommendation of this committee.

The only issue was people were concerned that they would also be subject to the five-year prohibition. That is the consideration that needs to be made about whether or not they should be in that group. I would say probably not because they don't have the same level of network, possibly.

That is the consideration, and that was a recommendation from this committee, to extend transparency to those who are actually working on the policies and operations of different departments.

Gurbux Saini: Do you have any idea of how many director general positions there are?

Nancy Bélanger: There are lots. That's okay. It's not on them. It's when an organization meets with a director general who is now a designated public office holder, they would have to go and indicate that they met with them. That takes three minutes.

Gurbux Saini: Thank you.

Nancy Bélanger: I'll tell you one of the issues right now is that people have a hard time figuring out who's a designated public office holder in departments. People don't have that written on their forehead. If we bring down the level one maybe it's going to be easier to identify who they are.

Gurbux Saini: Thank you.

The Chair: Mr. Cooper, you have five minutes.

Please, go ahead.

Michael Cooper: Thank you, Mr. Chair.

Commissioner, recommendation 10 that you provided is to amend the act so that all members of the staff, ministers of the Crown and ministers of state, as well as the Leader of the Opposition in both the House and the Senate, qualify as designated public office holders. I agree with that recommendation.

I would put it to you that it's consistent with what you said with respect to the objectives of the act when you appeared before this committee on November 5, 2024, that it would help make Canadians aware of "who's meeting whom and about what, and what leads to the decisions that decision-makers are making."

Is that fair?

Nancy Bélanger: That is fair.

My problem, and the reason I made that recommendation, is that the act makes reference to an actual section of the act. In the act, under section 128, it says anyone in a minister's officer who's appointed under 128 is a designated public office holder. There's never been an issue. Everyone in a ministerial staff is appointed under section 128.

The government of the day in 2010 added, through regulation, section 128 for those staff members in the office of the Leader of the Opposition of the House but also of the Senate. However, those who work as the government representatives in the Senate are not mentioned anywhere. I think that's a mistake as well.

The problem right now is by referencing section 128 in the regs, it's misleading. I understand that no one in the office of the Leader of the Opposition is appointed under 128.

There needs to be a decision of whether or not they should be added in the act and remove reference to 128 or whether to remove reference to them completely. Right now, people out there believe that individuals in that office are appointed under 128 and therefore they report.

Michael Cooper: Thank you for that clarification.

I want to go back to the question that I put to you earlier, which was regarding the role of Mark Carney as the economic adviser to the Prime Minister. Normally, such a person would be housed within the Prime Minister's Office. Therefore, normally they would be a designated public office holder under the Lobbying Act. Because Mr. Carney was technically housed in the Liberal Party, even though he was directly accessing the Prime Minister, and directly advising the Prime Minister on matters of government policy, specifically on economic policy, the result of that arrangement was that Mr. Carney was not subject to the Lobbying Act, as you noted.

Given that, what recommendation, if any, would you suggest to prevent something like that from happening going forward? Whether there was a deliberate intent to circumvent the act or not—and I think there likely was—it certainly is less than ideal from the standpoint of transparency, and from the standpoint of knowing who is talking to someone who has significant influence on decisions of the Prime Minister and the government in terms of policy.

• (1625)

Nancy Bélanger: If the intent is to have everyone in a minister's office be designated as “designated public office holders”, any communications with them, therefore, would require a monthly report or they would be subject to the five-year prohibition when they leave.

My recommendation in relation to removing a reference to a section, so it's anyone working in a minister's office under whatever mechanism—whether it be contract, advisory or otherwise—be designated public office holders, is that it is something this committee can definitely consider.

Michael Cooper: Again, would that have applied in that particular case?

Nancy Bélanger: If the definition is anyone working in the minister's office—as a staffer, as an adviser—then they would automatically be captured.

Let's not forget that I don't regulate designated public office holders while they're in office. It's only when they leave that they become subject to my regime, but having designated public office holders, the greater the population, the more transparency in relation to communications with them.

[*Translation*]

The Chair: Mr. Sari, you have the floor for five minutes.

Abdelhaq Sari (Bourassa, Lib.): Thank you, Mr. Chair.

Thank you, Ms. Bélanger, for joining us. It's always good to have you here. You give us a perspective on the in-depth analysis that precedes the recommendations. These recommendations may give rise to questions. Of course, we might want to ask you questions to understand a bit of the process that led you to these recommendations.

Before going any further, I would like to clarify things for the people tuning in today. We're currently reviewing the Lobbying Act. There isn't any investigation. There isn't any scandal either. It's quite important to know this. The comments coming from the other side of the room could give the impression that this is the case. However, this impression shouldn't be conveyed to the people tuning in today. On the contrary, we need to reassure them that this legislation needs a review, but that we agree with it.

That said, before asking my questions, I would like to clarify a few points raised earlier.

Have you had trouble receiving information from a minister's office in the course of your duties?

Nancy Bélanger: Honestly, I find that all departments, all public office holders and all offices show me a great deal of respect. When I ask for information, I receive it. I encounter issues only when a

change of minister takes place. Sometimes, we need to look for the information, but that's rare. There's always a great deal of co-operation.

Abdelhaq Sari: We can simply call this being “in limbo”. It's a bureaucratic issue.

Does this include the Prime Minister's office?

Nancy Bélanger: Yes, this includes the Prime Minister's office.

Abdelhaq Sari: Okay.

I really need to know one thing about potential shortcomings in the Lobbying Act.

Are there any shortcomings in the powers granted to you?

Can you summarize them and make them as easy to understand as possible for the public before I ask my main question?

Nancy Bélanger: I have broad investigative powers. Unfortunately, not all violations of the act should be treated the same way. Everything is sent to the RCMP. It isn't complicated.

I would like to have the power to require mandatory training for people, to apply penalties or to impose a lobbying ban. My colleagues in the provinces can do this. I'm required to send everything to the RCMP.

I don't—and can't—do anything about delays. People who run late are accepted for the sake of transparency. However, at some point, if a penalty were imposed, they might not run late the next time.

Abdelhaq Sari: I would like to move on to another important topic.

Based on your response to Mr. Cooper, do I take it that the office of the Leader of the Opposition includes people covered by section 128 of the Public Service Employment Act? Subsection 128(1) states that a minister, or a person holding the recognized position of Leader of the Opposition in the House of Commons or Leader of the Opposition in the Senate, may appoint an executive assistant and other persons required in his or her office.

Do you see this as an issue for lobbying, given the considerable influence that it can wield in the public arena?

• (1630)

Nancy Bélanger: The public office holder status of people working for the office of the leaders of the opposition is currently set out in the regulations. It isn't in the act. It's set out in regulations adopted in 2010.

I've been told and received confirmation that no one in this office is appointed under section 128. The public is under the mistaken impression that these people must submit communication reports. The public thinks that the people in these offices are appointed under section 128, but that isn't the case. They're appointed under the regulations governing members of Parliament.

Abdelhaq Sari: Did you yourself come to the conclusion that these people aren't appointed under section 128, or was this brought to your attention?

Nancy Bélanger: I asked for confirmation. I deal with many people who tell me that they filed a monthly communication report and received the message that they weren't appointed. I contacted the office and received confirmation that no one is appointed under this act in these offices.

Abdelhaq Sari: When you say office, do you mean the office of the official opposition?

Nancy Bélanger: Exactly.

Abdelhaq Sari: Did a member of this office confirm this to you?

Nancy Bélanger: Yes.

Abdelhaq Sari: I can't ask you whether an investigation took place to verify whether these people were appointed under the section in question. I understand that the office staff simply confirmed this based on their own understanding of the situation.

Nancy Bélanger: I can tell you that we check the monthly reports every month. Every month, I contact your offices, the senators' offices, the ministers' offices and the department offices. I ask whether this communication has actually taken place. I receive confirmation that these people don't fall into the category of designated public office holders because they aren't appointed under section 128.

Abdelhaq Sari: Okay.

Nancy Bélanger: I was asked this question recently. I wrote to the office to confirm whether anyone was appointed under section 128. I was told—

Abdelhaq Sari: Does this include the staff of the leader of the official opposition?

Nancy Bélanger: Yes.

The Chair: Thank you, Mr. Sari.

This brings the first hour to a close.

Ms. Bélanger, do you need a break? Can we continue?

Nancy Bélanger: It's fine. We can continue.

The Chair: Mr. Hardy has the floor for six minutes.

Gabriel Hardy: The discussion is quite compelling. Thank you, Ms. Bélanger, for joining us today. It was about time for a review of all this.

I would like to ask a broader question. You told me earlier that over 9,000 companies engage in lobbying.

Can you find out who funds them?

Do you have the power to ask them where the funding money comes from? This could cause issues.

Nancy Bélanger: First, the figure is 9,000 lobbyists, not 9,000 companies. An organization can have more than one lobbyist.

The Lobbying Act requires companies to disclose the funding provided by various levels of government, from federal to provincial to municipal.

That said, they aren't required to disclose the funding received for lobbying purposes, for example. This came up in one of my recommendations, because the provinces have this requirement. However, there currently isn't any obligation to disclose this.

I don't need this information for an investigation. I don't think that I've ever had to ask for it.

Gabriel Hardy: You said—and I really agree with you—that transparency is extremely important. People are losing confidence in our institutions. They sometimes believe that public office holders give themselves advantages.

It seems useful to know that private companies fund lobbying firms, which then obtain contracts. It could also be useful to know that companies manage to get them contracts. I'm talking about Canadian companies, but this could also apply to foreign governments. It seems that this information is quite useful.

Nancy Bélanger: Yes. It would be helpful. It's one of my recommendations. Consultant lobbyists are currently required to disclose any entity that carries out lobbying activities or that has an interest in lobbying.

Employers, including corporations and organizations, are under no obligation to disclose the source of funding for lobbying activities. This could become an obligation. In the provinces, the disclosure threshold is \$1,000 for anyone who gives more than \$1,000 in funding, or more than \$750 in Ontario.

Gabriel Hardy: There isn't anything like this in Canada. However, it would be extremely helpful for you.

Is that right?

Nancy Bélanger: Yes indeed.

Gabriel Hardy: If you see a problem, you start an investigation. You said earlier that the only thing that you could do was to transfer the case to the RCMP.

Do you find that you have power? Many commissioners have come to tell us that they exist and that they're supposed to remain a bit above the government and to make sure that public office holders do their jobs properly in matters of ethics, lobbying and access to information. Most of the time, they tell us that they don't have enough funding or power.

Do you think that you have enough power to do your job and to ensure public confidence?

• (1635)

Nancy Bélanger: I have enough power to carry out investigations. However, the issue lies in the subsequent accountability. I find that I don't have any power when it comes to the outcome of the investigation. I can't talk to you about it. That's tiresome.

For example, I would like to be able to say that a certain thing constituted an offence and that I imposed a penalty if it were minor. You should know that not all offences are equal in terms of seriousness. I would like to be able to tell you that this situation will become a matter of public record and that we'll then have a chance to talk about it.

Gabriel Hardy: Do you have the right to stop a lobbying activity?

Nancy Bélanger: Yes. I have that right.

Gabriel Hardy: You have the right to tell an organization that it's over.

Is that correct?

Nancy Bélanger: If you're talking about the right to prohibit a lobbying activity, I can prohibit lobbying only in cases where the organization or person under investigation has been found guilty.

Gabriel Hardy: During all the time that the RCMP's investigation takes, you can see that there's a problem, and you can tell an organization that things aren't working at all. However, the time frame gets longer. It will be sorted out one day, but that's beyond your purview.

Nancy Bélanger: That's beyond my purview, yes.

Gabriel Hardy: Okay.

If a meeting takes place with a private company and 20 people show up to meet a minister with graphs, books and so on, and they come once a week for an hour and a half, does that count as an hour and a half, or do you use a cumulative total?

Nancy Bélanger: I use a cumulative total. The act currently states that it has to be done that way. If those 20 people show up for an hour and a half, they should register after that meeting.

Gabriel Hardy: Okay.

Basically, you use a cumulative total of the number of people.

Nancy Bélanger: Yes, that's right.

Gabriel Hardy: I understand.

If a meeting takes place on a regular basis, as we said earlier in our example, it may or may not be recorded.

Do you monitor all the phone calls that may take place after the meeting?

Do you have the power to say that you want to see everything that goes on? Do you absolutely have to conduct an investigation to get access to the phone records?

Nancy Bélanger: The current system certainly places a lot of trust in people. There are six people on my investigative team. If organizations and businesses are registered and there are monthly communication reports, I have no reason to think that they aren't meeting the act's requirements.

However, if I see that there were meetings—you'd be surprised at the number of emails or photos I receive to show that people are clearly lobbying and aren't registered—I will do some research. I'll ask questions and ask you what the purpose of the meeting was and whether there was any communication afterward. If the answer is

yes, I do the math to see if it's close to 32 hours. If so, I refer the matter to the RCMP.

Gabriel Hardy: I'll go back to my example from earlier.

If representatives of a company regularly meet with a minister for an hour and a half a week, every week, and—even if the number of hours is below the eight-hour threshold—they talk for three hours every day, doesn't anyone react?

Nancy Bélanger: Allegations would have to be made, or I would have to have doubts as to whether they were complying with the eight-hour threshold. If they weren't complying, I open an investigation.

Gabriel Hardy: Do you have the right to ask at random, without conducting an investigation?

Nancy Bélanger: Yes, I have the right to do that.

Gabriel Hardy: You could say that you're in the area and want to see their phone records to see if anything is going on.

Is that correct?

Nancy Bélanger: I always do that when I have doubts. I do that under the authority I have been granted. I can conduct a preliminary investigation to check whether the act has been complied with.

Gabriel Hardy: Okay.

Nancy Bélanger: In my view, I can do that.

The Chair: Thank you, Mr. Hardy.

Ms. Lapointe, you have the floor for six minutes.

Linda Lapointe: Thank you very much, Mr. Chair.

Thank you again, Ms. Bélanger, for all your clarifications.

I'd like to come back a bit to what my colleague Abdelhaq Sari said earlier about public office holders who are in the office of the official opposition and aren't registered.

Do you find that surprising?

Nancy Bélanger: They aren't the ones who have to register. Lobbyists have to register any communication, and they do so because they assume that the employees of that office are appointed under subsection 128(1) of the Public Service Employment Act or because it's required by regulations. However, it has been confirmed to me that no one is appointed under subsection 128(1). In other words, these communication reports aren't necessary.

Things have to be cleared up. It's important to decide whether to keep subsection 128(1). If it gets kept, it has to be provided for in the act and apply to everyone. I would personally remove the reference to any section of an act, because those acts can change. The numbers can change.

We could also work together to determine which positions you believe should be designated public office holders and include that list in the act.

Linda Lapointe: That would be clearer. As soon as someone tries to exert influence, it has to be registered.

Nancy Bélanger: Yes. That's right.

Linda Lapointe: Thank you.

We talked earlier about the Lobbyists Transparency Act that was passed in British Columbia.

For example, you talked about oral communications, transparency and the removal of thresholds.

Do you want to say anything else about that?

• (1640)

Nancy Bélanger: In British Columbia, this obligation has been enshrined in law. People have to disclose the funding they receive to support their lobbying activities. That's interesting. It exists in Ontario, Alberta and British Columbia.

In my report, I included references to articles on that topic.

Linda Lapointe: Okay.

In recommendation 15, you talk about the five-year restriction on lobbying.

I'd like to have more details on that. I believe former public office holders are given two years in British Columbia, whereas they get one year in some provinces.

I'd like to know why you say that five years is better even though it's two years in British Columbia.

Nancy Bélanger: The five-year period stems from a decision made by Parliament in 2008, and it's in the Lobbying Act. I didn't make that decision, so I'm applying the act as it's written.

Currently, a designated public office holder who leaves office is prohibited from lobbying as a consultant lobbyist or on behalf of an organization. However, if they go work for a company, they can lobby for up to eight hours. That discrepancy has to be eliminated. That's the first thing.

The question remains whether the five-year period should stay in the act. I admit that this is a long time. However, for some people, the prohibition period should perhaps be longer than five years. I think that this period is reasonable for certain people at the moment. The way the section is currently worded gives me a lot of flexibility to look at each case and determine whether conditions could be imposed. For example, the five-year period could be reduced for people who have administrative duties or have been in office for a very short period of time. That means that there are already criteria in place that allow for some flexibility so that not everyone is subject to the five-year period.

I have heard some people say that maybe there should be categories, and that some people should have to respect the five-year period and others should have to respect a different number of years, such as a year or two. It's important to be careful. Someone who holds an entry-level position but has been travelling from one department to another for 15 years has just as good a network as that of someone who was a minister for three years, for example.

The goal of the restriction is precisely to prevent former public office holders from giving an advantage to their new employer or a new client because of the people they have met and the information they have obtained during their years of work. It's important to be

careful, then. It's not as easy as just saying that certain positions will be appointed.

Linda Lapointe: I realize that the criterion isn't so much the position held. However, you're saying that this is already in place.

Do former public office holders often ask you to reduce the five-year period?

Nancy Bélanger: Over the past year, we have received 23 requests. There are maybe still two that we're working on. I think I accepted half of those requests.

Linda Lapointe: Okay.

Nancy Bélanger: Very often, it isn't former ministers and former members of Parliament who ask me for exemptions. It's the employees from ministers' offices. They ask me if we can shorten the five-year period, because they worked for only six months, didn't hold their position for long and only did administrative duties.

Linda Lapointe: I'd like to come back to the history of associations and volunteering that you mentioned earlier. This is very prevalent, and you can name them all. Depending on the sector in which the association operates, if they're entrepreneurs, they're part of the association and they're the ones who make representations on a volunteer basis.

Should the association register?

Nancy Bélanger: Yes, that's what we're saying right now. If the association has an employee, the most senior executive is responsible for registering the association. Very often, the members of these associations tell me that they're part of the association on a volunteer basis, that none of them are paid and that they lobby on behalf of the association.

That's an issue for me sometimes, especially if the lobbying is done on a volunteer basis during office hours. Is it really volunteer work, or is it actually work that they carry out as a representative of their employer?

• (1645)

The Chair: Thank you very much.

Mr. Thériault, you have the floor for six minutes.

Luc Thériault: Earlier, you told us to add a list of designated public office holders to the Lobbying Act.

How would we do that? Do you have any ideas?

Nancy Bélanger: I may have misspoken. What I wanted to say is that there's already a definition. Part of that definition is in the Lobbying Act. In fact, it mentions subsection 128(1) of the Public Service Employment Act.

Remove that section and determine who is a public office holder in a minister's office, for example.

There's also a regulation. If you look at the lobbyists registration regulations, you will see that there is a long list of people who can be designated as public office holders. That list could be added to the Lobbyists Act.

Luc Thériault: From what you're saying, there are criteria that allow you to exempt a person from the five-year prohibition.

Do we know what those criteria are? Are they—

Nancy Bélanger: Yes, they're set out in the act.

Luc Thériault: You mentioned people who haven't been in office for long, for example. Is that mentioned in the act?

Nancy Bélanger: Yes. Right now, the act says that the commissioner considers all the factors and circumstances, including whether a person held an acting or short-term position or performed administrative work.

Luc Thériault: Okay.

All you have to determine at that point, then, is whether the person fits one of those definitions and whether they were indeed in office for a short period.

Nancy Bélanger: That's right.

Luc Thériault: That's the way you exercise your power.

Nancy Bélanger: Yes. I also look at other factors. I take the situation into account.

Luc Thériault: Okay.

I just wanted to understand how the mechanics work, because the laws are somewhat general, particularly when it comes to their application.

The last time we saw each other, in October, you talked about the Yukon. You said that this territory had incorporated the concept of a “directing mind”.

Do you think it would be worthwhile for us to incorporate that as well?

Nancy Bélanger: It's interesting, because the Yukon included the concept of “directing mind” as if it were an employee of an organization or a corporation, whereas the definition of “directing mind” doesn't include the payment criterion. Someone who's a volunteer board member, for example, and who lobbies isn't currently included. They wouldn't have to register.

I think it's an interesting concept, this idea of a “directing mind”, especially if it's a fairly high-ranking person who's actually directing the work of a company or an organization, but who chooses not to get paid.

Luc Thériault: What's more, it isn't actually possible to monitor or verify that.

Nancy Bélanger: That's true. I can verify it if I do an investigation.

Luc Thériault: Okay.

In short, you're telling us that you want the discretionary power to make the files public, in the interest of transparency. What you're telling us right now is that you can't provide the full transparency required, transparency that's at the very core of the act.

Have I understood correctly?

Nancy Bélanger: You understood correctly.

What's a bit tiresome is that, when the RCMP closes a file, it sends it back to me and tells me that it has closed the file. In all honesty, I could table a report in Parliament to explain the work I did. If I do that, though, the principle of natural justice kicks in. I have to contact the people I investigated two, three or four years ago. Very often, those organizations no longer exist, or the people are no longer there.

That means there would be a concern about the principle of natural justice. I don't know what else I could investigate if the act were to tell me to continue the investigation. If the RCMP has done its investigation and decided not to continue, I'm not sure what more I could do with my small team.

Could I prepare a report that explains all that? Perhaps, but to what end? Would it just be to show that I did my job? I'm not sure. I think there would be an attempt to stop me, out of concern for upholding the principle of natural justice.

• (1650)

Luc Thériault: When you talk about requiring people to receive training—

Nancy Bélanger: When someone is late, I accept their registration and I ask them to take a training course that my team gives. Some take it, some don't. I wish I had the power to tell someone who's late for the third time, say, that they have to take a training course and that, the next time, they'll have to pay a penalty. Then, if it happens again, they will be prohibited from lobbying for a short time, and after that, the RCMP will deal with it.

I really wish I had a range of options to ensure compliance with the act, instead of always having to investigate the most serious offences. A lot of little things happen that I can't do anything about.

Luc Thériault: Is it your sense that sometimes the late reporting is due more to a lack of knowledge than to negligence?

Nancy Bélanger: Very often, it's probably due to a lack of knowledge, a poor understanding of the regime. Some people tell me they didn't think they were lobbying. Public servants are the ones who tell them that they should think about registering because what they are doing is actually lobbying.

That said, it tends to be the same people who are always late. Maybe it's about money. They engage in lobbying without registering, and when it winds up in the news, they decide to register.

It might be a good thing to be able to impose a penalty after a small investigation, instead of referring the matter to the RCMP.

The Chair: Thank you, Mr. Thériault.

[English]

We'll go to Mr. Barrett for five minutes.

Go ahead, please.

Michael Barrett: With respect to the post-employment lobbying activity ban for former members of Parliament, I'm going to use a real-life example so that I can understand it, because it's something that I've been asked about several times.

The former defence minister, Mr. Sajjan, has started a defence technology company. Their stated intention is to be an answer to the problem that is the gap that we currently have in the defence tech sector in Canada created by the fracture in the closeness of our relationship with the U.S. and companies there. The government has said that there's an awful lot of money and very specific pots of money that are available for small and medium-sized companies specifically like this one. Mr. Sajjan's company has identified itself as seeking some of those pots of money.

To my knowledge, Mr. Sajjan has not contacted any government officials. I'm not making any accusations or anything like that. What I want to understand though is, in an example like this, a former public office holder, a former member of Parliament, a former cabinet minister, starts a company, and their company doesn't have any customers so the first person they hire is someone to go to the government to say, "Hey, here's what we can do. We have this guy, and he has really great experience. He's a Canadian forces veteran. He's a former cabinet minister. He's a former member of Parliament. He had great visibility on what DND capability gaps were, and we think that we can fill those gaps for you."

In this example, as we're going to assume innocence, it's likely the case that Mr. Sajjan has not directly communicated with anyone in government. Truly, I'm not trying to indict or cast aspersions with this example. I hope that there's life after politics for everybody. What I want to know is, do we have a regime that's set up, both in practice and in spirit, to ensure Canadians' confidence that there isn't a two-tier system when it comes to lobbying the government?

• (1655)

Nancy Bélanger: This is a very complex question you've just asked, so I'll start at the beginning.

A former minister would have to clear whatever work he or she wants to do in the future with the conflict of interest and ethics office. Let's assume that's been done and that's cleared. Any communication in relation to a contract.... This example you're giving me is a corporation, so it's for profit. Therefore, that individual would be able to lobby up to a significant part of their work—up to eight hours and historically up to 32 hours. This person, according to the Lobbying Act, is entitled to lobby up to eight hours. That's a problem, so that's the first thing that needs to be fixed.

Michael Barrett: I'm sorry. For clarity, in the hypothetical, a former member—

Nancy Bélanger: A former minister who opens up their own business for profit would be allowed to lobby up to eight hours, because that's what the law says right now. If they go work for a charitable organization, they can't lobby, but if they go work for a corporation, they can. That's the first thing.

Any communication, however, in relation to obtaining a contract is not lobbying, which is one of my recommendations for a company. If you hire a consultant to get you the contract, it's considered lobbying, but a communication in relation to a contract for employers, organizations and corporations is not covered under the Lobbying Act. The communication you're telling me about, if it's to obtain a contract, would not be lobbying. If, however, it's to get contributions, if it's to get grants, then that's lobbying, and that would be

covered by the regs, and that person would not be entitled to do it. If they send their employee to do it for them, it's okay.

Michael Barrett: I have more questions, but I have no more time.

Nancy Bélanger: I'm sure you do.

The Chair: That's the worst part of my job.

Nancy Bélanger: I tried to fix that issue in one of my recommendations.

The Chair: Ms. Church, go ahead, please.

Leslie Church: Commissioner, thank you for bringing up the careful interaction between the lobbying regime, the ethics regime and even the interplay of aspects like cooling-off periods, which may also be pertinent in various situations post employment.

I have a few questions for you.

First of all, there's grassroots lobbying versus public advocacy. What is grassroots lobbying? What does that encompass, in your view?

Nancy Bélanger: According to the law, it is when an organization, corporation or consultant lobbyist uses what they call "an appeal to Canadians" to communicate with decision-makers to change their minds or to influence them about an issue. It's ads in the paper that say, "Please call your member of Parliament about whatever and tell them what your opinion is on this."

Leslie Church: Is it only a consultant lobbying organization?

Nancy Bélanger: No, it's orgs and corps as well. It's everybody. Grassroots lobbying is considered a communication method for everyone who lobbies.

Leslie Church: How would you register that or designate it? Is it a designation of the actual communication that is calling the public to action?

Nancy Bélanger: Currently, the only thing they need to do when they do their registration is put a check mark that they will be using grassroots as a method of communication.

Leslie Church: They don't have to describe what it is, how or where.

Nancy Bélanger: No, there's nothing. That is why my recommendation is to try to add a bit of meat to that, in particular when it begins. Maybe they haven't started it, but in six months when they do the actual campaign, they should be going into the registry to say that they're doing it now.

Leslie Church: On another point, you recommend registering all oral or written communications regardless of whether they are arranged in advance. I just want to ask you if you see any challenges with that. Do you envision any constraints on that?

As a parliamentarian, in some ways that's one of the recommendations that stands out to me in terms of creating perceptions of lobbying and access where there actually might not be any.

How do you see that playing out in practice?

Nancy Bélanger: To me, as I've said before, whether a communication is arranged in advance is somewhat irrelevant. It's the substance of the communication that matters. If someone lobbies you and has an ask of you, whether it's at the airport or in your office, the substance of the communication matters. That's what should be recorded and reported.

If people come to you and say to you that this is going to absolutely invade the registry and completely be a burden, then you should all be worried. That means it's happening, it's happening a lot and there's no transparency about it.

• (1700)

Leslie Church: Actually, I worry about cases where it would appear that I am being lobbied as a parliamentarian by organizations I may not want to accept lobbying from. That's the situation that I'm worried about.

Nancy Bélanger: That's interesting because you can always reach out to my office and tell me that lobbying activity did not occur and I will be asking them to remove it. That is what I do now when I do my verifications. I pick 5% of oral reports completely randomly and I check with you. If you tell me that it never happened and you were never there, I go back and I get them to remove it if that didn't happen.

Leslie Church: For example, if they were to send an email to one of our offices and we receive it because we have inboxes, we are not in control of whether we've received that communication or not.

Nancy Bélanger: Currently, that would not be a requirement because it's only oral and arranged. In the future, if they actually communicated with your office with those emails, they would have to put in whoever they sent it to. If they didn't send it to you and they sent it to your staff, then your staff—if they're designated public office holders—would have to say that they sent it to you. That's what they're doing in B.C. now. You could ask them, if it's a concern.

Leslie Church: Finally, let me come back to the question about the staff of the office of the Leader of the Opposition not currently existing as designated public office holders.

In your mind, does that mean there could be missing records filed because there is actually not a necessity right now to provide records of communications, as the members of the office of the Leader of the Opposition are not designated public office holders?

Nancy Bélanger: Currently, most of those who lobby assume that they are. There are a lot of monthly communication reports in the report. The problem is that they technically don't need to be, because they're not designated public office holders.

Leslie Church: It would be an assumption and voluntary—that's what you're saying—at the moment, as opposed to being required.

Nancy Bélanger: Yes. Right now, if people assume they are in.... We need to clarify whether....

The Chair: Thank you, Ms. Church.

Actually, I think that's a good manner of practice for all members of Parliament. Sometimes it gets lost with newer members of Parliament. Have your staff check the lobbyist registry on a monthly basis to see whether, in fact, there is a registered lobbying that's put to you when it's not, actually. That happens frequently.

Nancy Bélanger: You can register to have emails sent to you directly when your name pops up. You can actually fix it all up with your staff to have that done.

The Chair: Thank you.

[*Translation*]

Now we go to Mr. Thériault for five minutes.

Luc Thériault: Thank you, Mr. Chair.

The Information Commissioner and the Privacy Commissioner now have the power to issue orders.

Would your job be easier if you had the power to issue orders?

Nancy Bélanger: I have the power to order the production of documents and to subpoena witnesses.

As for ordering registration, that could be very worthwhile. Why not? It's a good idea.

Luc Thériault: In recommendation 20, you recommend adding a clause that would give you the power to make regulations regarding the content of information disclosed in the lobbyist registry.

Why is this necessary?

Nancy Bélanger: The information in the registry has not been updated by regulation. The regulations in place are for pre-arranged meetings. That is set out in the regulations.

That said, they have not been touched since 2008. There are things I would like to change, but I don't have the power to do so. If I make recommendations, I have to do it through the government of the day, as opposed to through Parliament, for example.

I'm not asking for authorization without review, consideration or consultation. However, it would be worthwhile to be able to make recommendations on regulations without having to wait for a review of the Lobbying Act.

Luc Thériault: In recommendation 17, you talk about mandatory training and administrative monetary penalties.

What amounts are you looking at?

• (1705)

Nancy Bélanger: In the provinces, it's \$25,000. My colleague from British Columbia imposes them quite regularly, but it has never been higher than around \$8,000. However, he has the authority to go up to \$25,000.

Luc Thériault: In what circumstances could he do so?

Nancy Bélanger: Very often, these are circumstances where there is an offence under the act, for example, communications that should have been registered but were not. That could be the case if someone is lobbying when prohibited, or if someone is spreading false information or is late.

Luc Thériault: Ultimately, would you go so far as to prohibit an individual from engaging in lobbying activities?

In what circumstances would you do that?

How long should these temporary bans last?

Nancy Bélanger: Again, this is under the authority of my colleagues, and it could be up to two years.

Personally, I have the authority to prohibit someone from lobbying, but only when the person has been found guilty of a criminal offence by the court. In the past, it has happened four times.

It would be in cases where someone didn't really want to comply with the act, meaning cases of negligence. It would probably have to be fairly severe cases.

Luc Thériault: Right now, your powers don't allow you to do that.

Is that correct?

Nancy Bélanger: That's correct. I send everything to the RCMP. I can't do anything.

For example, being late is an offence, but I don't refer people who are late to the RCMP. Right now, I accept it in the interest of transparency. I sometimes ask to meet with people who are late to ask them what is going on and why they are always late. That's it. There's not much more I can do.

Luc Thériault: Then it is the RCMP that acquires expertise.

Nancy Bélanger: Yes, that's right. I suggest that you invite RCMP representatives to appear before you so that they can explain that to you. The RCMP is somewhat in the same situation as I am, in a way. Not all offences are created equal. There should be flexibility.

Luc Thériault: People have come to tell us that the rules for public office holders should be in a single act, rather than in both the Conflict of Interest Act and the Lobbying Act.

What do you think?

Nancy Bélanger: You should ask people from the two offices where it exists. However, we have to be careful. Lobbying is not just done at the level of MPs and ministers. It is also done at the level of senators and departments. I am not at all the equivalent of the Office of the Conflict of Interest and Ethics Commissioner, although I am to some people.

Former public office holders include senators and assistant deputy ministers, who are not necessarily governed by the Office of the Conflict of Interest and Ethics Commissioner.

If you want to consolidate all that into one office, it would be a matter of deciding which one.

The Chair: Thank you, Mr. Thériault.

[English]

Mr. Barrett, you have five minutes. Go ahead.

Michael Barrett: A former minister would have to clear their new work, profession or start-up with the Ethics Commissioner, and they would only need to register to lobby if they personally

were lobbying for eight hours per month, and only to request grants or contributions, because that's covered by the act.

However, a former minister or a former member could start a company, pick up the phone and call one of their former cabinet colleagues and say, "Hey, we're doing this thing that's compatible with that thing you're about to spend billions of dollars on, and we think we're right for you," and that is not captured by the Lobbying Act.

Do I understand that correctly?

• (1710)

Nancy Bélanger: If the communication they're having is about getting a contract, contracts are not covered under the Lobbying Act for organizations and corporations.

That's a problem, and I have a recommendation about that.

Michael Barrett: Tell me what your recommendation is for it.

Nancy Bélanger: My recommendation is that any communication in relation to contracts should be included in the Lobbying Act, and that's what they've done in provinces, except anything that is a communication within the parameters of a public process, like RFPs or standing offers. Those that are already transparent don't need to be covered by the Lobbying Act.

Anything outside of that, including that phone call to say, "Hey, I think we align, and I think we should be able to work together" would possibly be outside of a context that's in the public domain, and that should be covered.

Michael Barrett: It's currently not covered.

Nancy Bélanger: It's not covered.

Michael Barrett: Okay.

What's more, in the example that I gave, the public reporting in the Financial Post was that Mr. Sajjan has also been retained by the Province of British Columbia to advise them on how to get this money as well, and how to "identify business opportunities to tap into the government's defence spending" as an adviser, and that works.

There's really no current practical limit to the connections and influence in securing government contracts by former ministers and members.

Nancy Bélanger: Securing government contracts and getting contracts is not covered by the Lobbying Act right now, so any communication by former designated public officers can't be—

Michael Barrett: Your recommendation is that it ought to be covered. Is that correct?

Nancy Bélanger: It ought to be covered, yes.

Michael Barrett: Okay, with that, I will turn it over to Mr. Cooper.

Thank you for your responses.

The Chair: Go ahead, Mr. Cooper.

Michael Cooper: Thank you, Mr. Chair.

Further expanding on understanding the scope of the five-year prohibition on lobbying for designated public office holders, you noted that if a designated public office holder is working for a corporation, they can lobby eight hours per month. That's a problem; I agree.

If they're employed by an organization, they can't. If they tried to go out and lobby themselves in a consultant capacity, they couldn't do that.

What if they set up their own firm and hired people to engage in those very activities using their name, reputation and personal contacts? Would that be captured by the prohibition?

Nancy Bélanger: If they're not the ones communicating right now, it's not covered. They need to be the one communicating. If someone else communicates on their behalf, they're not the ones communicating.

Michael Cooper: It seems to me that's a pretty big loophole.

Nancy Bélanger: People call this shadow lobbying. They send someone else to lobby for them. At some point, where do we put the line? I don't know. It's not an easy one to regulate. On the revolving door of going from one side to the next, sometimes you want people's expertise and knowledge in certain areas, so we have to be careful about that as well. They can't be using their networks, and they can't be the ones to communicate. If someone else does it for them, what can I do, really?

The Chair: Mr. Saini, you have five minutes. Go ahead.

Gurbux Saini: In your submission to the committee, you recommended that members of the board of directors be deemed employees of the organization or corporation on whose board they sit. Why do you think this amendment is necessary to the Lobbying Act?

Nancy Bélanger: Currently, board members of organizations have to register if they lobby for their organization, but their organization is deemed their client, which is awkward. If there are four board members on an organization, all four of them have to go and register—four different registrations for each of them—instead of having the organization do it and say, “We have four more members who lobby for us.” Instead of having one registration that would encompass all the lobbying that's done on behalf of that organization, we have possibly the organization and then four different consultants.

This is how it's dealt with in the provinces. It's a problem with the act right now, so it makes it very—I don't want to say dysfunctional, but the type of information that you get about the organization is fragmented. They are already required to register, but they register individually instead of being deemed employees of an organization.

• (1715)

Gurbux Saini: Going back to the Leader of the Opposition, his staff are considered designated public office holders under section 128. Do we know if that is happening in practice?

Nancy Bélanger: Staff in the office of the Leader of the Opposition are only designated public office holders if they are appointed under section 128. I've been advised that none of them are, so they're not designated public office holders.

Gurbux Saini: The Leader of the Opposition's staff are free to do whatever they want to do because they are not designated as public office holders because they are not appointed under section 128 of the act.

Nancy Bélanger: Currently, they're not designated public office holders, so people who meet with them would not have to do the reporting, and they also are not subject to the five-year prohibition. Because the regulation right now says people appointed under section 128 are designated, people assume that they are appointed under section 128, so that needs to be clarified.

Gurbux Saini: I think that's a big thing that we need to make sure happens. A minister and a leader of the opposition have similar opportunities to do favours for friends if they wanted to.

Nancy Bélanger: They might.

Gurbux Saini: When you appeared in October 2025, you said that, like your provincial counterpart, you have no discretionary power to make files public, and you don't have powers for people to undergo training or the ability to impose administrative penalties. Can you explain why the discretion to make files public is important? Why do you think you need the power to make people to undergo training?

Nancy Bélanger: The ultimate reason is to try to be more efficient in dealing with non-compliance and have the opportunity and the possibility to impose sanctions that are proportionate to the offence. For someone who's late and consistently late, if I impose the penalty, chances are that they'll never be late again. Now what I do is tell them not to be late. If they're late again, I send them a letter, and there are no consequences.

Right now, if I choose to investigate someone who's constantly late, if I have reason to believe that they're late and therefore they've committed an offence, I need to send that to the RCMP. Not all offences under the Lobbying Act are created equal but, unfortunately right now, they're all treated the same, and it's difficult to manage. I think it would help efficiency and it would help compliance, because I would be able to make those things public faster.

Gurbux Saini: Does every province have that legislation?

Nancy Bélanger: I don't know if I would say “every”. Some provinces don't even have the power to investigate. I've flagged in my report that British Columbia has powers to impose penalties. I think Alberta does as well. I think Ontario only has the power to prohibit. I've given you examples in my recommendations. I don't know them all by heart.

The Chair: Thank you.

[Translation]

Mr. Hardy, the floor is yours for five minutes.

Gabriel Hardy: I want to talk about a very interesting topic. A former defence minister in the Trudeau government just started his own company. It's a start-up that is currently targeting government announcements. Of course it's normal to have a life after politics. Everybody wants that. However, it does raise questions. His client would be Canada. He knows a lot of people, and he has a lot of contacts. He's the president of the company.

First, in your opinion, should this company be subject to the lobbying requirements?

Second—

• (1720)

[English]

Leslie Church: I have a point of order, Mr. Chair.

[Translation]

The Chair: Hold on a second, Mr. Hardy. There's a point of order.

[English]

Go ahead, Ms. Church.

Leslie Church: I have great reluctance to interrupt, but could we please refrain from using examples of real individuals in hypothetical circumstances? I just think that does a bit of a disservice to all parliamentarians.

[Translation]

Gabriel Hardy: It's in the newspaper.

[English]

The Chair: It's Mr. Hardy's time. He's going to bring it back to whatever point he wants to make. I generally don't interrupt any member, whatever direction they want to go, because it's their time.

[Translation]

Mr. Hardy, you may continue.

Gabriel Hardy: Since it's a private company, I imagine that it acts entirely legally and that it is not covered by the Lobbying Act. I'm using him as an example, but it could be anyone else. He can start a company, and the fact that he's looking to have the Government of Canada as a client is not a problem. He can, as the owner of the business, use his contacts and go ahead.

Do I understand correctly?

Nancy Bélanger: We have to be careful. You said, "looking to have the Government of Canada as a client". When public office holders leave office, they can do whatever work they want to. The only thing that concerns me is communications with the federal government on subjects that are specified in the Lobbying Act.

Since former public office holders are not allowed to have such communications, that concerns me. Any communication by an employer or a company about a contract is not considered lobbying. However, if it's a communication to obtain a grant, that's lobbying. A former public office holder would be prohibited from having that kind of communication if it was about getting a grant.

Gabriel Hardy: However, his employee has every right to do so.

Is that correct?

Nancy Bélanger: Yes, that's correct.

Gabriel Hardy: Okay.

Is someone who has worked in the government allowed to call the government to ask what decisions are coming up because they want to start a business in this field?

Do you think people can get out of politics, call their contacts and decide to set up a business knowing that there is a potential opening?

People can call their friends to find out what the trends are and then start a business in that field. They can get a contract from the Government of Canada through their contacts without going through your office.

Do you see that as a problem?

Nancy Bélanger: Yes, I think that looking for contracts should be an activity subject to the Lobbying Act, with a few exceptions. I made a recommendation in that area.

As for the opportunity for former public office holders to start a business in a field they are very familiar with and that gave them expertise, that is the responsibility of the Office of the Conflict of Interest and Ethics Commissioner, not mine.

Gabriel Hardy: However, what if someone decides to start a lobbying business and meets the threshold of eight hours a month?

They're not allowed to lobby for more than eight hours a month, are they?

Nancy Bélanger: If that person has a lobbying firm, they will have clients. As a consultant lobbyist, the threshold is zero. Consultant lobbyists are not allowed to communicate. The eight-hour threshold doesn't apply to them.

Gabriel Hardy: As a result, they cannot personally handle communications.

Is that correct?

Nancy Bélanger: Yes, they can't do it personally. However, if an individual sets up a consulting lobbying business and its employees engage in lobbying while the individual does not, it is allowed.

Gabriel Hardy: So I could—

Nancy Bélanger: If that individual isn't the one who's communicating, it's allowed. Lobbying is communication. If there's no communication, that's not lobbying.

Gabriel Hardy: However, do we agree that there may be a flaw in a system that allows a person who has all the contacts and all the possible knowledge to send their employees to do communications, when it is very clear that they speak on behalf of someone else?

That may need to be looked at so that the government can act if a person is lobbying on behalf of someone else.

Do you agree with that?

Nancy Bélanger: Yes.

Gabriel Hardy: Then I understood correctly.

Thank you.

The Chair: Mr. Sari, you have the floor for five minutes.

Abdelhaq Sari: Once again, thank you very much for your testimony, Ms. Bélanger.

Your comments are fascinating. I think your expertise is really very relevant.

There's one thing that comes up often related to our work since I've been on this very interesting committee. It's the issue of access to information. It ties in with one of your recommendations, recommendation 12, which we can only agree is a good thing. In that recommendation, you say that we should “expand the disclosure requirements for monthly communication reports to include all communications about registrable matters with designated public office holders”.

However, you'll recall that, in my first intervention, I talked about the process that led you to make these recommendations. I have a question about that.

First of all, you have 35 employees. Is that correct?

• (1725)

Nancy Bélanger: Yes, that's right.

Abdelhaq Sari: I have my doubts whether the recommendation is feasible and applicable. Imagine that it is implemented and that you have to apply it. With regard to access to information and disclosure, at some point, are we going to have to police whether the act has been complied with and, on top of that, check whether all the documents have been transmitted and the 'I's have been dotted and the 'T's crossed?

Should we wonder whether the recommendation is feasible?

Nancy Bélanger: The obligation to report is on organizations and corporations, not on my office. We can go and check the information.

There are already more than 9,000 lobbyists and many more to come. We rely heavily on good faith. Most people comply with the requirements of the current regime. We don't have a lot of investigations in relation to the number of lobbyists out there.

I was deputy commissioner at the Office of the Information Commissioner. To me, access to information and transparency are values that should not be messed with.

Abdelhaq Sari: I'm from Quebec, and I was one of the first to loudly insist that the information should first be public.

Nancy Bélanger: That's it.

Abdelhaq Sari: When it isn't, it really has to be justified.

However, I'm only talking about feasibility. I'm not talking about access to information.

Would it be feasible to do the necessary checks with 35 employees? That's all I'm asking.

Is that feasible? Can we challenge the feasibility of the recommendation? Would that require more resources in the future?

Nancy Bélanger: Yes, eventually we may need more resources.

Abdelhaq Sari: That's it.

Nancy Bélanger: My problem right now is that, in a few years, I won't have any money left to cover the cost of all the licences, among other things. That means I will never be able to increase the number of employees to more than 35.

Abdelhaq Sari: That's it.

Nancy Bélanger: However, that doesn't mean we can't go and check the information. That's easy. If I ask you whether you met with such and such a person, you'll answer yes or no.

Abdelhaq Sari: Yes, but if the information has to be made public—

Nancy Bélanger: I'm not the one who makes the information public. The lobbyists themselves are the ones who make it public.

Abdelhaq Sari: Yes, but we have to check whether they made it public or not.

Nancy Bélanger: Yes, once they make it public, that's fine. If they haven't, we'll check. That's fine.

Abdelhaq Sari: I am wondering specifically about checking whether they did or not.

I'm not asking you if they're going to do it. In terms of feasibility, I'm technologically savvy, so I can tell you that it's doable. What I doubt is the feasibility of checking to see if they've made it public, given the fact that you only have 35 employees. There are more than just two lobbyists. There are more than that.

Nancy Bélanger: That is true.

Abdelhaq Sari: I will go back to the question about the official opposition. You mentioned that most lobbyists assume that staff in the office of the Leader of the Opposition are public office holders. However, that doesn't mean that all lobbyists assume that. Some of them may not know that.

Nancy Bélanger: That's right.

Abdelhaq Sari: In theory, some lobbyists were not registered to lobby, and they have connections to the office of the Leader of the Opposition.

Can that happen?

Nancy Bélanger: The Leader of the Opposition is a public office holder. Therefore, if someone communicates with the office of the Leader of the Opposition, they have to register. Everyone needs to register their intention to lobby the House of Commons, the Senate or certain departments.

What's missing, then, is the communication report. If they have a pre-arranged meeting with someone from that office, they are not required to report it. They are required to register, but not required to report on a monthly basis.

Abdelhaq Sari: Can the Leader of the Opposition appoint members of his team as designated public office holders under section 128?

Nancy Bélanger: He can do that if he wants, yes. That's what the act provides for.

Abdelhaq Sari: We're obviously talking about the Public Service Employment Act.

Is that correct?

Nancy Bélanger: Yes.

Abdelhaq Sari: However, at this point, none of them have been appointed as such.

Nancy Bélanger: That's what I've been told.

Abdelhaq Sari: For the moment, they have confirmed that with you. If I understand correctly, I can conclude that, based on the information provided by the office of the Leader of the Official Opposition, no one was appointed as such.

Nancy Bélanger: That's the confirmation I received.

• (1730)

The Chair: Thank you, Mr. Sari.

[*English*]

Commissioner, that concludes today's meeting. I want to thank you for spending this much time with the committee. I found the

discussion very enlightening today. I know that you're going to be watching this study as we go forward. I do expect that an invitation will be given to you at the end of the study to come back and draw some conclusions on what you've heard and what you've seen at this committee.

Thank you on behalf of the committee and on behalf of Canadians for being here at the start of this very important and timely study. I know you've been pushing for it, so I'm glad we're able to do it.

In saying that, however, I want members of the committee to be prepared on Thursday to come to deal with the Conflict of Interest Act report that we're working on. I suspect we'll be continuing that on the Monday following next week's break week.

I have no other business today.

Thank you, everyone.

Thank you, Commissioner.

The meeting is adjourned.

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