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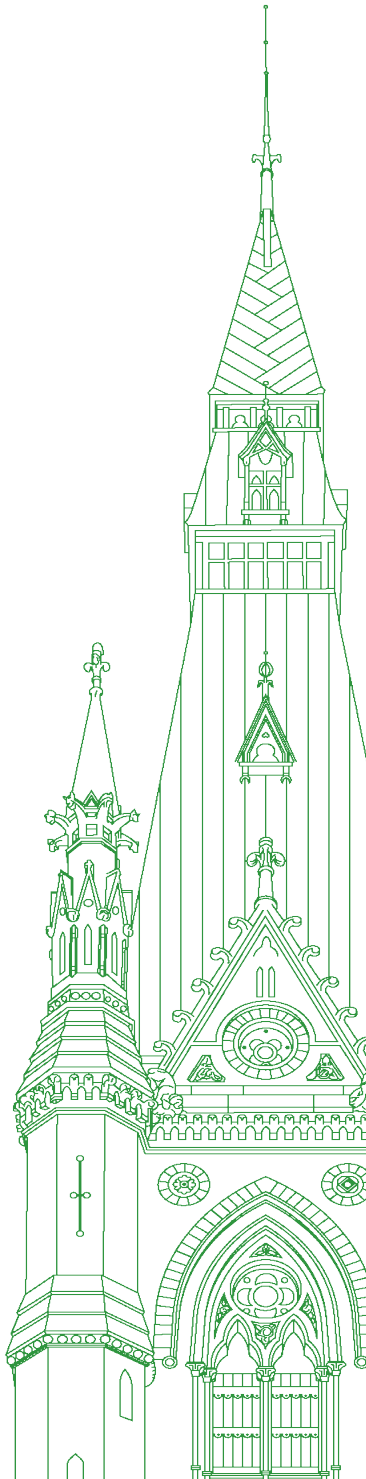
Standing Committee on Access to Information, Privacy and Ethics

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Chair: John Brassard

Standing Committee on Access to Information, Privacy and Ethics

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● (1635)

[*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 55 of the House of Commons' Standing Committee on Access to Information, Privacy and Ethics.

Pursuant to Standing Order 108(3)(h) and the motion adopted on Monday, June 15, 2026, the committee is meeting today to study the quarterly reports of the Privy Council Office in relation to the application of the Prime Minister's conflict of interest screen.

[*English*]

I'd like to welcome our witnesses for today.

From the Office of the Conflict of Interest and Ethics Commissioner, we have Konrad von Finckenstein, who is the commissioner. We also have Lisa DeMoor, director, advisory and compliance; and Michael Aquilino, legal counsel.

Commissioner, I want to welcome you and your team to the committee this afternoon. I understand you have an opening statement for the committee members. Go ahead with your statement now, sir.

Thank you.

Konrad von Finckenstein (Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Thank you.

Honourable Chair and honourable members of the committee, I'm pleased to appear before you today.

Thank you for inviting me to discuss the Privy Council Office's most recent quarterly report on the Prime Minister's conflict of interest screen.

[*Translation*]

Perhaps it would be useful to start by recalling what conflict of interest screens are and how they work.

A screen is an agreed-upon tool that the Office of the Commissioner can put in place when it is likely that an appointed representative will be called upon to participate in discussions or decisions where there is a conflict of interest.

However, we don't manage the screens. The people who do that are two senior officials from the affected department or agency who have been approved by the Office of the Commissioner.

[*English*]

The screen administrators make sure that matters related to any conflict described in the screen are not brought to the official's attention. They give the files to other designated people to handle. They also keep the official out of any discussions, decisions, debates or votes about those files. The administrators of the Prime Minister's screen make sure he does not see any files or attend any meetings related to the companies identified in the screen. In effect, they handle his schedule.

The Conflict of Interest Act requires appointed officials to recuse themselves from a discussion, decision, debate or vote in which they have a conflict of interest. Recusing means leaving the room physically or virtually. I can't emphasize it enough—recusing means leaving the room physically or virtually.

[*Translation*]

The screens help these people prevent conflicts of interest and avoid having to recuse themselves.

If an appointee is handling a file that should have been subject to the screen or is involved in any other matter in which they have a conflict of interest and it's not detected by the screen, that person must recuse themselves. Recusals must be reported to my office. They will be published on our website.

● (1640)

[*English*]

The Prime Minister put all his assets in a blind trust. However, he, of course, knows what assets are in the trust. To avoid that he knowingly takes decisions that have an effect on those assets, he established a conflict of interest screen. The Prime Minister's conflict of interest screen is designed to prevent any conflicts of interest involving Brookfield Asset Management; Brookfield Corporation; Stripe, Inc.; and any companies owned or controlled by them. It is administered by his chief of staff and by the Clerk of the Privy Council.

[*Translation*]

The administrators are responsible for properly applying the screen. It's in their interest, as it is in the Prime Minister's, to make sure that he complies with the Conflict of Interest Act. Although my office is not involved in the management of the conflict of interest screen, we provide advice on it when requested.

[*English*]

I'd be happy to answer any questions that you have.

Thank you.

The Chair: Thank you, Commissioner.

[*Translation*]

We'll start with Mr. Hardy for six minutes.

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you all for being here with us today. I really appreciate it.

There are a number of questions that come to mind and that our constituents also ask. I'll start with an easy one, a softball question.

On March 1 and 2, 2026, the Prime Minister stayed at the Leela Palace Hotel in New Delhi. The hotel is owned by Brookfield. That raises some questions. Were the decisions that were made reviewed? In this case, again, a Prime Minister stays at a hotel that belongs to his group. Were you made aware of that? Is there a process in place? Were any questions asked?

Konrad von Finckenstein: As you know, we are sent reports from the committee set up by Michael Sabia and Marc-André Blanchard to administer the screen. When there is an occasion to apply the screen, they give us the results. If there are questions, they ask me and I advise them. The advice I give them is confidential.

Gabriel Hardy: In this case, Commissioner, a reasonable person might ask questions. Why is it okay for the Prime Minister to give contracts to his own group or travel to hotels that belong to his own group? In this case, you're telling me that the decision whether or not to trigger the screen will depend on his two direct employees.

I think my question is fair. Here, we're talking about something as simple as choosing a hotel that will not compromise the Prime Minister. If this choice doesn't raise any questions, it is clear that the screen has giant holes. That would be the first thing to consider, if we want to make sure that the perception of our democracy or the perception of the choices being made is not impaired by the Prime Minister's decisions. After applying the screen, they ultimately chose to send the Prime Minister to a hotel that belongs to Brookfield. I would reckon there are other hotels in the area.

Don't you think it's a bit of a reactive approach, whenever you're asked questions, to always wait for confirmation that the screen was actually applied?

Konrad von Finckenstein: The situation is a little different. The screen is established and these two people are responsible for administering it. If they have any questions, they will ask me and I will give them my opinion. I have no idea what happens after that. If it's a situation where the screen must be applied and has been applied, those two people will prepare a report. As you saw, the last report dates from August 14. The report mentions what the occasion was.

Gabriel Hardy: Basically, it's a bit retroactive. That makes sense to me.

Konrad von Finckenstein: That's how it's set up. The screen tool has been approved by the Federal Court.

● (1645)

Gabriel Hardy: Yes, but it has often been criticized here. It's been almost 18 months. We talk about it regularly here at the Standing Committee on Access to Information, Privacy and Ethics. After analyzing the screen, many people felt that it had gaping holes.

I'll now go back to as recently as October 8, when the Prime Minister announced a $2-billion investment in a heat pump fund. Meanwhile, we learn that Enercare, a company owned by Brookfield, is a big player in the rental, sale and maintenance of heat pumps. As a result, we wonder whether the screen has been triggered, because the Prime Minister himself announced a measure that will indirectly help a company he owns.

Once again, did the two people administering the screen, who are both direct employees of the Prime Minister, consider whether they should consult the relevant people or at least trigger the screen? How could the Prime Minister go so far as to make an announcement that has indirect repercussions on his own company?

Konrad von Finckenstein: Mr. Hardy, I can't disclose the advice I gave to the people responsible for administering the screen. They have a whole system that they've set up in their offices. The screen was sent to all departments. Naturally, that requires—

Gabriel Hardy: In fact, it went through the process. Basically, what you're saying—

Konrad von Finckenstein: That's the procedure. I know nothing about what you said. I don't know if the screen was applied or if it should have been applied. As I said, if something should have been detected by the screen but hasn't been applied, at that point, the deputy minister must declare it, say that the screen didn't work and must recuse himself. Then I will post it on my website.

Gabriel Hardy: That is still a reactive approach.

Section 45 of the Conflict of Interest Act allows you to undertake a study on your own initiative when you have reason to believe that someone has contravened the act. You are still able to act, based on all the elements that have been presented to the committee for your consideration over the past 18 months. On 10 occasions, we raised the fact that there may be problems.

How many times did you personally initiate the section 45 mechanism because the Office of the Conflict of Interest and Ethics Commissioner, even though it wasn't notified, thought there was something to look into? How many times have you triggered it on your own in the last year or year and a half?

[*English*]

The Chair: I need a very quick response.

[*Translation*]

Konrad von Finckenstein: You're absolutely right, I have the power to do that. However, I can't do it just because I read something in the newspapers or listened to something. There has to be a minimum amount of evidence before I can invoke that section.

The Chair: Thank you, Commissioner and Mr. Hardy.

[*English*]

Mr. Al Soud, you have six minutes.

Go ahead, please.

Fares Al Soud (Mississauga Centre, Lib.): Thank you, Chair.

To all of you, Commissioner, thank you, as always.

Welcome back. You have always made yourselves available to this committee, and it is truly valued and appreciated.

In the spirit of collective benefit, I'd like to briefly review the record regarding the Prime Minister's conflict of interest screen with you.

Before this committee adopted a motion in June 2026 requiring quarterly reports from the Privy Council Office, the committee had already been receiving updates on the application of the Prime Minister's screen. In fact, the Privy Council Office provided letters to the committee in November 2025, February 2026 and May 2026, after which it subsequently provided its first quarterly report in August of 2026. In that August report, the Privy Council Office indicated that the Prime Minister's conflict of interest screen had been applied in 25 situations.

Commissioner, to your knowledge, have I accurately summarized the sequence of events?

Konrad von Finckenstein: Yes.

Fares Al Soud: That's great.

Looking at these reports and the frequency with which the screen has been applied, would it be fair to say that the Prime Minister's screen has been actively implemented? In other words, is the screen working in the way that it should?

Konrad von Finckenstein: On the basis of all I know and the evidence that has been furnished, yes, it's working fine. It is invoked when necessary to keep the Prime Minister from making decisions that put him in a conflict of interest situation.

Fares Al Soud: That's fantastic.

As Parliament's independent officer responsible for administering the Conflict of Interest Act, you are uniquely positioned to assess not only whether public office holders comply with the act, but also whether the preventative measures put in place are working as intended. What is the purpose of screens of this nature from your perspective and what do they mean for the Canadian public?

Konrad von Finckenstein: As I said in my opening remarks, the Prime Minister has put all his assets in a blind trust, but of course he knows what is in the blind trust. What we try to make sure of is that he doesn't make decisions that benefit him by increasing the value of the assets he put in the blind trust.

The screen is there to do that so that when something comes up that directly implicates what he's put in the assets, he cannot make the decision. He doesn't even find out that a decision about that will be made. His two closest advisers, the Clerk of the Privy Council and his chief of staff, will keep it from him and will say, "No, let's make sure this doesn't go to the Prime Minister."

Once the decision is made, and only once the decision is made, is he informed. Otherwise, if they said, "Here is this decision but you can't rule on it," he could indirectly influence it and do something. Therefore, the idea is to keep him out of it. He knows nothing about it. Once a decision is made, yes, because he is the head of the government—he is responsible for it, etc.—but he was not involved in it. The decision may affect what's in the blind trust or not, but he was kept out of the decision-making process.

● (1650)

Fares Al Soud: Thank you, Commissioner.

Is it then safe to say that Canadians can trust that by virtue of the existence of this screen, the Prime Minister is well within the Conflict of Interest Act as written?

Konrad von Finckenstein: Yes. I mean, this is the best tool we have, and it's a tool that was approved by the court.

I'm not aware of another tool that we could use, because after all, the man is in charge of the government, and the decisions that we.... He has put everything in trust. It would be unreasonable to ask him to sell everything and take a huge loss on income, the tax burden, etc. He put it in the trust and we make sure he can't do anything that can have any implication or effect on his assets in the trust.

Fares Al Soud: That's fantastic, Commissioner.

Since November 2025, the Privy Council Office has provided updates to this committee on the application of the Prime Minister's conflict of interest screen. Following the committee's motion in June 2026, those updates have been provided through regular quarterly reports.

How important is this type of reporting and transparency in supporting the broader objectives of the Conflict of Interest Act?

Konrad von Finckenstein: It shows you—it's proof—that the screen is being administered and has been applied, and there have actually been situations where it was specifically applied in order to ensure that Mr. Carney does not get involved in decision-making.

Your colleague has said it's too slow and it should be more often, etc. As I say, they can disclose the decision only once it has been made and put in public. You're getting reports on a three-month basis. If it's required more urgently, then you can ask the Privy Council to provide it to you on a more urgent basis, but I think what they're doing is that, given the process it takes, they feel it's not required on a more urgent basis.

Since I don't know how they work in everything, I really can't comment on that.

Fares Al Soud: Commissioner, in the little time I have left, what does the typical nature of the dialogue between your office, the Privy Council Office and the Prime Minister's Office look like, and have you been satisfied with the nature of that dialogue thus far?

Konrad von Finckenstein: Yes. They basically phone me when there's a situation where they're not quite sure what they should be doing, how they should be interpreting something or what section of the act applies, etc. I give them my advice. They take it and then follow through.

So far, I have no reason to believe they have not implemented my advice as far as it was relevant to them.

Fares Al Soud: That's fantastic.

I've heard this already from you. One more time, do you believe the current screen process—the only process, as you've highlighted—is sufficient?

Konrad von Finckenstein: Yes. As I say, I'm not aware of another methodology. I'm not aware of another jurisdiction where there is something better. If there is, I'll gladly look at it.

As far as I'm concerned, basically, we're trying, as much as possible, to keep the Prime Minister out of any decision-making that has an implication for his assets.

The Chair: Thank you, Mr. Al Soud and Commissioner.

[*Translation*]

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

Luc Thériault (Montcalm, BQ): I would like to welcome you, Commissioner.

I am finding it very difficult to follow your line of reasoning because of your answers to the questions my colleague Mr. Hardy put to you earlier. You did not seem at all aware of the situation and you said that you did not know whether the filter had been applied. You said that, unless the Privy Council Office or the chief of staff asks for your opinion, you do not know whether the intended use of the filter is being adhered to or not. However, in response to my colleague on the opposite side, you said you were convinced that the filter is very effective.

I would remind you that one of your recommendations was to amend the Conflict of Interest Act so that the concept of the appearance of a conflict of interest could be managed by the Office of the Conflict of Interest and Ethics Commissioner.

In light of the points raised this afternoon, do you not think that, if the act provided for the management of the appearance of a conflict of interest, we might not be having this discussion today?

● (1655)

Konrad von Finckenstein: If you adopt my recommendation and the act is amended, there will be an obligation to avoid the appearance of a conflict of interest and, naturally, we will have to rethink the whole thing. At that point, we would not be managing actual conflicts of interest, but rather the appearance of conflicts of interest. We would then be asking ourselves what impression the average citizen might have of a situation. This is not currently in the act, and that is a shortcoming. I have recommended that you adopt such an amendment.

Luc Thériault: We have done so. We have tabled the report. We do not know what the government is waiting for to amend this. That is why I am asking this question today. Moreover, I will have further questions to ask regarding the recommendations we made in this report, as part of our review of the act.

There is another question on my mind. I'm a little concerned about your answers, but I'll give you the chance to elaborate. Are you keeping a close watch on what's happening, even beyond whether or not the Privy Council Office asks for your opinion on the application of the filter?

It's not just the presence of a filter that's the problem.

We wrote to the Commissioner of Lobbying. She told us that she was proactive and that, when certain newspaper articles appeared, she would investigate. In your case, you say that you do not investigate on the basis of a newspaper article. Yet investigative journalism sometimes brings to light important facts which should lead you, under section 45, to exercise vigilance and to question the Privy Council Office or the Chief of Staff's Office yourself.

We're not talking about just any post, and I'll come back to this later when I perhaps have more time; we're talking about the highest office one can hold in the Canadian state, namely that of Prime Minister. Whether the person holding it is called Mr. Carney or someone else, I couldn't care less. What matters to me is that there should be no doubt whatsoever regarding the integrity of this post or the trust that people can place in the institution.

So, are you keeping a watchful eye on things, are you being proactive, or are you waiting—now that the filter is in place—for the Privy Council Office to ask for your opinion?

Konrad von Finckenstein: These are two separate issues.

Firstly, I am not responsible for administering the filter. That is the responsibility of the Privy Council Office. They may ask for my opinion, and they often do. We also hold quarterly meetings, where we have a general discussion. At these meetings, they tell me, for example, what they are currently examining and what that entails. If they ask for my opinion, I give it to them. Sometimes they do not ask for it, and it is simply a matter of providing information. They're working on the filter and want to know if it's working.

Secondly—

Luc Thériault: Excuse me, but I'd like to clarify something. You say that you have meetings every three months. Who do you hold these meetings with?

Konrad von Finckenstein: With the members of the Privy Council Office who are responsible for this.

Secondly, you asked me a question about the application of section 45. That section states: “If the commissioner has reason to believe that a public office holder or former public office holder has contravened this act, the commissioner may examine the matter on his or her own initiative.” There must be grounds to believe that the act has been contravened. That is the test. The mere fact that I have read something in the newspaper is not enough. In all circumstances, when matters are brought to my attention or when a person lodges a complaint, I must consider whether there is sufficient evidence and grounds to initiate an investigation. That is the discretionary power I have, and I always exercise it in good faith where necessary. It is not simply because someone believes there has been a breach or because such an allegation is made that I launch an investigation. I must have grounds.

● (1700)

The Chair: Thank you, Commissioner, and Mr. Thériault.

[*English*]

Mr. Cooper, you're going to start the second round. You have five minutes.

Go ahead, sir.

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

Commissioner, welcome back to committee.

With respect to the Prime Minister's ethics screen, at annex A, there are 103 companies listed. I want to confirm that the list of companies is based on information the Prime Minister furnished your office with. Is that correct?

Konrad von Finckenstein: He gave it, and you see there are three categories. There's—

Michael Cooper: You said in your testimony on December 8, 2025, “We have a list of what the Prime Minister and his lawyers furnished us, and it is attached in annex A”. You don't dispute that. Is that correct?

Konrad von Finckenstein: Yes, absolutely, but hang on. All I'm trying—

Michael Cooper: It's okay.

Konrad von Finckenstein: Please—

Michael Cooper: Thank you.

Konrad von Finckenstein: Can I just finish my—

Michael Cooper: You answered my question. I have more questions—

Konrad von Finckenstein: Let me finish my answer. It wasn't yes or no.

The Chair: I'm going to allow you a quick response, Mr. Commissioner, and then we'll go to Mr. Cooper.

Go ahead, sir.

Konrad von Finckenstein: What I'm trying to say is that he's talking about three things. He's talking about companies of which he has knowledge, companies that have been registered with the lobbying commissioner and other companies that are in the blind trust, which are controlled, but of which he has no knowledge in terms of managing.

Michael Cooper: Thank you for that.

It was based on companies the Prime Minister helped furnish your office with.

I would note that of the 103 companies listed in annex A, almost all of them are Brookfield-related companies. This is not a surprise, given that it's well established that the Prime Minister stands to make tens of millions of dollars in future bonus pay and from stock options.

I would put it to you that the list, however, is incomplete, because last fall, Justin Beber, the chief operating officer of Brookfield, testified before this committee that Brookfield owns 2,000 companies and businesses. Accordingly, 95% of Brookfield's companies are missing from the ethics screen.

It's been a year. I see that annex A looks exactly the same as it did last year. Has the Prime Minister provided your office with information with respect to these 1,900 other Brookfield companies that he didn't disclose to your office in the first place?

Konrad von Finckenstein: The answer is no. He provided us with a list, which you say you have. You know which were of the three categories he mentioned.

Michael Cooper: Has your office made any effort to obtain information from Mr. Carney with respect to these 1,900 other Brookfield companies?

Konrad von Finckenstein: No, we have not, because this whole system relies on the declaration of the reporting office-holder. In this case, that's the Prime Minister. According to his knowledge, belief and information at the time he gave this declaration, these are the companies that would be implicated.

Michael Cooper: Here's the problem. The Prime Minister holds stock options and deferred share units in Brookfield, a.k.a. future bonus pay. As Mr. Beber told this committee unequivocally last November, “As the value of Brookfield increases, the value of those instruments increase.”

We're talking about Brookfield as a whole, from which Mark Carney stands to benefit. Given that, what kind of screen is this? It omits 1,900 Brookfield companies and businesses—in other words, 1,900 potential conflicts of interest—from being screened.

Konrad von Finckenstein: The conflicts of interest declaration, as he's given it, lists the companies he knows. I don't know about these companies the man from Brookfield talked about. I don't know how big the share is, how relevant they are or anything like this.

As far—

Michael Cooper: You've taken the Prime Minister at his word. You're literally blind to 1,900 potential conflicts of interest involving the Prime Minister.

● (1705)

Konrad von Finckenstein: I'm not taking him at his word. He filed, pursuant to an obligation under the act.... He has to file and disclose everything, and he has disclosed this.

Michael Cooper: He disclosed 103 companies. We've learned there are 2,000 companies to which his future bonus pay is tied.

Konrad von Finckenstein: You are making an assumption here that those other companies require a recusal because there's a conflict of interest.

Michael Cooper: Actually—

Konrad von Finckenstein: As I said, I don't know—

Michael Cooper: Actually, it's interesting you say that, because someone from your office, Ms. Robinson-Dalpé, when she appeared here on December 8 with you, said precisely that. She said precisely that for all intents and purposes, if a matter came up involving Brookfield, the Prime Minister would need to recuse himself. Those are her words.

The Chair: We're going to have to come back to this.

Michael Cooper: Are you disputing Ms. Robinson-Dalpé?

Konrad von Finckenstein: You're quoting something that I don't see. I don't have the words in front of me. I'd like to see them before commenting.

The Chair: We're going to have to come back to this later.

Ms. Tesser Derksen, you're up for five minutes. Go ahead, please.

Kristina Tesser Derksen (Milton East—Halton Hills South, Lib.): Thank you, Mr. Chair.

Thanks to our witnesses.

I have some questions I want to ask, but before I get there, I want to give you a chance, Commissioner, to address any questions my colleague over there asked you that you didn't get a chance to answer. You were cut off a few times.

Konrad von Finckenstein: The only thing I would say to Mr. Cooper is that there are companies he listed that, apparently, were mentioned by an executive of Brookfield. That doesn't mean those companies have sufficient interest to require a recusal by the Prime Minister. I don't know what the companies are, how much Brookfield owns or whether that's of any relevance.

The idea of the filter is to make sure that his decisions can't influence the value of Brookfield shares, etc. Brookfield has subsidiaries. God knows how many it has. The relevant ones are listed in this declaration of his.

Kristina Tesser Derksen: Okay. Thank you, Commissioner.

I want to continue on a theme that my colleague Mr. Thériault started with respect to perceived conflicts of interest.

I served almost two terms as a municipal councillor, and that's where I really started to learn a lot about real, potential and perceived conflicts of interest. I think the perceived qualification is the one that people have the hardest time understanding.

My understanding of a perceived conflict of interest—it's one I had to deal with as a municipal councillor—is that there's a reasonable prospect that an average person could perceive that an elected official or an elected person's private interests could improperly influence their professional duties, even if no actual conflict exists. There are optics. There's a reasonable perception among reasonable people.

Could you tell us how your office deals with perceived conflicts of interest? How do you identify them? They can be subjective. We're talking about perceptions, after all.

How would you ensure that legislation or policies fairly create reasonable safeguards for the elected person and the public?

Konrad von Finckenstein: You're addressing two different areas. The act as it is deals with actual conflict of interest. Do you have a conflict of interest? Do you further somebody's interest, some family or, improperly, a third person and so on? That's what the act is. The drafters of the act at the time of its passing—it was passed during the time of Prime Minister Harper—did debate the whole issue of whether there should be an appearance of conflict of interest. It was not put in there. It was deliberate. There was no requirement. The act talks about a potential conflict of interest. It comes close to perceived, but it's not the same.

The act, however, has the goal to ensure public confidence so that people feel that elected officials do the proper thing. Of course there, the public's perception, which is what you're talking about, is not influenced by facts. If there is a situation that in their opinion smells, etc., that's not good. That decreases public confidence. It's one of the reasons I suggested that if you're really serious about making sure the confidence of the public is there, it would be helpful to have an apparent conflict of interest provision in there.

It is not, so right now I'm administering it along the lines of whether there are real conflicts, or potential ones, and then hopefully, to the extent possible, we're creating confidence of the public in the process. If you give me an extra tool, such as dealing with apparent conflict of interest, I think we could be more effective, but it's not in the law.

● (1710)

Kristina Tesser Derksen: Okay. When it comes to potential conflicts of interest, can you distinguish more between the perceived and the potential? A potential conflict of interest could arise in the future. Is that a fair way to describe it?

Konrad von Finckenstein: Perhaps you could answer that question.

Michael Aquilino (Legal Counsel, Office of the Conflict of Interest and Ethics Commissioner): Actually, really comprehensive definitions of all three types of conflicts are found in Commissioner Parker's report in the 1980s, I think, into conflicts involving Minister Sinclair Stevens. He sets out the definition, I guess, of a real conflict meeting the existence of three criteria. First you have to have a private interest. Second, it has to be known to the public office holder. Third, there has to be a connection or a nexus with their official duties. Then he says, “Potential conflict is”—he uses very poetic language—“that momentary oasis of sober reflection” before you cross that threshold into the real conflict. Before you exercise your official duties, you're aware of the existence of a private interest and the furthering of that interest if you do exercise your public duties, so you're able to take measures to avoid that conflict.

As you said, the perceived conflict involves more subjective analysis according to the reasonable person.

The Chair: Thank you, Ms. Tesser and Mr. Aquilino.

What was that about a moment...?

Michael Aquilino: It was a momentary oasis of sober reflection.

The Chair: That sounded like me on my wedding day—

Voices: Oh, oh!

The Chair: —just before I walked down the aisle. Thirty-seven years later, it's worked.

[*Translation*]

Mr. Thériault, you have the floor for two minutes and thirty seconds.

Luc Thériault: Thank you, Mr. Chair.

We are discussing here the highest office in the Canadian state. When you came to give evidence while we were reviewing the Conflict of Interest Act, you told us the following regarding the management of section 3: "…the Prime Minister was a very successful businessman, a former international banker, a former governor of the Bank of Canada and the Bank of England, those are positives." You may have forgotten to mention that he is also the former head of Brookfield.

Next, you said this: "That's a competent person. That's what I'm supposed to make sure of." I nearly fell off my chair when I read that again. I didn't remember you saying that. Do you really need to ensure that the Prime Minister is competent?

You went on to say the following: "I also have to make sure that he has no conflict." I thought your main task was to ensure that there is no conflict of interest, first and foremost, and that it is up to the people to decide whether an elected representative is competent or not and whether to elect them or not, in accordance with democratic principles.

Konrad von Finckenstein: You are absolutely right. I apologize; I do not recall saying that, but if I did, it was a misuse of words. Exactly as you say, it is the people who decide on competence. For my part, I decide whether or not there is a conflict of interest.

Luc Thériault: It reassures me to hear you say that, although I do have reservations about the appropriateness and relevance of paragraphs 3(d) and 3(e). You and I have already discussed this, and I told you that it is not the primary role of an ethics commission to facilitate the transition from the private to the public sector or to recruit people deemed competent. The competence of a public office holder is something that is established through examinations and interviews. For my part, I do not expect an institution such as an ethics commissioner's office to do that.

It has therefore been proposed to remove paragraphs 3(d) and 3(e) from the act. I imagine that, if you agree with me that it is not useful to know whether the prime minister is competent, you will agree that paragraphs 3(d) and 3(e) should be removed.

Konrad von Finckenstein: I have already said that I agree with you. I do not recall using that particular expression. If you are quoting me, it is obviously because I said it, and that is an unfortunate mistake.

The act refers to encouraging people who are deemed to have the necessary experience and skills. That is the purpose of the act, and I am applying the act. When a person is deemed competent by the public, as in the case of an MP or an appointed representative, my role is to ensure that that person is not in a situation of conflict of interest.

● (1715)

The Chair: Thank you, Commissioner.

Thank you, Mr. Thériault. I gave you a little more time so that you could get an answer.

[*English*]

We're going to go to Mr. Gunn for five minutes.

[*Translation*]

Over the next hour, for the second round, you will be allocated five minutes, Mr. Thériault.

[*English*]

Mr. Gunn, go ahead.

Aaron Gunn (North Island—Powell River, CPC): Thank you, Mr. Chair.

Commissioner, do you believe it's reasonable for Canadians to expect that if their elected leaders or their elected prime minister violates the conflict of interest code, there should be real consequences for that kind of behaviour?

Do you, by extension, also think it's reasonable for Canadians to expect that those consequences should be more severe or serious if those found guilty or found to be in violation of the code have done so repeatedly or after explicit warnings not to do so?

Konrad von Finckenstein: As you know, the code requires that if there is a breach of contract, I expose it, in the case of an MP, to the Speaker, or in the case of an official, to the Prime Minister. They then apply whatever measure they think is appropriate under the circumstances. If it's a repeat offender, presumably whatever measure is applied will be more severe than the first time.

Aaron Gunn: That's right.

What I'm trying to get at is just how you're enforcing the code more broadly. I'm confused by.... You answered the first question and said that you believe there should be consequences or that it's reasonable for Canadians to expect that there are, yet there was an instance where there were no sanctions and no consequences placed on a Liberal MP, Lori Idlout, who was found by your office to have violated section 8 of the conflict of interest code on five separate occasions by using her taxpayer-funded constituency office budget to purchase more than $2,000 in artwork and trinkets from her own business.

There was also documented evidence from your office that she explicitly knew about this provision. Her compliance adviser recorded in writing, all the way back in 2022, "I also advised her she could not purchase gifts from the indigenous art gallery she owns with her Member's Office Budget. She was very much aware of this."

Why were there no sanctions and no consequences for this abuse of taxpayer money?

Konrad von Finckenstein: First of all, the amount, as you quite rightly said, was $2,000. That's the purchase value of the goods. The profit to her would be minimal. I have no idea what the profit element of the—

Aaron Gunn: It was a repeated violation of the code when she already had warnings of it.

With all due respect, when Canadians vote for their elected officials, they're placing an enormous amount of trust in us to manage taxpayer money ethically and judiciously. I think, with that trust, comes an enormous amount of responsibility, so I just couldn't understand....

After talking to Canadians in my riding, I know that they certainly think that the conflict of interest code is very important. They believe you're a very important part of our parliamentary democracy. I think they struggle to understand, when someone repeatedly violates that code after being warned not to and is found to have done that by your office and the judicious work that you did, how there could possibly be no sanctions and no consequences.

Konrad von Finckenstein: As I keep telling you, the act provides for exposure. It has been exposed. My report is a public document. You have the resources—

Aaron Gunn: Do you have the power to provide sanctions?

Konrad von Finckenstein: No, I do not. It would be the Speaker who would impose the sanctions. I cannot impose anything, except for—

Aaron Gunn: You recommended no sanctions.

Konrad von Finckenstein: I didn't recommend any sanctions. I have specifically, under the act, the discretion to decide whether, under the circumstances, sanctions are appropriate or not over these—

Aaron Gunn: Why did you think it was appropriate for no sanctions to be placed on a Liberal MP who was found to have repeatedly violated section 8 of the code even with forewarning from your office?

Would you apply that same standard if the Prime Minister, at some point in the future, is found to have violated the Conflict of Interest Act to further his own private interests? Can you guarantee that you would recommend sanctions in that case, or might he just get off with a stern warning?

● (1720)

Konrad von Finckenstein: I tried to explain, when you interrupted me, to say that it's a very minimal amount that was of benefit to her. She immediately—

Aaron Gunn: It's a—

Konrad von Finckenstein: Let me just—

Aaron Gunn: She violated it repeatedly. How many times does someone have to violate it for there to be a sanction? How much money does someone have to borderline embezzle from the federal government, from taxpayers, for you to recommend a sanction?

Konrad von Finckenstein: Mr. Gunn, if you don't let me finish my sentence—

Aaron Gunn: Okay. How much money? Let's see how much money—

Konrad von Finckenstein: You keep posing me one new question after another before I even answer the first one, so we're not having a discussion here.

Aaron Gunn: How much money does somebody have to borderline embezzle?

Konrad von Finckenstein: I'm trying to tell you that it depends on the circumstances of the case.

This was a case that caused a minimal amount of benefit to her. She immediately admitted everything. She repaid every single penny of it.

Aaron Gunn: If she immediately admitted it—

The Chair: That's the time. We're past the five minutes.

We're going to Mr. Shahnawaz now.

Go ahead, sir.

Tanveer Shahnawaz (Beaches—East York, Lib.): Thank you, Chair.

Thank you to the commissioner and team.

If I'm not a familiar face, that's correct, because I'm one of the newest members of this committee.

It seems that a lot of my colleagues are maybe very confused still by the role that you and your team play and perhaps by the exact responsibilities or capacities and provisions that you, as commissioner—or those you work with most closely—have. I was wondering if you wouldn't mind just refreshing for all of us the role you play with the Privy Council and the Prime Minister's Office and what you're doing to uphold compliance.

Konrad von Finckenstein: In the role I play, when a person is elected or an official's appointed, they have to, first of all, make a declaration of everything they own or the connections they have. They have 60 days to do this. We then sit down with them and say that these things may present a problem, and you have to do something about it.

For example, the Prime Minister, clearly, has a substantial portfolio of shares, and we said that he had to put this in a blind trust. Then the blind trust is not good enough. Besides that, he knows what he put in the blind trust, so we have to ensure that his decisions cannot have an impact on the value of the blind trust. Therefore, we established what's called a screen so that he cannot make decisions that affect whatever is in the blind trust.

Certainly, we are there to advise, ongoingly, the PCO or any other person subject to the act if they have any problem or any questions, etc. In the case where there's a screen, as with the Prime Minister, the administrators of the screen will, from time to time, talk to us when a situation comes up if they are not quite sure whether it should be invoked or not, etc., and we give it.

When something goes wrong and an item is not caught by the screen, then the person who made the decision unknowingly, because their people didn't correctly administer the screen and something came before them and they made a decision, has to recuse themselves and make it public, and I publish it.

On top of that, when people complain to me, when something is not quite properly done or when there is something wrong, etc., that gives me motive to think that there's a potential breach of the act, and I can launch an investigation. When I launch an investigation, I have the powers of a judge. I can summon everybody, every document, etc. Then after, people can appear with counsel or not, but they have to answer my questions.

Then I publish a report. The report, depending on who is involved, goes either to the Speaker of the House or to the Prime Minister, and that person then decides what sanctions, if any, are appropriate.

The biggest sanction, of course, is the exposure of the person who is mentioned. Their reputation is damaged. It may be ruined. It's up to the public to decide what to do. The act is really that the threat of exposure is the biggest thing. That's why people adhere to the act.

Tanveer Shahnawaz: Thank you for that.

If it's suggested by my colleagues that a certain number of companies should be added, would you encourage them to just submit those lists for your review?

● (1725)

Konrad von Finckenstein: If the Prime Minister feels that the list he has furnished is incomplete and that companies should be added to the list in light of the testimony of somebody here, obviously he should furnish them to us and declare, for the screen, that appendix A is incomplete and that the following companies should be added. That's if—and it's a big if—indeed these companies are there, they are relevant and they can be influenced by his decision.

I have no idea what companies we're talking about. All I know is the number of companies mentioned by somebody from Brookfield. They didn't mention any name, or I didn't hear any name. I only heard the number of companies involved.

Tanveer Shahnawaz: Thank you. That's fascinating.

Neither did we.

I just wanted to ask—

The Chair: You have five seconds.

Tanveer Shahnawaz: Thank you.

The Chair: Thank you.

Mr. Jivani, you have five minutes.

There will be one more five-minute round on this side.

Go ahead, sir.

Jamil Jivani (Bowmanville—Oshawa North, CPC): Thank you, Mr. Chair.

Thank you, Commissioner.

I know you're familiar with the act, but I just want to quote from it for the basis of my questions for you. The act says:

> a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

I'd like to get your understanding of or a helpful way of defining “friend” in the context of the act. How would you explain when a friend becomes relevant for a potential screen for conflict of interest or when a friend is not relevant?

Konrad von Finckenstein: This is always a difficult issue, obviously, because we all have friends with whom we deal, etc. A friend is more than just an acquaintance. It's somebody who is not only a colleague, let's say, but someone you also have a personal relationship with. You play golf with him. You're godfather to his children or something like this.

It depends on the circumstance, but there has to be something over and above. I know you, but we're not friends. Just because I know you and I have testified here, it doesn't make us friends. However, let's say we go and have a drink periodically. We belong to the same club, etc.

You have to look at the context and establish that context. It is not a clear-cut situation. That's why I've been appointed to make that judgment.

Jamil Jivani: You described a certain kind of friendship that might qualify as potentially a conflict of interest. There's a friend of the Prime Minister's who is part of a running club and book club with him. There's a friend of the Prime Minister's who was at his very exclusive swearing-in ceremony at Rideau Hall. There's a friend of the Prime Minister's and you can find pictures in the media of the two of them, arm in arm, having a great time together.

That individual is the CEO of Telesat, Dan Goldberg. Dan Goldberg is not mentioned by name as a friend that would warrant a conflict of interest screen. My question to you is, why is that?

Konrad von Finckenstein: Just a second, where is the list of friends of the Prime Minister?

Jamil Jivani: That's a great question. Why aren't his friends listed in the conflict of interest screen? This is precisely the issue. You have a definition that sounds quite reasonable, sir. I'm curious as to why no one met that definition enough to be included in the conflict of interest screen, and why Dan Goldberg in particular would not be listed.

Konrad von Finckenstein: First of all, there's no obligation under the act to mention your friends or who they are. Second, is there a conflict? Is Mr. Goldberg dealing with the Prime Minister? Is the Prime Minister making decisions that affect Mr. Goldberg? If so—

Jamil Jivani: That's an excellent question that you've asked. In fact, there's quite a lot of alarming evidence that the Prime Minister's government is making decisions that have enriched—let me finish, please—Dan Goldberg and Telesat. The average Canadian who sees that would naturally have questions: Is the Prime Minister in a conflict of interest, being able to, as The Globe and Mail has said, skyrocket the value of shares for Telesat by giving them public dollars?

If an average Canadian sees that and has a question about whether there is a conflict of interest, why wouldn't that be in a screen so that we know? That's ultimately what we would like—the information to know whether there is a conflict of interest or not.

● (1730)

Konrad von Finckenstein: There are a couple of things here. You said the government has made a decision. I have no idea what decision it is and whether the PM was involved in the decision or not. It may have been a decision where the screen was applied and he was not involved. If that's the case, it will appear in the next report from the PCO.

If you suggest that, in effect, the Prime Minister was involved and the decision enriched the company, and you're saying by implication it also enriched Mr. Goldberg—

Jamil Jivani: It's not just by implication. I mean, he's the CEO of the company. He owns stock in the company. The Globe and Mail has reported that the value of that stock has "skyrocketed". Not only that, sir, but the Prime Minister appeared with this gentleman at an event in Muskoka this past summer, called by The Globe and Mail "Davos on the dock"—what a name—where wealthy CEOs pitched the government on opportunities for foreign investment.

It seems to, I think, the average Canadian that there would be natural questions that deserve answers. I can appreciate that you might not be in a position to provide a conclusion or a full answer, but I think those questions deserve some attention.

The Chair: Thank you.

Konrad von Finckenstein: When people feel like you, etc., they write to me and give me the details. I then will make a decision on whether something requires investigation—

Jamil Jivani: I would love to write to you about this.

Thank you.

The Chair: I have five minutes on this side. Who's up?

Ms. Church, go ahead.

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

Thank you, Mr. Commissioner, for your patience in appearing before the committee and always your willingness to be here and to answer the committee's questions, even when they maybe depart a little bit from the norm and head down the path of a fishing expedition. We haven't been treated to one of those in a few months, but it is the end of the season, so it's always good to revisit this with this committee.

In previous testimony to us, you said that Canadian ethics laws are the "gold standard" in terms of how we handle our ethics regime, how we insist on disclosure and how we make public any breaches. For the benefit of the committee, can you illuminate for us how Canada has set that gold standard in ethics?

Konrad von Finckenstein: It's not me who said it. I cited an organization called COGEL.

What does that stand for?

Michael Aquilino: It's the Council on Governmental Ethics Laws.

Konrad von Finckenstein: That is a North American conference that a lot of American and Canadian organizations go to. I go there annually. Somebody there quoted Canada as being the gold standard.

Why are we the gold standard? It's probably because we start right at the beginning. It's the declaration. Anybody appointed or elected has to come forward and fill out a very extensive questionnaire—you have filled it out yourself, so you know the experience—telling me what you own, where you're involved, etc. Then we decide whether there are issues and how they can be addressed. It's a preventive regime.

Secondly, I have the ability, as commissioner, to investigate. When we investigate, we can make it public and, in effect, do damage to somebody's reputation. Of course, elected or appointed officials do not want their reputations damaged.

Lastly, because of this process, we are able to bring the most talented people into the public service without there being a perception that they're self-serving or that they're the friend of.... No, they can't be. If there is a potential conflict, the person comes in. They've gone through this process. There is also a capacity to investigate later on. Therefore, we're pretty assured that there won't be major conflicts of interest such that the public loses confidence.

Leslie Church: In the application of the act, we've seen conflict of interest screens and blind trusts. These are common tools that are used across governments and that have been in use for many years.

Can you give us a bit of a sense of how frequently they're applied, over time?

Konrad von Finckenstein: Lisa, do you have the details?

● (1735)

Lisa DeMoor (Director, Advisory and Compliance, Office of the Conflict of Interest and Ethics Commissioner): Yes, I can respond to that.

We generally put in place about 20 new screens a year. I want to say that we have about 60 screens active right now.

With respect to blind trusts, I believe we have, on average, 80 that are active at any one time for reporting public office holders.

Leslie Church: In your view, then, these are commonly used tools that reinforce the objectives of the act—the five purposes set out in its very framing.

Konrad von Finckenstein: Exactly. We're using the tools given to us.

Leslie Church: Can you explain to me how you see the duty or responsibility of public servants to act impartially? How does that intersect with compliance systems like the screen, in this case?

Konrad von Finckenstein: I don't know who you're referring to. If you mean the people who administer the screen, their job is to keep their boss safe by making sure he doesn't act in conflict. That's their task. It's in their self-interest to make sure nothing reaches him or her that can create a violation of the act. In effect, their interest is to protect him. If they don't, they're going to lose their job and somebody else will get it, because that's what they're there for. They're there to make sure the screen works. If it doesn't work, it's not only to the detriment of their boss. It's to their own detriment.

Leslie Church: We benefit, in Canada, from both the gold standard ethics regime and the continued working of an independent, impartial civil service.

Konrad von Finckenstein: Yes.

The Chair: Thank you.

I am going to suspend for a couple of minutes for a bit of a break. We'll resume in five minutes.

● (1735)

_____(Pause)_____

● (1740)

The Chair: We're going to start the second hour now.

We will reset the clock and start with six minutes each for the first round.

[*Translation*]

Mr. Hardy, you may begin.

Gabriel Hardy: Thank you very much, Mr. Chair.

Commissioner, you said something earlier that is rather interesting regarding the ethics screen itself: if it has not been activated and you have been consulted, there is no way of knowing. Let's say you are consulted and, in the end, it is not triggered; nobody will know. Obviously, when it is triggered, it is recorded in the register, which is reported on a regular basis. We will therefore be able to tell that it has been triggered.

In the event that the ethics review is not activated and you have not been consulted, are you in a position, at some point, to say that the group responsible for the ethics review considered that there might be an issue, began to look into it, did not come to see you and, ultimately, decided that it wasn't a serious matter and that there was no need to put an ethical review in place?

How do you go about checking what the process is? How do you go about ensuring that the ethical review is always properly in place?

Is there a cross-checking mechanism from time to time? Can you take a case to see if it has been analyzed and, if you're not satisfied, tell those people that they clearly haven't followed the process you established together?

Konrad von Finckenstein: It's not my job to do that. My job is to ensure that a filter is in place and that they know what they're supposed to do. If something isn't working properly, I'll look into it, but—

Gabriel Hardy: How can you know that if you weren't consulted? That's the point I'm trying to make.

Konrad von Finckenstein: As for the day-to-day administration of the filters, it is not my job to check that.

Gabriel Hardy: All right.

Let's go back a step. There is a filter in place between the Prime Minister and you to ensure that ethical standards are always upheld. You're telling me that once the filter has been established with you, you no longer have any say over it.

Konrad von Finckenstein: The filter is a preventative tool that we have—

Gabriel Hardy: However, one must be able to analyze it.

Konrad von Finckenstein: —and we insist that this be established. Once it is established, the deputy ministers and their assistants are obliged to implement it.

Gabriel Hardy: I understand that perfectly, Commissioner. My question is—

Konrad von Finckenstein: What I'm saying is that, at that point, my task is complete. I will only speak up if someone asks for my opinion or if there is a breach of the law.

Gabriel Hardy: Good. That's great.

Ultimately, as members of the Standing Committee on Access to Information, Privacy and Ethics and as elected officials, we expect to have an independent parliamentary body that establishes an ethics screen in collaboration with the Prime Minister's Office. Yet once the screen is established, we must place blind trust in the process. If no screen is implemented, you can't do anything. Clearly, this is a question worth asking.

You're saying that, once the process is under way—whether or not you were consulted—and the ethics screen has been implemented, you have more or less the oversight to review the process. That's how we see it. However, when information is disclosed, it means that a process was followed. That's how we should see it. We trust the system. The process was followed.

We can see that, when Mr. Beber and Sam Pollock met privately with the Prime Minister in an office, that was fine. The process was screened, and everything was in order.

In New York and London, his schedule was quite unclear. He met with people in New York who are clearly on the lists. Once again, we can see that everything was in order.

The Government of Canada is investing in modular buildings. We hear that Brookfield is clearly involved in this area. We discussed this here in the committee. However, we heard that the process was followed.

There's also Westinghouse, Data4, the Maple Funds, the Transition Fund and heat pumps. Whenever these things happen, we need to trust that the entire process was followed and that the ethics screen was implemented, because you were consulted every week. We can trust that the process was followed, that nothing is amiss and that everything is fine. That's how I see it.

● (1745)

Konrad von Finckenstein: It's in their own interest to implement the screen and to do so honestly. Otherwise, there may be an investigation and the people involved will need to explain and justify their actions.

Gabriel Hardy: That's the thing. You say that it's in their own interest, but who really benefits from it?

You're saying that you have no oversight afterwards, so you need to wait for someone to file a complaint. You told me earlier that you haven't really implemented the mechanism set out in section 45 because you're waiting for someone to write to you.

Here in the committee, we've raised a number of issues. How many investigations has your office launched based on all the evidence or potential conflicts of interest discussed here in the committee over the past 18 months? I'm referring to the information that we shared with you.

Let me give you an example. Take the condo buyback program in British Columbia. The Prime Minister is invited to a party with many people who work in exactly that field. A few months later, a government policy is announced to buy back condos at $660,000 per unit. Is there a potential conflict of interest? Have these issues been brought to your attention? Have you launched an investigation?

What does it ultimately take, beyond newspaper articles and the things that people say here?

Konrad von Finckenstein: You must understand that the program doesn't exist or doesn't involve—

Gabriel Hardy: It was announced.

Konrad von Finckenstein: I'll address your point.

The minister was in British Columbia. He announced this draft program. You said that it involves Brookfield and that it was done to—

Gabriel Hardy: That's not it at all. I'm saying that he attended a private party—that's a known fact—and that, a few months later, the people at that party were told that a program would help them. We thought that there might be a conflict of interest. Any informed person who simply asks a logical question can see that the situation might involve a conflict of interest.

Are you waiting for someone to write to you about this, or can you, under section 45, launch a process?

The Chair: There are 10 seconds left.

Konrad von Finckenstein: The fact that a closed-door meeting took place isn't enough. As I said, I need at least some evidence of something. The mere fact that a meeting took place in British Columbia isn't enough to establish a connection between the two aspects.

The Chair: Thank you. Time's up.

[*English*]

Ms. Chagger, you have 360 seconds. Go ahead.

Hon. Bardish Chagger (Waterloo, Lib.): Thank you, Mr. Chair.

Welcome back, Commissioner.

I'm going to start off by asking if there is anything you want to add from that last round, just to tidy up anything or finish a sentence.

Konrad von Finckenstein: No. It's okay. I think we're done with it.

Hon. Bardish Chagger: We noticed in this approach of the Conservatives that they do tend to just throw things out there. They have their own hypotheses and seem to get really frustrated when they don't get the outcomes that they believe line up. That's something that I've really learned a lot about in my inbox, where people ask questions.

Can you provide any confidence to Canadians as to what your office does and how they can be assured that there is someone watching to ensure that conflicts of interest don't exist or are not present?

Konrad von Finckenstein: Really, there are two things.

First of all, it's to ensure that the best people who come into the public service and serve don't have any conflicts. If there are conflicts, it's to ensure that they are managed. It is important that public offices are filled with people who are competent.

Lots of people who are competent have conflicts. Therefore, there is this whole idea of having 60 days to come to us and fill out the questionnaire and say what's there, and then in 60 days we figure it out. We appoint a single person for every person who's subject to it, so if you are caught by the act or if you have a problem, you phone Jean-Guy, let's say. He is your person. He has a telephone number, etc. If he's not there, somebody else is. We try to do everything up front to help the person, to make sure that they are aware of what the issues are and can try to avoid them. On top of that, it's obviously in their own interest to comply with it so that their reputation is protected and the people have confidence.

If there is either a legitimate complaint or proof that something is wrong, we have the power to investigate. The key is that we can investigate totally. We're not dependent on anybody. We do it ourselves. We have the power of a judge. We can enforce anybody to come and testify, and not only the person but all the people who are surrounded and involved in it. We are also able to see all the documentary evidence and then make a report, which is going to be devastating to your reputation.

● (1750)

Hon. Bardish Chagger: Thank you.

The issue Mr. Hardy is discussing relates to a transfer of funds to a provincial government to implement a policy. Would you consider that a conflict of interest?

Konrad von Finckenstein: The question, I think, was whether the Prime Minister was involved in it, and whether he, as a result of that, enhanced the value of his assets in the blind trust. That would be a conflict. The fact that the federal government and the provincial government work together...not at all. That happens all the time.

I don't know who made the decision, how it was made or where the money was coming from and all of this. I know absolutely nothing. That's the sort of thing where, unfortunately, people raise issues like this. It may get credence or may be accepted, but without the slightest proof of connection, there's nothing I can do about it.

Hon. Bardish Chagger: Do you think it's harmful to public disclosure if people are misrepresenting the facts and claiming there is a conflict when, in fact, there is not?

Konrad von Finckenstein: I don't think it's helpful. Unfortunately, the public is always very critical of its elected and appointed officials. Therefore, one shouldn't make allegations that are not true. It doesn't help the public discourse.

Hon. Bardish Chagger: How much time do I have, Mr. Chair?

The Chair: You have a minute and 30 seconds.

Hon. Bardish Chagger: I like that.

Does anybody else have any questions before I...?

Kristina Tesser Derksen: Can I split the time? Thanks so much.

Mr. Commissioner, you've mentioned a few times.... Actually, folks around the committee table have asked a few times where the threshold is for you to start investigating. You have said repeatedly that you need a reasonable cause or some kind of concrete reason to actually start investigating. Can you talk to us a bit about that threshold?

Listening to my colleagues across the way, there's a lot of conjecture. I shudder to think what type of society we would live in if you were able to launch an investigation just because someone had a meeting with someone else who might be somehow tangentially tied to something.

Could you talk to us a bit about the threshold you're looking for before you can start an investigation? I will let you finish your answer without interrupting.

Konrad von Finckenstein: It's not been, so far.... In the law, you have the concept of reasonable, which is the man on the street's reaction. It's less than that. There has to be a scintilla of evidence. I like to use that word. It's something that really doesn't sit right, and it warrants doing it.

It's hard to define it, really. It depends on the.... That's one of the reasons why I have been appointed. It's to use my judgment and my experience to do that. If you look at the requirements for my appointment, they suggest I should be a former judge, which I actually am, because judges are used to dealing with these things that are not absolutely defined. The notion is there and you have to apply it in a meaningful and just way.

If I just went ahead and said, “Oh, this is going to start an investigation,” people would undoubtedly bring judicial reviews right away. You may be aware of the recent court case by the Supreme Court that said every decision I make is subject to judicial review—

● (1755)

The Chair: Thank you, Commissioner—

Konrad von Finckenstein: It would ask on what basis I launched that investigation: “There's no evidence of that,” “This isn't justice,” etc. I'd be devastated by the court.

The Chair: All right.

[*Translation*]

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

Luc Thériault: Thank you, Mr. Chair.

Commissioner, you said earlier that it would be unreasonable to ask a public office holder—I assume that you weren't necessarily referring to the Prime Minister—to sell their shares or stock options. I can understand that different requirements may apply, depending on the position held and the number of supervisors involved, when it comes to managing potential conflicts of interest and objective risks.

However, let's talk about the position of prime minister. Do you really consider it unreasonable, when a person wants to become prime minister, to require this person to sell their shares and stock options, given that, from an objective standpoint, this person is surrounded by potential conflicts of interest and objective risks? I'm just thinking of Brookfield. I don't know how many people, among the individuals currently under your management, have such a long list of companies whose representatives they can't meet with.

Is this an absolute position? From an ethical perspective, what justifies this standpoint that the prime minister's position is incompatible with objective risks? Don't you think that, from an ethical perspective, the prime minister's position should be incompatible with objective risks, especially in the case of this prime minister? The evidence shows that we've been discussing this for two hours and that we could go on even longer. The rules make the time limited. Do you really believe that the prime minister's position is compatible with his objective situation and with all the conflicts of interest surrounding him?

Konrad von Finckenstein: This isn't my opinion, but rather what the legislation requires. The legislation specifically states that you have the choice to either sell all your assets or place them in a trust.

Luc Thériault: I'm asking for your opinion because we have actually recommended that anyone seeking this position be required to sell their shares and stock options. This applies in particular to a situation where the individual—as is the case with the current prime minister—remains surrounded by conflicts of interest, objective risks of conflicts of interest or even apparent conflicts of interest. You consider this concept quite important.

Konrad von Finckenstein: As legislators, you can, if you wish, make a change or amendment to the legislation. The risk lies in the fact that highly experienced individuals will say that the price is too high and that they won't accept it. You can decide. On the one hand, as you say, this guarantees a conflict. On the other hand, highly experienced and competent individuals may not accept the position because the price is too high.

Luc Thériault: This doesn't necessarily mean that, for the position of prime minister, someone who isn't objectively surrounded by potential conflicts of interest would do a worse job than someone deemed, at first glance, highly competent. A commissioner must take this stance.

Currently, the only people responsible for applying the conflict of interest screen are subordinates. Now, let's talk about what those subordinates told us, Commissioner. This actually led to a conversation that we had, and I'll remind you of it. When they came to see us, they said that they had a great deal of contact with you and that they consulted with you almost every day. We had the impression that you were part of the team. During the first meeting, I even asked whether you should have a department to oversee the management of this conflict of interest screen. You told me that you didn't want to serve as judge and jury.

These two men came to meet with us. They told us that they were in constant contact with the Office of the Commissioner. I thought that I would ask the commissioner if he felt as though he were serving as judge and jury.

You told me earlier that it was every three months.

I would like to know exactly who is telling the truth here.

● (1800)

Konrad von Finckenstein: Every three months, we have a set meeting. It's on my schedule. Of course, we have other interactions between these quarterly meetings. It depends on the situation. It's quite difficult to manage the screen. Some situations arise that no one has considered and that haven't happened before. Of course, we discuss these matters, and I give them my opinion. They can accept it or not. It's their choice. My job is simply to help them.

Luc Thériault: That's why I consider the position of prime minister incompatible with the Prime Minister's current situation and why it poses a real and objective problem in terms of managing that situation. You're showing this today.

The Chair: Thank you, Mr. Thériault.

Thank you, Commissioner.

[*English*]

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

Michael Cooper: Thank you, Mr. Chair.

Commissioner, in your opening statement, you indicated that you receive reports from the administrators of the screen, Mr. Sabia and Mr. Blanchard, when the screen is used. So that I understand how that is working.... I presume you receive reports every time the screen is invoked or, in other words, a determination is made that the Prime Minister has a conflict.

Konrad von Finckenstein: I probably misspoke. I meant I get the same report that you receive here every three months on the application. I get a copy of that too. That's what I get.

Michael Cooper: The Prime Minister's Office and the PCO told us that every time a potential conflict is flagged involving the Prime Minister, an analysis is done and, for the purpose of transparency, a two-page analysis is documented. At the end of the analysis, a decision is made in which the Prime Minister's chief of staff and top adviser sign off to say, “Yes, there's a conflict,” or “No, there's not a conflict.”

Are you not receiving any of those records?

Konrad von Finckenstein: That's an internal procedure. I have nothing to do with it.

Michael Cooper: You're totally in the dark every time there is a conflict or a potential conflict involving the Prime Minister.

Konrad von Finckenstein: That's overstating it. They may have consulted me about it, and I may have explained the situation. I may have given them...but what they did—

Michael Cooper: Where is the transparency, sir?

Konrad von Finckenstein: What they did was—

Michael Cooper: Where is the transparency? They say it's for the purposes of transparency and accountability, yet those records aren't released to the public. The Liberals on this committee have blocked them from this committee, and you're not receiving them.

You said in your 2023-24 report that transparency is a pillar of all conflict of interest regimes. How do you square that statement with zero transparency involving the administration of this screen?

Konrad von Finckenstein: I haven't made it clear what my role is. My role is to help them and to aid. They then produce it. They have chosen the process that you described. They have chosen to not make it transparent. It has nothing to do with me. I can't force them to make it transparent. This is their decision.

What they—

Michael Cooper: Commissioner—through you, Mr. Chair—you said in answer to a question posed by Mr. Al Soud that the screen is working fine. You have confidence that it is being invoked appropriately and that the Prime Minister is not making decisions where he has a conflict of interest.

How can you say that with any confidence when you're completely in the dark about when the screen is being invoked and when the screen is not being invoked?

Konrad von Finckenstein: I have no reason to doubt that it isn't. I know that—

Michael Cooper: It's pure speculation on your part.

Konrad von Finckenstein: I can only tell you what happened.

Michael Cooper: Trust, but don't verify. That's what you're saying. There's no verification.

Konrad von Finckenstein: No, Mr. Cooper, what I'm doing is advising throughout the process, if requested. They inform me on a three-month basis about exactly what they have been doing, and they make public a document to you. If you feel that is not—

● (1805)

Michael Cooper: With the greatest respect, your answer—

Konrad von Finckenstein: Excuse me. Can I—

Michael Cooper: —is not giving me, and I don't think it's giving Canadians, a lot of confidence about how this screen is working.

I want to go back to the 1,900 missing Brookfield companies from the screen. Ms. Robinson-Dalpé said on December 8, 2025:

> For all intents and purposes, if a matter is brought to the Prime Minister's attention and the Prime Minister is aware that it would further the private interests of Brookfield, then he would have to recuse, even if the screen did not capture that item because it's not on the annex....

That's fair.

It begs the question as to why the screen has not been updated. If it's an effective tool and a preventative tool, why has the screen not been updated? Why has your office not even bothered to contact the Prime Minister's Office to ascertain further information in light of Mr. Beber's testimony that there are these 1,900 other companies not on the list?

Konrad von Finckenstein: Lisa, do you want to answer this?

Lisa DeMoor: Sure.

To clarify, the list of the 103 companies—the screen differentiates why those companies are on the list—are the companies that are owned and controlled by Brookfield and Stripe that the Prime Minister is aware of. If there are other companies that the Prime Minister is not aware of, he cannot be in a conflict, because he cannot knowingly advance the interests of Brookfield in making decisions about companies if he doesn't know those companies are linked to Brookfield.

Of course, if he knew that some company, among any number of companies, was linked to Brookfield, he would have to recuse himself, irrespective of whether that company was on the screen or not. The screen is just a tool. The obligation is the recusal.

Michael Cooper: It's pretty ineffective when there's a lot of information missing.

The Chair: Thank you.

Ms. Tesser Derksen, you have five minutes. Go ahead, please.

Kristina Tesser Derksen: Thank you, Mr. Chair.

Thank you so much for your patience in answering these questions.

I want to pick up on the last line of questioning, because it's been mentioned several times—through the chair to you, Mr. Commissioner—that you are blind and you're operating in the dark.

The decisions made by the government are ultimately public. Is it fair to say you're in the dark on decisions? You're able to investigate these potential ethical breaches that are reported to your office. Is that correct?

Konrad von Finckenstein: As I've tried to explain to Mr. Cooper, we're using every power we have under the act to make sure that the act is being complied with. If the transparency is considered to be insufficient, you would have to change the act. What we are doing is exactly what is required of the act. We're making sure that it is transparent. You've seen that the PCO makes public to you a report on it.

The problem is that a lot of these decisions that fall under the screen can only be made public once the decision is made. If the Prime Minister knew beforehand that this is under discussion, he doesn't have to be involved in the decision-making. He could indirectly influence, and that's what you try to prevent. I appreciate the concern that the transparency in some instances may be late and should be earlier, etc., but because of the way the system is constructed, I don't see that this can be done in any other way.

Kristina Tesser Derksen: It's already been established that here in Canada we enjoy what we've described as the gold standard of conflict of interest screening, a regime that is truly transparent and provides a lot of accountability.

Mr. Commissioner, would it be helpful if members opposite actually reported their concerns to you rather than just saying vaguely that there are issues? Would that be helpful to you?

Konrad von Finckenstein: My concern, which I made public in my last annual report, is that the act is over 20 years old and needs to be updated. A perfect example is exchange-traded funds, which are considered shares, so you have to put them in a blind trust. Why? Your owning exchange-traded funds does not influence anybody, and you cannot influence them. You don't even know what is in those funds, how they are substituted and how your decision impacts them. They are like mutual funds, but they're just a modern type of mutual fund. However, pursuant to the act, they can't....

As we mentioned before, the appearance of a conflict of interest should actually be covered in order to enhance the public's confidence. I think it would be very useful if that was there.

There are a couple of other instances, which are all set out in my annual report. Your committee discussed them, and you expressed on them. We'll see whether the government will pick them up or not.

However, I think that's really what our main concern is. Those are changes to make sure that it's up to date. For instance, another example is that you cannot be employed. Let's say that you're a deputy minister and that you have great knowledge about transport and want to lecture at the University of Ottawa and give a course on transport. You're not being paid for it, etc. I have to say no because the University of Ottawa will not use you unless you're employed, and you can't accept employment. While you would be sharing your best knowledge without being paid for it, etc., the act, because it's old-fashioned and not properly written at this time, prevents that. It's that sort of situation we'd like to address.

● (1810)

Kristina Tesser Derksen: Thank you.

This brings to mind something that I know has been brought up in question period recently about the Prime Minister's wife, for example. She was appointed to a volunteer position as an ocean envoy. You may have heard about this. Were you consulted on this? Would you say it's appropriate, the way the process played out with the appointment of Mrs. Fox Carney?

Konrad von Finckenstein: As far as I am concerned, she was nominated by the Minister of Fisheries. There's no order in council. The minister has the power to appoint whoever is going to preside over that ocean conference. She chose her. The release said she's doing this without any fee or any remuneration. In effect, a minister chooses somebody to preside over a conference, somebody who's eminently qualified for it, and she happens to be the Prime Minister's wife.

Where is the conflict? Who benefits from this?

The Chair: Thank you, Ms. Tesser Derksen.

[*Translation*]

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

Luc Thériault: When it comes to accountability, not many public office holders likely end up in a position where their subordinates dictate how they should act.

Konrad von Finckenstein: Can you repeat the question?

Luc Thériault: Not many public office holders likely end up in a position where their subordinates dictate how they should act when it comes to managing a conflict of interest screen.

Michael Aquilino: It's actually quite common to have a chief of staff who serves as the administrator of a conflict of interest screen.

Luc Thériault: Politicians aren't the only public office holders. Public servants are also public office holders.

In the case of a minister, for example, the prime minister serves in the cabinet. If a newspaper article claims that the minister may have a conflict of interest, I don't think that the screen will even come into play. If the prime minister is displeased, the minister won't stay in the room for long if a decision must be made.

You will agree that the position of prime minister is quite different.

Mr. Sabia and Mr. Blanchard came to meet with us and praised Canada's rules, which many people appreciate. However, those are the rules as written. The rules must be judged by how they're implemented.

We made proposals to improve the Conflict of Interest Act. I would like to see things move in that direction. These proposals have been sitting on a shelf for quite some time now. We don't know whether we'll succeed. The government will ultimately decide whether to act on them. Yet I imagine that you also have a role to play in ensuring that your recommendations remain on the table.

In short, Mr. Sabia and Mr. Blanchard came to tell us about a list of companies whose representatives shouldn't meet with the Prime Minister. They said that this wasn't a suggestion but a requirement. In other words, they were dictating how he should act. That's fine. However, I asked them what happened when the Prime Minister wasn't in front of them and was travelling. I asked them whether, in those cases as well, they prohibited him from speaking on the telephone with those people or from receiving text messages from them. Mr. Blanchard responded that the Prime Minister knows exactly what he must do.

Do you consider this a responsible response from an individual tasked with enforcing a conflict of interest screen, or do you consider this response a political answer?

● (1815)

Konrad von Finckenstein: Are you asking for my opinion on the Prime Minister's chief of staff?

Luc Thériault: I would like to ask for your opinion on what I just told you. You said earlier that you could exercise judgment and that it was your job to do so.

I'm talking about one of the people responsible for enforcing the conflict of interest screen. The transcript of the meeting has been published. You can find it. I'm referring to his response to my question about all the companies whose representatives the Prime Minister mustn't meet with at all. Mr. Sabia and Mr. Blanchard prohibited him from having any contact with these people. I asked them whether they had prohibited the Prime Minister from speaking with these people or from receiving text messages from them while travelling or on board his plane. Contrary to my expectations, Mr. Blanchard didn't say yes. Instead, he responded that the Prime Minister knows exactly what he must do.

If the Prime Minister knows exactly what he must do, then he doesn't need a conflict of interest screen.

Konrad von Finckenstein: Where did you get this list of companies?

Luc Thériault: This is the list included in the Prime Minister's declaration. We were talking about this list.

Konrad von Finckenstein: What did you expect Mr. Blanchard to say in response to your question?

Luc Thériault: He just needed to say that yes, indeed, the Prime Minister was prohibited from ever contacting these people or receiving text messages from them.

Yet do you know where the problem lies? The problem lies in the fact that he can't control this.

The Chair: Thank you.

[*English*]

Mr. Gunn, go ahead for five minutes.

Aaron Gunn: Commissioner, it is my understanding—and I'm hoping you can confirm this—that the Prime Minister's ethics screen has been invoked more than 20 times since the beginning of this Parliament.

Does that sound correct?

Lisa DeMoor: The report from PCO says that it's 25.

Aaron Gunn: The goal of this ethics screen, which you chatted about a bit and your office helped develop, is to shield the Prime Minister from being involved in decisions or making decisions that could materially affect the companies that he previously had a role in directing or has a financial interest in.

Is that correct? Are those the main things? Okay.

I see on one of the pages I have right here that it has been invoked with regard to a hydroelectric dam in Powell River, which is in my riding. Are you familiar with that particular case?

Konrad von Finckenstein: Not at all.

Aaron Gunn: Okay.

It's a dam that used to power the local pulp mill that supported thousands of jobs in the community. However, when that mill fell into financial trouble, it was bought as a distressed asset by a tiny little company called Brookfield, a company that's now seeking a 30-year export permit to send all that electricity out of Powell River and out of the country to the United States, subject only to federal cabinet approval.

Even if the ethics screen catches this and the Prime Minister recuses himself from this decision, would that still not leave it in the hands of cabinet members who were all personally appointed by him and whose political futures and continued presence in cabinet are decided by him?

Would it not be obvious to all those still sitting around the cabinet table which decision would be in the best interest of Brookfield and, by extension, the Prime Minister himself?

Konrad von Finckenstein: You're assuming now that cabinet ministers make decisions in order to further the financial interests of the Prime Minister.

Voices: Oh, oh!

Aaron Gunn: I'm not. I'm saying that's who's left to make it.

It's quite obvious that the people making the decision would still be people who were appointed by him and whose continued presence in cabinet is decided by him. For those making the decision, it would be quite obvious which one would benefit Brookfield and, by extension, the Prime Minister.

I just wanted to—

● (1820)

Konrad von Finckenstein: Hang on.

What if, objectively speaking, it was a good decision and Brookfield was the right entity to purchase it? As you said, it would have gone under otherwise. This way, it will continue. There are all sorts of factors that will be taken into account, not only what you suggested: “Oh, this will make—

Aaron Gunn: This is an export permit, though.

The whole point is that this individual, the Prime Minister, is obviously the most powerful person in the country. Even if he were to recuse himself from that decision, it would still be made by people who were appointed by him and whose continued presence in that cabinet would be decided by him. It would be quite obvious to them which decision would benefit the Prime Minister financially.

Is that true? Is any part of that not true?

Konrad von Finckenstein: If they were aware of everything you're talking about, there would still be no question of whether this would benefit the Prime Minister.

I'm sorry, but I believe that cabinet makes decisions that are in the national interest, not in the financial interests of the PM.

Aaron Gunn: That's very optimistic of you.

I'll ask you a follow-up question, then.

Would it be obvious to the other cabinet members that the Prime Minister had recused himself from any particular decision?

Konrad von Finckenstein: It's a good question.

The Prime Minister is not being told that there's a decision from which he's being excluded. It never reaches his desk. That's how the—

Aaron Gunn: Are they calling a secret meeting without him there?

Konrad von Finckenstein: No. There's a cabinet meeting, and there are all sorts of cabinet subcommittees, etc. This decision has to be made, in your case, on this hydroelectric work. There needs to be an approval for export permission.

Sabia and Blanchard.... If that has to be blocked, it can't go in. The fact is that it goes forward to some committee and the committee then approves it, and somebody inside the PCO says, “This doesn't need to go to the Prime Minister—

Aaron Gunn: In this case, we're talking about it in question period, so I'm sure everybody is aware of the decision and what's involved.

I want to follow up on a very genuine question posed by one of my colleagues.

Would volunteers, in the case of the Prime Minister's wife, involved with government roles overseeing more than $1 billion in taxpayer money be subject to the same conflict of interest screen that the Prime Minister currently faces?

Konrad von Finckenstein: What $1 billion are you talking about?

Aaron Gunn: I'm talking about the role that she's been appointed to.

Konrad von Finckenstein: That's a conference. The $1 billion, overall, was given to various government departments to deal with oceans. It wasn't given for the conference. I don't know how the conference is—

Aaron Gunn: She has no control over any taxpayer money or direction.

Konrad von Finckenstein: As far as I know, she's running the conference. There's no mention in the announcement or anywhere that she's doing.... She's working pro bono. She's not getting a fee. She's using her intellect, etc.

Aaron Gunn: Okay, but she's working...she's directing taxpayer money.

Konrad von Finckenstein: The conference may be funded—

The Chair: We're beyond the time, Mr. Gunn. Thank you.

Commissioner, I want to thank you for appearing before the committee today. We appreciate your time. We appreciate the time of Ms. DeMoor and Mr. Aquilino as well.

I'm going to dismiss you.

I have some stuff to deal with before we go in camera to deal with drafting instructions for the report.

For the members' awareness, there was a motion that was agreed to by the whips on the committees that we need to adopt regarding associate members and giving them access to the digital binder. I suspect there won't be a problem with that.

Some hon. members: Agreed.

The Chair: Thank you.

Now that we've concluded the lobbying report, we're still getting briefs. Some of them are rebuttals to the testimony that we heard. We met at Liaison Committee today, which is a committee of committee chairs. They are working on guidelines for these types of things, but I am not going to accept any more briefs at this point. I want to make the committee aware of that. To anybody who sends us a brief and anybody who's listening who wants to send us a brief on the Lobbying Act, don't do it, because we're not accepting them anymore. I want to make that clear.

Lastly, on the Indonesia delegation that's coming, the informal meeting has been confirmed for November 17 from 10:30 a.m. to 11 a.m. Mark that in your calendars. I'll make sure the clerk reminds all the members that the meeting is going to take place.

For the informal meeting, I don't have a budget, but it's not going to be much in terms of renting a room and making sure that a room is available. I want the committee's consent, for this informal meeting, to spend whatever limited amount this will cost.

Some hon. members: Agreed.

The Chair: Thank you.

We're going to suspend and then go in camera to deal with the drafting instructions.

[*Proceedings continue in camera*]

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