

Federal Court



Cour fédérale

Ottawa, June 20, 2023 – The Honourable Justice Angela Furlanetto of the Federal Court issued the public judgment and reasons in files T-915-20 and T-916-20:

**IN THE MATTER OF DEMOCRACY WATCH v.
ATTORNEY GENERAL OF CANADA**

Summary: The Applicant, Democracy Watch, brought two applications for judicial review of decisions made in two reports issued by the Commissioner of Lobbying of Canada in March 2020. The reports found that two in-house organization lobbyists did not contravene Rules 6 and 9 of the conflict of interest provisions of the *Lobbyists' Code of Conduct (2015)* by attempting to lobby the then Minister of International Trade or her staff members.

Rule 9 is a specific formulation of the general conflict of interest prohibition set out in Rule 6. It prohibits lobbyists whose political activities could reasonably be seen to create a sense of obligation in someone, from lobbying that person or their staff if that person is or becomes a public office holder. Rule 6 prohibits a lobbyist from proposing or undertaking any action that would place a public office holder in a real or apparent conflict of interest.

The issues before the Court were whether the Commissioner erred in her interpretation and application of Rule 9 and Rule 6 of the *Code* as considered under the reasonableness standard of review.

The Applicant argued that the Commissioner erred in taking too limited an approach to the interpretation of Rule 9, which was inconsistent with the principles of statutory interpretation and ministerial responsibility. With respect to Rule 6, the Applicant argued that the Commissioner unreasonably narrowed the test for an apparent conflict of interest, conflating the test with that of an actual conflict of interest by focusing the analysis on the conduct of the minister as opposed to the conduct of the lobbyists themselves.

The Court found that the approach taken by the Commissioner was not unreasonable and that the decisions set out a rational chain of analysis in arriving at the conclusions reached. When the reports were read as a whole, it was clear that the Commissioner understood that her role was focussed on regulating the conduct of lobbyists and that their actions were her focus. While the Applicant did not agree with the Commissioner's decisions, the standard of review was not one of correctness. As the Applicant had not established that the Commissioner unreasonably interpreted the *Code*, or that her analysis lacked justification, transparency, or intelligibility, the Court dismissed the applications.

A French language summary of the conclusions is available. In accordance with the exception in paragraph 20(2)(b) of the *Official Languages Act*, a certified translation will be provided at the earliest possible time.

A copy of the decision can be obtained via the Federal Court website <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/523685/index.do>.