

August 23, 2012

File # E11-1013

Mr. Tyler Sommers  
Coordinator, Democracy Watch  
Suite 412, 1 Nicholas Street  
Ottawa, Ontario  
K1P 5P9

Dear Mr. Sommers,

Thank you for your letter of August 6, 2012, which has been referred to me for response.

You write in connection with the Commissioner's response to a complaint concerning section 331 of the *Canada Elections Act*. Your letter asks the Commissioner to clarify his interpretation of the word "induce" in section 331, and mentions that the Commissioner's "ruling stated" how that term was interpreted.

It may be useful to clarify the role of the Commissioner in deciding how to deal with complaints received by his office.

When addressing any complaint he receives, including the one that prompted your letter, the Commissioner exercises the discretion granted to him by law, and takes into account a number of factors and considerations. These include, but are certainly not limited to:

- the information provided by the complainant;
- the seriousness of the matter alleged in the complaint;
- the prevalence of the alleged offence and whether there is a need for specific or general deterrence;
- the presence of aggravating or mitigating circumstances;
- the best use of enforcement and investigative resources;
- the history and interpretation of the relevant statutory provisions ; and
- information obtained through an investigation or from the subject of the complaint, in cases where the Commissioner decides that seeking information from those sources is warranted.

In applying all of these considerations to a given complaint, the role of the Commissioner is not to issue rulings but, rather, to determine, in the exercise of his discretion, how the public interest would be best served.

This role is not unlike the role of other investigative entities or offices that operate under similar mandates.

In the particular case you raised, the Commissioner did not issue a "ruling" on the interpretation of section 331 of the *Canada Elections Act*. Rather, after weighing the relevant factors, the Commissioner formed a judgment as to how the public interest would be best served in the circumstances. When the Commissioner's response stated that "No complaint to this office provided a basis to believe that any elector was actually induced or affected in their voting behaviour due to the activity complained of," this was a factual description of the information received and not an interpretation of the Act.

More information on the role and functions of the Commissioner can be found in the document entitled, *Information Bulletin on Enforcement of the Canada Elections Act*, on the Elections Canada web site.

Thank you for having raised this matter with us.

Yours truly,



Audrey Nowack,  
Senior Counsel and Director  
Compliance and Enforcement  
Legal Services