



ETHICS  
COMMISSIONER

# ACTIVITY REPORT

2016-2017





# ACTIVITY REPORT

2016-2017

Code of ethics and conduct  
of the Members of the National Assembly of Québec  
(chapter C-23.1)



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August 31, 2017

Jacques Chagnon  
President of the National Assembly  
Hôtel du Parlement  
1045, rue des Parlementaires  
1<sup>er</sup> étage, Bureau 1.30  
Québec QC G1A 1A4

Dear Sir,

I have the honour of presenting the Activity Report of the Ethics Commissioner for the period April 1, 2016, to March 31, 2017, and the financial statements as at March 31, 2017, in accordance with section 79 of the *Code of ethics and conduct of the Members of the National Assembly* (chapter C-23.1).

Sincerely,

A handwritten signature in black ink, appearing to read 'Ariane Mignolet', with a stylized flourish at the end.

Ariane Mignolet

Ethics Commissioner



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## ETHICS COMMISSIONER'S MESSAGE



It is my privilege to introduce the activity report of the Ethics Commissioner for 2016–2017. This report informs elected officials and the general public about the institution's activities in the areas of implementing the various regulatory and legislative provisions regarding ethics and conduct, and of outreach, awareness and communication.

This is the first report that I am signing as Commissioner. However, having been appointed by the National Assembly in May 2017, it is important to point out that the efforts and achievements contained in this report are owing to my predecessor, Jacques Saint-Laurent. I would like to take this opportunity to thank him and pay tribute to the hard work he accomplished during his term, starting from the time the *Code of ethics and conduct of the Members of the National Assembly* was first implemented. We have come a long way since; expectations in this area have been refined with the gradual development of guidelines and information notes and with the production of various inquiry reports and the formulation of advice and advisory opinions for Members and their staff. Mr. Saint-Laurent, with his attentiveness and sense of duty, took up the considerable challenge of establishing the organization needed to implement the Code.

On the basis of these achievements, I begin this term with the firm will to have this institution evolve in order to better publicize its mission and actions, and the ethical obligations incumbent upon Members and their staff. Our actions must be aimed at persons subject to the Code, Rules and Regulation, but also at the general public, in order to boost the confidence of citizens in their representatives. In recent years, issues relating to ethics have been central to political life and the way that citizens perceive their elected officials. With this concern in mind, I will rely on information and support to ensure that the Code effectively helps representatives of the people fulfil their important duties in accordance with the expectations of citizens.

Before presenting an overview of this activity report, I would like to take a moment to highlight the work of the Jurisconsult, Jean-Louis Baudouin. Under the Code, the latter acts in the capacity of adviser to Members. His contribution is significant and appreciated by Members of the National Assembly.

The following pages therefore present the principal activities of the Ethics Commissioner for 2016–2017. The mission and operation of the institution are presented in the first section of the report. Following this are two sections dedicated to the implementation of various provisions of the Code, Rules and Regulation: the first describes the production by Members of the National Assembly and their staff of certain statements prescribed by their respective ethical obligations; the second discusses the advice and advisory opinions formulated by the Ethics Commissioner, as well as the inquiries conducted. This is followed by a section on the Ethics Commissioner's other activities and, finally, by the financial statements.

Ariane Mignolet



## JURISCONSULT'S MESSAGE



This is the final activity report covering a fiscal year with Jacques Saint-Laurent as Commissioner. Appointed by the National Assembly on December 9, 2010, and taking office on January 6, 2011, Mr. Saint-Laurent has an extraordinary capacity for work. Recognized and admired by all for his great integrity, sense of justice and professional competency, he will certainly be missed by many in his retirement. He is well deserving of the trust of all parliamentarians as well as our recognition and thanks for the work he accomplished under sometimes difficult conditions.

As for my activities as Jurisconsult, I have had the opportunity this year to advise a number of parliamentarians on issues of ethics and conduct with the general public, particularly with regard to certain requests for sponsorship and different contributions to activities in their ridings. These duties are stipulated in section 108 of the Code.

Furthermore, as is known, much of my work is to make recommendations to the Office of the National Assembly on the financial assistance to be granted to Members against whom civil or criminal proceedings are brought in connection with any act in the performance of their duties. Section 85.1 and subsequent sections of the Act respecting the National Assembly establish the conditions and parameters of this system. In the course of the 2016–2017 fiscal year, I opened two new case files for parliamentarians with civil proceedings against them for defamation.

Lastly, in September 2016, I had the pleasure of participating in the annual meeting of the Canadian Conflict of Interest Network. This meeting, which was held in Edmonton this year, is very important for exchanging ideas, comparing various ways in which to act and resolving common problems. Among the topics covered were the limits of attorney-client privilege in the context of inquiries and media relations.

A handwritten signature in black ink, consisting of several fluid, connected strokes. The signature is positioned above the printed name.

Jean-Louis Baudouin



## DATA RELIABILITY STATEMENT

As Ethics Commissioner, I am responsible for the findings and information in this report, which means the reliability and accuracy of the data reported.

This activity report accurately describes the mission and operation of the organization and publicizes the results of its various activities, particularly those regarding implementation of the legislative and regulatory measures under its responsibility. The report also provides information on financial statements for the period in question.

To my knowledge, the data, information and explanations contained in this 2016–2017 annual activity report reflect the situation of the Ethics Commissioner as at March 31, 2017.



Ariane Mignolet

Ethics Commissioner

Québec City, August 31, 2017



## I. THE ORGANIZATION

### Mission

The Ethics Commissioner is responsible for implementation of the ethics provisions prescribed by:

- The *Code of ethics and conduct of the Members of the National Assembly*<sup>1</sup>
- The *Rules of conduct applicable to the staff of Members and House Officers of the National Assembly*<sup>2</sup>
- The *Regulation respecting the rules of conduct applicable to the office staff of Ministers*.<sup>3</sup>

The Code, Rules and Regulation set out the ethical principles and rules of conduct that politicians must observe in carrying out their duties. Regardless of their office, they all share the same National Assembly values. In keeping with the rules prescribed by these legislative documents, they pledge to work to improve Quebecers' social and economic situations and to respect the rules of conduct in order to maintain public confidence in themselves and in the National Assembly.

As the authority responsible for implementation of the Code, Rules and Regulation, the Ethics Commissioner advises elected officials and members of their staff on their obligations in terms of ethics and professional conduct, organizes educational activities to inform Members and the public, gives advisory opinions and produces substantiated inquiry reports, so that Members know and can foresee the scope of their obligations where ethics and professional conduct are concerned.

Furthermore, by unanimous decision of the members of the Office of the National Assembly, a Jurisconsult is appointed who is responsible for providing advice to Members who request advisory opinions on matters of ethics and professional conduct. These opinions are not binding on the Ethics Commissioner.

### Operation

The Commissioner is the head of the organization. As at March 31, 2017, Jacques Saint-Laurent was acting in that capacity. He was accompanied in his duties by four full-time employees and one casual employee. In addition, services for the management of human, material, financial and information resources are provided by the National Assembly, as provided for in section 74 of the Code.

<sup>1</sup> CQLR, c. C-23.1.

<sup>2</sup> Decision No. 1690 of the Office of the National Assembly, dated March 21, 2013 (French only).

<sup>3</sup> CQLR, c. C-23.1. 2.

Table 1 - Staff breakdown

| Job category    | Staff    | Female representation | Under the age of 40 |
|-----------------|----------|-----------------------|---------------------|
| Executives      | 1        | 0                     | 0                   |
| Public servants | 2        | 2                     | 0                   |
| Professionals   | 3        | 3                     | 2                   |
| TOTAL           | <b>6</b> | <b>5</b>              | <b>2</b>            |

As at March 31, 2017, the Commissioner's office consisted of three units: advice and advisory opinions, registry and inquiries.

Consisting of two jurists, the **advice and advisory opinions** unit was responsible for answering requests for advisory opinions from Members of the National Assembly and their staff, on real or potential situations. The jurists submitted legal opinions and draft advisory opinions to the Commissioner. They advised and assisted the Commissioner and staff in performing their overall duties. They were also called upon to answer requests from political staff members. They contributed in a general manner to informing Members and the general public about the Ethics Commissioner's role and about implementation of the Code, Rules and Regulation. Their activities are carried out with a concern for prevention and strict confidentiality.

Where **registry** is concerned, one professional and one administrative assistant were responsible for services intended for Members, Ministers and their staff. The registry unit received, analyzed and reviewed the annual disclosure statements filed by Members of the National Assembly regarding their private interests and those of their family members. The unit ensured that Members' questions were answered in this regard and served as a liaison with the Ethics Commissioner. The unit helped prepare disclosure summaries and maintained the various registers that the Ethics Commissioner is required to keep and update under the Code. The registry unit was also responsible for communications with the media.

Finally, the **verifications and inquiries** unit was responsible for gathering information, conducting research and analyzing the relevant facts with regard to a specific context or potential violation of ethics. No member of the Ethics Commissioner's regular office staff was part of this unit. The Commissioner used the services of professionals on a contract basis, when necessary. Like the Ethics Commissioner and regular staff members, these professionals are fully impartial and objective in performing their duties and maintain the same very strict standards of confidentiality.

## II. STATEMENTS

The ethical obligations of the Members of the National Assembly and their staff include filing statements with the Ethics Commissioner disclosing any personal interests as well as gifts and benefits received.

### Private-interest disclosure statements for Members and Cabinet Ministers

Every year, Members, including Cabinet Ministers, must file a statement with the Ethics Commissioner disclosing their private interests and those of their immediate family.<sup>4</sup> The content of these statements varies depending on whether they apply to a Cabinet Minister or a Member. This personal and financial information is disclosed to the Ethics Commissioner to prevent any real or potential conflict of interest situation. The Ethics Commissioner analyzes these statements in detail and publishes a summary of each one.

As provided for in sections 37 and 51 of the Code, the Members' and Ministers' disclosure statements<sup>5</sup> must be filed on or before the date set by the Ethics Commissioner, if it is not an election year. For the period running from January 1 to December 31, 2016, the filing deadline for the disclosure statements was established as April 3, 2017.

In February 2017, the private-interest disclosure forms were sent to all Members and Cabinet Ministers with a seat in the National Assembly at that time. To assist with the updating of private information pertaining specifically to the elected official concerned, the disclosure forms contain the information already reported to the Commissioner by the elected official. The official must then confirm or change this information for the new period covered by the statement. All private-interest disclosure statements from Cabinet Ministers and Members were received. In addition, four Members elected during by-elections sent in their private-interest disclosure statements to the Ethics Commissioner during the 2016–2017 fiscal year.

### Private-interest disclosure statements for political staff

In accordance with the Rules and the Regulation, Ministers' and House Officers' Executive Secretaries are also required to file a private-interest disclosure statement.<sup>6</sup> The deadline for providing this statement was established as May 12, 2017, and Executive Secretaries were notified of this by letter in March 2017. Twenty-six personalized forms were sent to Ministers' Executive Secretaries and ten were sent to House Officers' Executive Secretaries. All of these statements were received in the following fiscal year.

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<sup>4</sup> Members' private-interest disclosure statements must be produced under sections 37 and 38 of the Code. Cabinet Ministers' private-interest disclosure statements must be produced under sections 51, 52 and 53 of the Code.

<sup>5</sup> The private-interest disclosure statement forms prescribed by the Ethics Commissioner for Members of the National Assembly are available on the website [www.ced-qc.ca](http://www.ced-qc.ca).

<sup>6</sup> House Officers' Executive Secretaries' private-interest disclosure statements are provided for by sections 17 through 19 of the Rules. Ministers' Executive Secretaries' private-interest disclosure statements are provided for by sections 18 through 20 of the Regulation.

## Gifts, hospitality and other benefits

The Code, Rules and Regulation establish a mechanism for disclosure of acceptable gifts, benefits and hospitality worth more than \$200. Accepting a gift is prohibited under the circumstances mentioned in sections 29 and 30 of the Code and the corresponding sections of the Rules and Regulation. In summary, these provisions establish that one must refuse a gift given in exchange for speaking or taking a certain position on an issue, or a gift that could influence a Member's or staff member's independence of judgement or compromise his or her integrity. Of course, if a gift is offered in the context of a purely private relationship, no disclosure statement is required to be filed with the Commissioner.

Disclosure statements for gifts accepted by Members are published on the Ethics Commissioner's website.<sup>7</sup>

For the period from April 1, 2016, to March 31, 2017, the Commissioner published 72 disclosure statements regarding gifts on its website, in accordance with section 31 of the Code. The Commissioner also received six disclosure statements for gifts refused by Members and returned to the donors. These disclosure statements are not registered in the public register kept by the Commissioner.

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<sup>7</sup> These are not published in the case of staff members. During the fiscal year, we received 15 disclosure statements from staff members.

### III. ADVICE, ADVISORY OPINIONS AND INQUIRIES

In addition to receiving disclosure statements from Members and their staff, the Ethics Commissioner is called upon to apply and interpret various provisions of the Code, Rules and Regulation through advice and advisory opinions offered to stakeholders, as well as through inquiries conducted by the Commissioner at the request of a Member or at his or her own initiative.

#### Advice and advisory opinions from the Commissioner

The Code provides consultation mechanisms for the Ethics Commissioner (section 87) and the Jurisconsult (section 108). These sections establish the possibility for a Member to obtain an advisory opinion in writing from these authorities.

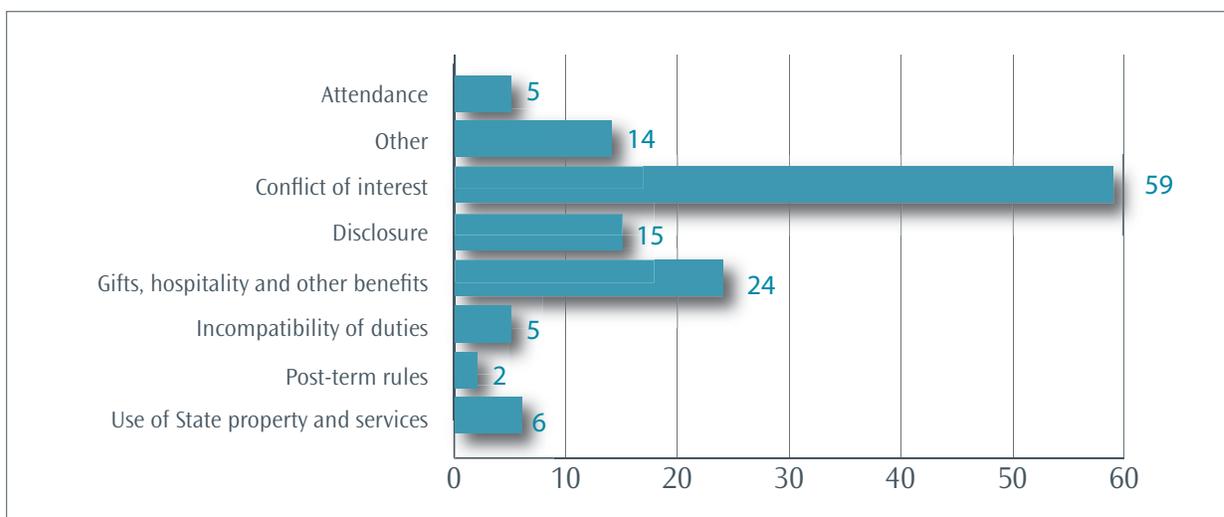
Likewise, section 30 of the Rules and section 31 of the Regulation establish the right of Members', House Officers' and Ministers' staff to obtain a written advisory opinion on any issue concerning their obligations under the Rules or Regulation.

The table below lists the requests that the Ethics Commissioner was asked to respond to over the course of the fiscal year. For requests made under the aforementioned provisions, the Commissioner produces a formal advisory opinion. The other verbal or written requests are of a more informal nature and generally entail follow-up by phone or email. The subsequent graphs give a breakdown of subjects by type of requester.

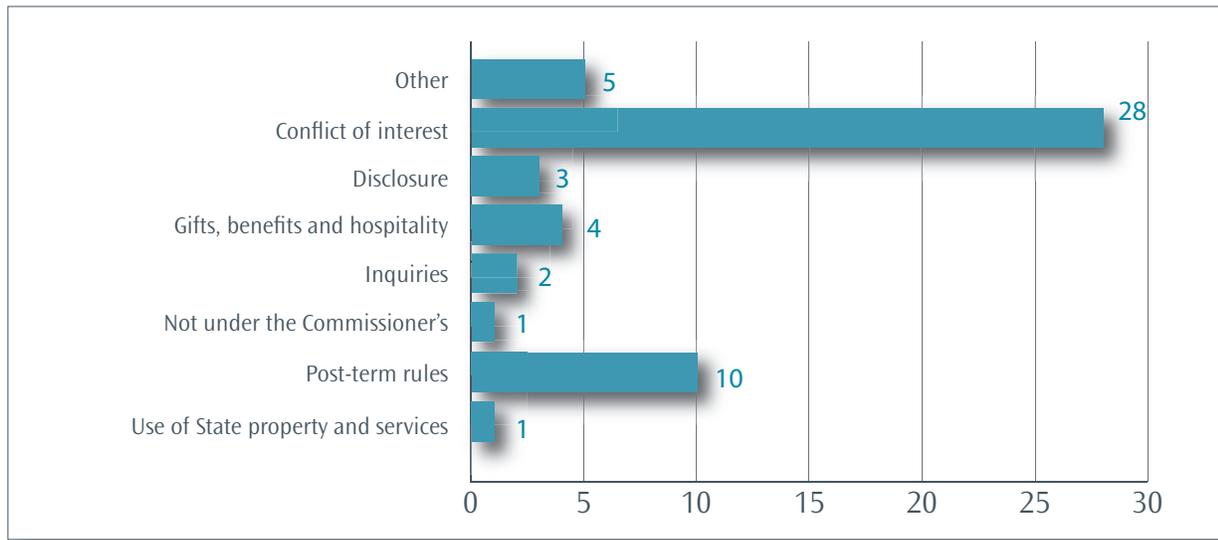
**Table 2 - Consultations, requests for information and advisory opinions**

|                                                     | Verbal or written requests | Requests under section 30 of the Rules, section 31 of the Regulation and section 87 of the Code | Total      |
|-----------------------------------------------------|----------------------------|-------------------------------------------------------------------------------------------------|------------|
| From Members                                        | 94                         | 36                                                                                              | 130        |
| From Members', House Officers' and Ministers' staff | 37                         | 17                                                                                              | 54         |
| <b>TOTAL</b>                                        | <b>131</b>                 | <b>53</b>                                                                                       | <b>184</b> |

**Graph 1 - Requests from Members by subject**



Graph 2 - Requests from staff members by subject



## Inquiry process

The Ethics Commissioner may begin an inquiry at his or her own initiative (section 92), or at the request of a Member who has reasonable grounds for believing that another Member has violated the rules of conduct prescribed by the Code (section 91).

In the latter case, the inquiry request must establish grounds on which it is reasonable to believe that the Code has been violated. To do so, Members must substantiate their request with specific facts. The Code does not authorize Members to request an inquiry from the Ethics Commissioner based on suspicion alone, without having gathered and analyzed certain information. As there is the risk of serious harm to a Member, legislators give the Ethics Commissioner the power to conclude that a Member has made a request for an inquiry in bad faith or with intent to harm (sections 97 and 100 of the Code), which, in itself, amounts to a violation of the Code.

When verifying whether a violation of the Code has occurred, regardless of whether the inquiry was conducted at his or her own initiative or at the request of a Member, the Ethics Commissioner considers and analyzes all the elements provided with great attention. He or she follows up on all facts and circumstances brought to his or her attention and analyzes them based on the values of the National Assembly and the rules of conduct, with a concern for confidentiality, objectivity and impartiality.

In the current fiscal year, three inquiry reports were submitted to the President of the National Assembly concerning Members. These three inquiries dealt with potential conflict of interest situations concerning Sam Hamad (June 2016), Jacques Daoust (August 2016) and Laurent Lessard (December 2016). The reports of these inquiries are public and can be consulted on the Ethics Commissioners' website.

Also, as per the Regulation, another inquiry report was produced concerning a Minister's office staff member. In accordance with section 41 of the Regulation, such a report is sent to the staff member concerned, the Minister to whom he or she reports and the Premier. It is not made public.

## Principal interpretations

In an effort to inform Members, their staff and the public, a summary of the principal interpretations used during the year is produced as part of the activity report. Each opinion is based on the specific facts and circumstances of each case, so it is naturally recommended that the persons concerned request an advisory opinion from the Commissioner or Jurisconsult, as provided for by the Code.

### Support for an organization, company or team

On a number of occasions, the issue has arisen of specifying the guidelines to be followed by a Member who wishes to support an entity such as an organization, company or team, for example by supporting its financing activities or by accepting to be the honorary chairperson of a charity event.

In principle, a Member can provide such support, subject to adherence to the rules regarding conflict of interest situations. In particular, a Member must not act in such a way as to improperly further the interests of the entity that he or she is supporting.

In addition, a Member must avoid targeted solicitation of companies or individuals, such as, for example, those at a charity event. Therefore, he or she must not create expectations among those who decide to make a contribution that they could potentially benefit. For example, this could be a citizen or company in the riding seeking the assistance of a Member regarding a matter or hoping that the Member will take a position in their favour in return.

Furthermore, it is important for a Member to maintain his or her independence of judgement relative to the entity he or she supports.

Finally, in these situations, Members of the National Assembly must take into account the influence that they may have in their community, based on their credibility and prominence as a Member.

### Hiring an extended family member

When in office, a Member or Minister may not act so as to further the private interests of a family member or non-dependent child. Therefore, Members and Ministers cannot hire a member of their immediate family or a non-dependent child as part of their staff. The Code also prohibits improperly furthering the interests of an extended family member.

For example, hiring an extended family member who does not have the qualifications required for the position, or granting him or her a disproportionate wage could constitute improper furthering of his or her interests.

### Request for subsidy from the spouse of a Minister's office staff member

The spouse of a Minister's office staff member may, at some point, through the professional or commercial activities he or she performs, submit a request for subsidy to the State, as part of a standard program. This situation is not prohibited by the Regulation. However, the staff member must take the necessary measures to prevent any conflict of interest situation.

In this respect, it is useful, as a precaution, to draw upon the measure provided for in the second paragraph of section 9 of the Regulation. This essentially deals with maintaining a clear boundary between the activities of an office staff member and the professional and commercial activities of the spouse. In particular, a staff member must undertake not to discuss, even in private, matters that may be closely or remotely related to the interests of the spouse and not to exert, or attempt to exert, directly or indirectly, influence with regard to these matters.

In addition, in the Minister's office, the colleagues of the staff member concerned must be advised not to disclose to the latter any information regarding the affairs of his or her spouse. If required, another staff member should also be assigned to handle matters concerning the spouse and make decisions relative to these matters.

### **Concept of official, direct and significant dealings**

An advisory opinion was provided to clarify the concept of official, direct and significant dealings, as referred to in section 26 of the Regulation. We clarify that under section 26 (1) of the Regulation, a Minister's office staff members must wait one year after they leave their position before accepting employment with an employer that is not a State entity, within the meaning of section 56 of the Code, and with which they had official, direct and significant dealings in the year preceding their leaving their position.

Firstly, the three qualifiers, "official," "direct" and "significant" must be interpreted in their usual sense. Furthermore, dealings must present all of these characteristics (official, direct and significant) in order to bring about the application of section 26 (1) of the Regulation.

Direct dealings refer to those in which the office staff member takes part personally or through another person acting on their instructions. Official dealings are those coming from a recognized or established authority. To determine whether a relationship is official, it is necessary to ascertain the character—the capacity—in which the persons concerned acted.

With regard to the significance of a relationship, from the outset, this must be distinguished from the official character of a relationship. We can assume that the legislator has made a conscious choice to use two different qualifiers, "official" and "significant," which refer to distinct ideas. Further, the significance of a relationship can be assessed based on various factors. In particular, the purpose or aim of the relationship must be examined. For example, was the relationship part of a framework for negotiations or a decision-making process? In addition, to assess the significance of a relationship, it is useful to look at the way in which the entity in question is affected by the purpose of this relationship. Lastly, the level of authority or influence that an office staff member had in his or her dealings with the entity and the significance of the information obtained are some elements, among others, that could be considered in assessing the significance of a relationship.

### **Private financial interest of a Member in a matter that is being discussed in the National Assembly or a committee of which he or she is a member**

Several requests received over the course of the year concerned the application of section 25 of the Code. This section establishes that a Member who knowingly has a private financial interest, not shared by the other Members or the general public, in a matter that is being discussed in the National Assembly or a committee of which he or she is a member must, if present, publicly and without delay declare the nature of the interest and withdraw from the meeting or sitting without participating in debate or voting on the matter. The Member must also inform the Secretary General of the National Assembly and the Commissioner.

For example, with regard to a bill concerning admission to professions and governance of the professional system, it was determined that merely being a member of a professional body does not constitute a distinct private financial interest that would justify the application of section 25 of the Code. There would have to be a more specific aspect that would distinguish the Member's situation from that of his or her colleagues in the National Assembly or the general public, for example if the Member of the Assembly sat on the board of directors of a professional body.

By contrast, in the context of an inquiry, there was the matter of a Minister who was the owner of a vineyard. The National Assembly was studying a bill that would require wine produced by the holder of an artisanal production permit to consist of 100% fresh or processed grapes from Québec. It was found that the fact that the Minister's vineyard produces grapes intended for sale to wine producers puts him in a particular situation. As such, his private financial interest, with regard to the bill, is not the same as that of all the Members or the general public. In this case, section 25 was found to apply.

Moreover, a Member who has a distinct private financial interest with regard to an issue can participate in the question period, even if this topic is raised.

Finally, we determined that informing the Secretary General of the National Assembly and the Commissioner, where section 25 is concerned, is only necessary if a Member withdraws from the session underway.

### Gifts and benefits

Sections 29 to 34 of the Code set forth the general rules regarding gifts and benefits for Members of the National Assembly, in particular with regard to the acceptability and the value of the benefit received. The Code generally allows Members of the National Assembly and Ministers to accept gifts and benefits, with the two exceptions mentioned in sections 29 and 30. These rules are similar for Members' staff (sections 11 to 16 of the Rules) and Ministers' office staff (sections 10 to 15 of the Regulation).

The first exception consists of not soliciting or receiving any benefit in exchange for speaking or taking a position on an issue. The second exception states that a member must refuse any benefit that could impair his or her independence of judgement in carrying out the duties of office or that could compromise the Member's integrity or that of the National Assembly.

Several elected officials requested advice from the Commissioner in assessing these two exceptions. The Member must conduct this analysis from the perspective of a reasonably well-informed person. This explains why in certain circumstances, even though the two exceptions have been ruled out, it is more prudent to refuse a gift or benefit that could be perceived as able to exert influence or affect the independence of judgement of an individual. This is the case, for example, when there is concordance between the activities of a donor and the responsibilities of a Member.

In some situations, a Member may accept a gift and not use it him- or herself. For this purpose, a Member must declare tickets received by him or her valued at more than \$200, even if he or she redistributes them to the community. Similarly, the redistribution of tickets must not serve as publicity or promotion of the Member him- or herself, for example through a draw in the local media that provides its platform for doing so free of charge.

Lastly, the scope of the exception regarding gifts offered in a purely private context, provided for in section 32, was examined. A Minister who is offered a meal by friends to discuss matters that are not the responsibility of his or her own department must nevertheless be subject to the usual gift analysis. His or her thought process should be focused on the acceptability and value of the gift, to determine whether a declaration should be made, if applicable. Indeed, if these friends want the Minister to intervene in one way or another, this would make it more difficult to conclude that it is a purely private relationship.

### Plurality of duties—staff members

The rules of conduct applicable to the staff of Members authorize the plurality of duties, provided that any conflict is avoided between the performance of duties for a Member and those performed in parallel.

Thus, it is necessary to ensure that a clear boundary is maintained between performing the duties of a political attaché to the Member on the one hand, and the other duties performed by the employee in question, on the other. The employee must ensure that no confidential information obtained in the performance of his or her duties is used to further any interest. Likewise, a political attaché cannot use his or her position to influence another person's decision so as to further his or her own private interests or those of an immediate family member, including his or her child, or to improperly further those of any other person, such as those of any other organization or enterprise for which he or she performs duties.

For his or her part, a Member must, in this context, ensure that certain rules applicable to his or her employee are respected, in addition to those that are specially applicable to him or her under the Code. As a precaution, a political attaché in such a position should make a formal commitment in writing not to discuss with the Member or with his or her colleagues in the riding office, even in private, matters that may be closely or remotely associated with his or her other duties and not to exert, directly or indirectly, any influence with regard to such matters. In the case where this political attaché is responsible for the *Programme de soutien à l'action bénévole*, which would allow the granting of funds to an organization on whose board of directors he or she presides, this request should be entrusted to another staff member.

Also, this Member must ensure that the rules regarding conflicts of interest prescribed by the Code are adhered to, particularly those found in sections 16 and 17. Consequently, he or she must take care not to involuntarily give the impression that the organization or enterprise that his or her political attaché works for is favoured. This imposes an even greater duty for caution and objectivity on his or her part that, subject to objective reasons, must not give the impression of favouring an organization more generously for example. With regard to measures taken by the Member to have sums granted under the Ministers' discretionary budget, the necessary precautions must be taken so as not to give the impression of improperly furthering the interests of a particular organization or enterprise.

Again, he or she must consider the perception of a reasonably well-informed person and thus ensure that the necessary measures are taken to avoid the appearance of a political attaché or him- or herself being in a situation of conflict of interest or an organization or enterprise benefiting from or being disadvantaged by the presence of a political attaché in his or her riding office.

Moreover, an inquiry found that a political adviser who is the manager of certain enterprises in the riding of the Minister for whom he or she works cannot be simply viewed as any other businessperson. As part of their missions, organizations have to call upon the Minister in various situations, including those for which his or her political adviser is an administrator. Inevitably, this confusion of roles at the political adviser level can place organizations in a delicate position and even harm their relations with the Minister. One must be aware of the risk that such a confusion of roles represents in order to avoid situations of this type.

### Exercise of discretionary power and values of the National Assembly

Section 6 of the Code states the values of the National Assembly, to wit: commitment to improving the social and economic situation of Quebecers; high regard for and protection of the National Assembly and its democratic institutions; and respect for other Members, public servants and citizens. It also sets out that conduct of Members must be characterized by benevolence, integrity, adaptability, wisdom, honesty, sincerity and justice.

Respect for these values in the exercise of a Minister's discretionary power was brought into question in the context of an inquiry. When a Minister is called upon, in the exercise of his or her discretionary power, to recommend that the government grant one-time financial assistance to an enterprise, he or she must act in such a way as to not arouse any doubt whatsoever regarding his or her independence and objectivity in the exercise of his or her duties. By recommending that the government grant one-time financial assistance, despite the proximity of certain stakeholders, a Minister adopts imprudent conduct that is contrary to the National Assembly's values of adaptability, wisdom and justice. Likewise, failure to provide a reason or reasons to justify a substantial increase to a grant constitutes a violation of these same values, which is detrimental to maintaining public confidence in Members of the National Assembly.

### “Improperly” furthering the interests of another person

The very essence of the mandate of a member of the National Assembly or Minister is to provide assistance to individuals or groups who request their help in their dealings with the State. Inevitably, this involvement risks furthering the interests of the person requesting help. Although this involvement is not prohibited, there is a critical limit to be respected. Indeed, section 16 of the Code sets out that Members cannot, in the performance of their duties, act in such a way as to “improperly” further the interests of another person. Nor can he or she, with the same intent, attempt to influence the decision of another person.

An analysis of the scope of “improperly” was conducted several times over the course of the fiscal year concerned. In particular, in an inquiry, we saw that in the performance of the duties of a Cabinet Minister, a Minister intervened, at the request of a third party, concerning the measures taken by a company to obtain support from the State for its development. This situation raises questions regarding the possibility that the relations between a third party and the Minister triggered a desire to “improperly” further the interests of the company, within the sense of section 16 of the Code. In effect, these parties had worked for the same company in the past, and the third party is a former government minister who belonged to the same political party as the Member. It was concluded that this is a factor to be considered among others, but that, in the present case, this element alone cannot justify the finding of action taken “improperly.”

### Using one's position to influence or attempt to influence another person's decision so as to further one's private interests

Section 6 (3) of the Regulation prohibits a Minister's office staff from using their position to influence or attempt to influence another person's decision so as to further their private interests.

This provision calls for some caution in managing their personal and professional relationships. In order to avoid the risk of a conflict of interest situation, it is necessary to maintain a certain distance, even with friends, particularly when the areas of professional activity performed by these persons may, even indirectly, appear to be related.

For example, a member of the Minister's office staff who contacts a company representative, who is also a friend, to obtain an advantage with regard to its services would not necessarily be in a conflict of interest situation. However, he or she should be careful of the appearance of a conflict of interest from the point of view of a reasonably well-informed person. Caution therefore dictates that the staff member maintain a well-defined separation between his or her professional activities within the Minister's office and his or her personal relationship with the company representative. To this end, the values of the National Assembly, the respect of which is essential for maintaining public confidence in Members and in the National Assembly itself, constitute a guide in the application of the rules of conduct.

## IV. OTHER ACTIVITIES

Aside from the application of the Code, Rules and Regulation, the Ethics Commissioner takes part in various education, public awareness and cooperation activities related to its mission.

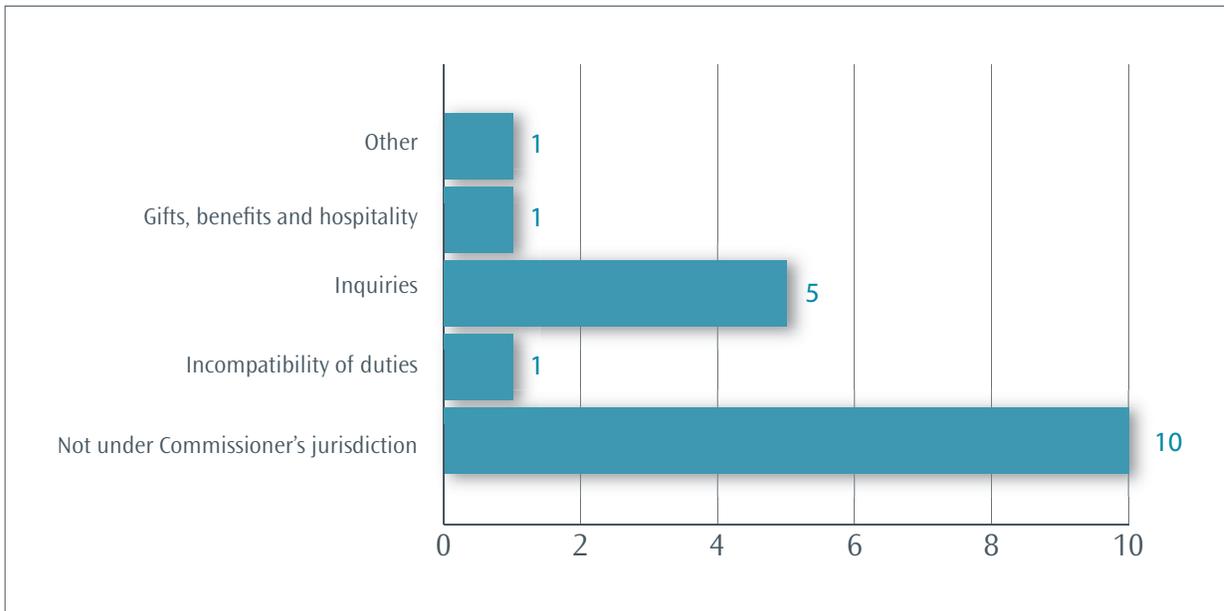
### Public and media communications

The Ethics Commissioner is called upon regularly to answer requests for information from citizens and the media.

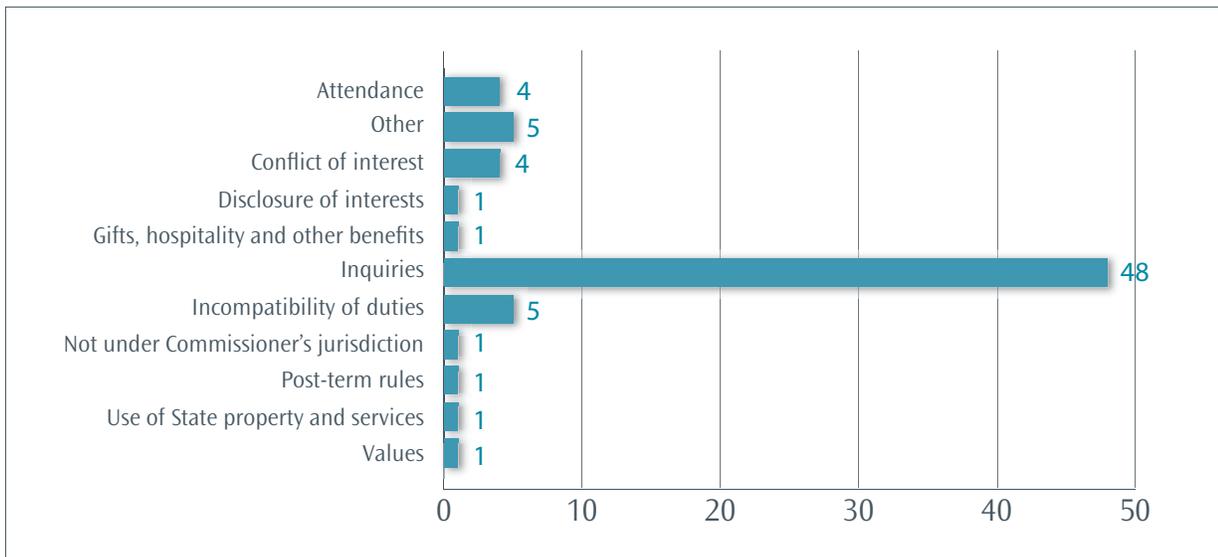
Over the course of the 2016–2017 fiscal year, the Ethics Commissioner responded to 18 requests for information from the public. In general, citizens contacted the institution to seek clarification on a matter, express a viewpoint on topical issues or ask questions regarding the conduct of a Member or Minister.

In terms of the media, 72 requests were addressed to the Ethics Commissioner, most of which concerned inquiries. While providing information to the media to the best of his or her ability, the Ethics Commissioner seeks to rigorously respect the absolute confidentiality imposed by legislators.

Graph 3 - Questions and comments from citizens by subject matter



Graph 4 - Requests from the media by subject matter



## Public education and awareness activities

As part of his or her duty to inform the public, the Commissioner also takes part in certain activities aimed at publicizing the institution and the ethics rules that apply to members of the National Assembly and their staff.

In October 2016, the Ethics Commissioner welcomed parliamentary interns from the Fondation Jean-Charles-Bonenfant. As part of a ten-month internship at the National Assembly, they are called upon to participate in training sessions prepared by designated persons from the National Assembly to learn about their mission and their activities. In this context, the Ethics Commissioner's team presented the workings of the organization to these five students or recent graduates.

In December 2016, the Commissioner provided a training session for political science students at Université Laval. This was part of the Ethics and Public Administration course offered to graduate students. The presentation focused on the application of rules of conduct and ethical principles that govern Members, Ministers and their staff. Several discussions dealt with topical issues, monitoring mechanisms under the responsibility of the Ethics Commissioner and various practical concerns that were of interest to the students.

## Annual conference of the Canadian Conflict of Interest Network

The Canadian Conflict of Interest Network consists of Ethics Commissioners from the various Canadian jurisdictions. Each year, they, along with some of their staff members, meet to discuss topics of common interest and share best practices.

This year's conference was held from September 7 to 9, 2016, in Edmonton. In addition to various roundtables on the latest developments in ethics throughout the country, Commissioners had the opportunity to attend presentations by experts on topics such as conflicts of interest, future ethical issues and inquiry processes.

### **Activities of the Assemblée parlementaire de la Francophonie**

The Commissioner had the opportunity to participate as a speaker at a parliamentary information and exchange seminar for Madagascan parliamentarians. This seminar was attended by some 60 elected officials in Antananarivo, Madagascar, and focused on the following topic: "Budget processes and issues of parliamentary ethics and conduct."

At the invitation of the Association parlementaire de la Francophonie, the Commissioner facilitated half-day debates to discuss with delegates various issues, challenges and perspectives regarding ethics, parliamentary codes of conduct and the role of parliamentary ethicists and ethics commissioners.

Furthermore, the Commissioner, accompanied by French counterpart Ferdinand Mélin-Soucramanien, presented a network project to the Bureau de l'Assemblée parlementaire de la Francophonie to bring together ethicists from the French-speaking world. This meeting was held in February 2017 in Québec.



## V. FINANCIAL STATEMENTS

### Management's report

The Ethics Commissioner's financial statements were prepared by management, which is responsible for their preparation, presentation and the estimates and judgements included therein, and for choosing the appropriate accounting policies in accordance with the Public Sector Accounting Standards.

To fulfil its mandate, management maintains a system of internal controls to provide reasonable assurance that assets are safeguarded and that transactions are properly approved and accurately recorded in a timely basis and result in reliable financial statements.

As Ethics Commissioner, I recognize that I am responsible for conducting my affairs in accordance with the statutes and regulations governing my office.



Ariane Mignolet

Ethics Commissioner

Québec City, August 31, 2017

## Operations and accumulated surplus for the fiscal year ended March 31, 2017

(in thousands of dollars)

|                                                         | 2017          | 2016          |
|---------------------------------------------------------|---------------|---------------|
| Revenue (Note 3)                                        | 693.2         | 651.0         |
| <b>Expenses</b>                                         |               |               |
| Remuneration                                            | 455.0         | 478.1         |
| Transportation and communication services               | 17.1          | 20.2          |
| Professional, administrative and other services         | 125.8         | 62.4          |
| Rent paid to the Société québécoise des infrastructures | 88.3          | 88.3          |
| Other rental payments                                   | 1.9           | 1.7           |
| Materials and supplies                                  | 2.6           | 0.3           |
| <b>Expenses using appropriations</b>                    | <b>690.7</b>  | <b>651.0</b>  |
| Amortization of tangible capital assets                 | 32.4          | 36.7          |
|                                                         | <b>723.1</b>  | <b>687.7</b>  |
| <b>Annual deficit</b>                                   | <b>(29.9)</b> | <b>(36.7)</b> |
| Accumulated surplus at beginning of year                | 152.6         | 189.3         |
| <b>Accumulated surplus at end of year</b>               | <b>122.7</b>  | <b>152.6</b>  |

The notes are an integral part of these financial statements.

## Financial position as at March 31, 2017

(in thousands of dollars)

|                                                   | 2017         | 2016         |
|---------------------------------------------------|--------------|--------------|
| <b>Financial assets</b>                           |              |              |
| Cash entitlement                                  | 30.5         | 2.7          |
| Prepaid expenses                                  | 0.0          | 1.5          |
|                                                   | <b>30.5</b>  | <b>4.2</b>   |
| <b>Liabilities</b>                                |              |              |
| Accounts payable and accrued liabilities (Note 4) | 30.5         | 4.2          |
|                                                   | <b>30.5</b>  | <b>4.2</b>   |
| <b>Net debt</b>                                   | <b>0.0</b>   | <b>0.0</b>   |
| <b>Non-financial assets</b>                       |              |              |
| Tangible capital assets (Note 5)                  | <b>122.7</b> | <b>152.6</b> |
| Accumulated surplus (Note 6)                      | 122.7        | 152.6        |
| Contractual obligations (Note 7)                  |              |              |

The notes are an integral part of these financial statements.

## Change in net debt for the fiscal year ended March 31, 2017

(in thousands of dollars)

|                                         | 2017       | 2016       |
|-----------------------------------------|------------|------------|
| <b>Annual deficit</b>                   | (29.9)     | (36.7)     |
| Change due to capital assets:           |            |            |
| Acquisition of tangible capital assets  | (2.5)      | 0.0        |
| Amortization of tangible capital assets | 32.4       | 36.7       |
| <b>Change in net debt</b>               | <b>0.0</b> | <b>0.0</b> |
| <b>Net debt at beginning of year</b>    | <b>0.0</b> | <b>0.0</b> |
| <b>Net debt at end of year</b>          | <b>0.0</b> | <b>0.0</b> |

The notes are an integral part of these financial statements.

## Cash flow statement for the fiscal year ended March 31, 2017

(in thousands of dollars)

|                                                   | 2017        | 2016          |
|---------------------------------------------------|-------------|---------------|
| <b>Operating activities</b>                       |             |               |
| Annual deficit                                    | (29.9)      | (36.7)        |
| Non-cash items:                                   |             |               |
| Amortization of tangible capital assets           | 32.4        | 36.7          |
| Change in operating assets and liabilities        |             |               |
| Prepaid expenses                                  | 1.5         | (1.5)         |
| Accounts payable and accrued liabilities          | 26.3        | (21.9)        |
| <b>Cash flows from operating activities</b>       | <b>30.3</b> | <b>(23.4)</b> |
| <b>Tangible capital asset investment activity</b> |             |               |
| Acquisition of tangible capital assets            | (2.5)       | 0.0           |
| <b>Increase (decrease) in cash entitlement</b>    | <b>27.8</b> | <b>(23.4)</b> |
| <b>Cash entitlement at beginning of year</b>      | <b>2.7</b>  | <b>26.1</b>   |
| <b>Cash entitlement at end of year</b>            | <b>30.5</b> | <b>2.7</b>    |

The notes are an integral part of these financial statements.

## Notes to the financial statements

### March 31, 2016

(in thousands of dollars)

#### 1. Nature of operations

The mission of the Ethics Commissioner is to oversee implementation of the Code of ethics and conduct of the Members of the National Assembly (chapter C-23.1) (Code), the Rules of conduct applicable to the staff of Members and House officers of the National Assembly (Rules) and the Regulation respecting the rules of conduct applicable to the office staff of ministers (chapter C-23.1, r. 2) (Regulation). The Commissioner serves all Members of the National Assembly and their staff by providing information on the values, ethical principles and rules of conduct they must observe and by helping them avoid conflict of interest situations. When requested to do so, the Commissioner also gives advice or an advisory opinion regarding Members' obligations under the Code or staff members' obligations under the Rules or the Regulation. The Commissioner publishes guidelines for Members and their staff to follow in order to comply with the Code. At a Member's request or on his or her own initiative, the Commissioner may conduct an audit or inquiry to determine whether a violation of the Code, Rules or Regulation has occurred. When he or she intervenes under the Code, the Commissioner must file an inquiry report with the President of the National Assembly. On finding that a violation of the Code has occurred, the Commissioner may recommend that sanctions be imposed.

#### 2. Main accounting policies

To prepare the financial statements, the Ethics Commissioner uses the CPA Canada Public Sector Accounting Handbook. Any other generally accepted accounting principles used must be consistent with the Handbook.

Preparing the Ethics Commissioner's financial statements according to Canadian public sector accounting standards requires management to make significant estimates and judgements. These have an impact on reporting assets and liabilities, presenting contingent assets and liabilities as at the date of the financial statements, and reporting revenues and expenses for the period presented in the financial statements. The main element requiring the use of estimates is the service life of tangible capital assets. Actual results may differ from management's best estimates.

The financial transactions of the Ethics Commissioner were effected through the general fund of the Consolidated Revenue Fund of the Gouvernement du Québec. The cash entitlement represents the amount of cash the Ethics Commissioner is entitled to draw from the general fund to discharge his or her obligations out of the appropriations granted to him or her.

## 2. Main accounting policies (continued)

Tangible capital assets are reported at cost and are amortized over their service life using the straight-line method:

|                                         | Duration       |
|-----------------------------------------|----------------|
| Leasehold improvements                  | 10 years       |
| Equipment other than computer equipment | 5 and 10 years |
| Computer equipment                      | 3 years        |

When conditions indicate that a tangible capital asset no longer contributes to the capacity to provide goods and services, or the value of the future economic benefits associated with the tangible capital assets is less than its net book value, its cost is reduced to reflect its decline in value. Capital losses on tangible capital assets are reflected in the book figures for the year. No reversal of allowance for impairment is recorded.

Revenue is accounted for using the accrual method, that is, in the fiscal year in which the operations or events giving rise to it occur. Parliamentary appropriations are reported as revenue when they are authorized and used.

## 3. Revenue

The Ethics Commissioner is funded by annual parliamentary appropriations. The initial appropriations comprise expenditure and investment estimates approved by the Office of the National Assembly. The revenue presented in the Operations statement is reported in accordance with Canadian generally accepted accounting principles.

|                                     | 2017         | 2016         |
|-------------------------------------|--------------|--------------|
| <b>Parliamentary appropriations</b> |              |              |
| Initial                             | 1169.3       | 1151.9       |
| Lapsed                              | (476.1)      | (500.9)      |
| <b>Appropriations used</b>          | <b>693.2</b> | <b>651.0</b> |

## 4. Accounts payable and accrued liabilities (Note 4)

|           | 2017        | 2016       |
|-----------|-------------|------------|
| Suppliers | 17.1        | 2.7        |
| Salaries  | 13.4        | 1.5        |
|           | <b>30.5</b> | <b>4.2</b> |

## 5. Tangible capital assets

|                                 |                        |                                         |                    | 2017         | 2016         |
|---------------------------------|------------------------|-----------------------------------------|--------------------|--------------|--------------|
|                                 | Leasehold improvements | Equipment other than computer equipment | Computer equipment | Total        | Total        |
| <b>Cost of capital assets</b>   |                        |                                         |                    |              |              |
| Opening balance                 | 233.4                  | 71.6                                    | 14.7               | 319.7        | 319.7        |
| Acquisitions                    | 0.0                    | 0.0                                     | 2.5                | 2.5          | 0.0          |
| <b>Closing balance</b>          | <b>233.4</b>           | <b>71.6</b>                             | <b>17.2</b>        | <b>322.2</b> | <b>319.7</b> |
| <b>Accumulated amortization</b> |                        |                                         |                    |              |              |
| Opening balance                 | 101.0                  | 51.9                                    | 14.2               | 167.1        | 130.4        |
| Amortization for the year       | 23.3                   | 8.1                                     | 1.0                | 32.4         | 36.7         |
| <b>Closing balance</b>          | <b>124.3</b>           | <b>60.0</b>                             | <b>15.2</b>        | <b>199.5</b> | <b>167.1</b> |
| <b>Net book value</b>           | <b>109.1</b>           | <b>11.6</b>                             | <b>2.0</b>         | <b>122.7</b> | <b>152.6</b> |

## 6. Accumulated surplus

The accumulated surplus is invested in tangible capital assets.

## 7. Contractual obligations

The Ethics Commissioner leases premises from the Société québécoise des infrastructures under an occupancy agreement ending on October 31, 2021 (renewable for five years). Commitments under this agreement for the next five years are as follows:

| Fiscal year ending March 31 |      |
|-----------------------------|------|
| 2018                        | 88.3 |
| 2019                        | 88.3 |
| 2020                        | 88.3 |
| 2021                        | 51.5 |

## 8. Related party transactions

In addition to the related party transactions already disclosed in the financial statements and reported at exchange value, the National Assembly provides administrative services to the Ethics Commissioner free of charge. This contribution is not mentioned in the financial statements. The National Assembly cannot reasonably estimate the fair value of these services.



Communications and Educational Programs  
and Visitor Services Directorate  
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of the National Assembly of Québec

September 2017



Papier fabriqué au Québec





**For more information :**

The Ethics Commissioner  
800, place D'Youville  
4<sup>e</sup> étage, Bureau 4.02  
Québec (Québec) G1R 3P4

Téléphone: 418 643-1277  
Fax: 418 643-1318

Email: [info@ced-qc.ca](mailto:info@ced-qc.ca)  
Website: [www.ced-qc.ca](http://www.ced-qc.ca)