

Conflicts of Interest Policy for Members and Associate Members

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Purpose

1. This policy sets out the Commerce Commission's approach to the disclosure of the interests of members and associate members¹ and the management of any conflicts of interest that arise in respect of matters before the Commission. This approach accords with the relevant provisions of the Crown Entities Act 2004 and reflects developments in case law and government policy in relation to the management of conflicts of interest.
2. This policy is intended to give effect to the Model Standards issued by the Public Service Commission/Te Kawa Mataaho, which outline the Public Service Commissioner's minimum expectations to support effective reporting and management of conflicts of interest.²
3. Through this policy, the Board has decided that all members, as part of their professional and statutory obligations towards the Commission, must disclose to the Commission all financial interests (other than certain interests that have been specifically excluded), as well as any non-financial interests that may give rise to a conflict of interest. The disclosure must be made on an ongoing basis, in accordance with the procedure outlined in this policy. The Commission will manage any conflicts of interest that arise in relation to a particular matter in accordance with this policy.

Why is it important that members' conflicts of interest are managed?

4. Management of actual and potential conflicts of interest on the part of members is crucial to the effective operation of the Commerce Commission. If conflicts of interest are not managed appropriately, a number of detrimental effects could result:
 - 4.1 The reputation of the Commission, its members, and its staff could be damaged;
 - 4.2 The trust and confidence of the general public, the entities we regulate, government and other stakeholders in our independence and decision-making processes could be reduced; and
 - 4.3 Our decisions could become susceptible to successful judicial review on the ground of actual or apparent bias.
5. As the Public Service Commissioner has observed:

New Zealand is held in high regard for the standards of honesty, openness, transparency and integrity in the State services, but our reputation depends upon our ability to be impartial in our decision making, and to exercise a

¹ Throughout this policy, all uses of the term 'member' should be read as referring both to members and to associate members.

² Public Service Commission, Conflict of interest – model standards, available at: <https://www.publicservice.govt.nz/assets/Legacy/resources/conflicts-of-interest-model-standards.pdf>

high standard of judgement in relation to real and perceived conflicts of interest.

In a small country like New Zealand, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong. But organisations need good policies and processes to deal with conflicts of interest appropriately and staff need to be alert to the possibility of conflicts of interest and notify any conflicts promptly.

6. The risk is that members are perceived as advancing their own interests, or the interests of others they feel a sense of loyalty or obligation to, rather than the interests of the public. This risk arises even if a member has no intention of acting improperly, and considers that they could, in fact, think and act impartially, despite the potential conflict.
7. It should be noted, too, that the expectations about management of conflicts of interest are higher for persons active in the public sector, because it is public money that is being spent, and public powers that are being exercised.

Policy owner

8. Given the responsibility for deciding on conflicts of interest for members typically lies with the Chair of the Commission, the owner of this policy is the Chair. Changes to the policy are to be determined by the Board.

Policy principles

9. Members are expected to be forthcoming in their disclosure of any interests that may be impacted by the Commission's current activities, on the basis that public business ought to be conducted with a spirit of integrity, honesty, transparency, openness, independence, good faith, and service to the public.
10. Each time the Commission engages with a new issue in the course of the performance of its functions, each member should routinely be asking themselves whether they have any interests - financial, relational, professional - that may be impacted by the Commission's work. If there is a possible impact, they are encouraged to discuss the position with the Chair to determine whether the thresholds for a disclosable interest are met such that disclosure and disqualification is required under the Act.
11. Members must ensure that they perform all aspects of their work impartially, by:
 - 11.1 avoiding any situation where actions they take in an official capacity could be seen to influence or be influenced by their private interests (e.g. company directorships, shareholdings, financial rewards);
 - 11.2 avoiding situations that could impair objectivity or lead a fair-minded lay observer to reasonably apprehend that the member might not bring an

open mind to resolution of a matter (i.e. the perception of bias is as important as actual bias);

- 11.3 ensuring they are free from any obligation to another party (such as one incurred by the receipt of gifts, or the acceptance of invitations of hospitality that are not of benefit to the Commission or the member in undertaking his or her role);
 - 11.4 complying with their statutory duties to act with honesty and integrity, in good faith and in the Commission's interests;
 - 11.5 applying common law principles of fairness in all official dealings so that preference is not given to any individual or organisation with which a member is connected over any others; and
 - 11.6 applying these principles whether involved in determining a matter before the Commission, appointing consultants, expediting an investigation, initiating a complaint or otherwise.
12. Further guidance and commentary on the interests prescribed in section 62(2) of the Act is provided in **Attachment A**. Members can also find further information in *Managing Conflicts of Interest: A guide for the public sector*, by the Controller and Auditor-General.³

The Requirements of the Crown Entities Act

What is the source of the statutory duty on Members to avoid conflicts of interest?

- 13. As the ultimate decision makers for almost all of the Commission's powers and functions, members have a particular responsibility to ensure that they avoid conflicts of interest, and disclose conflicts when they arise.
- 14. Under the Crown Entities Act 2004 (**the Act**), members owe individual duties to both the Commission and the Minister of Commerce:
 - 14.1 not to contravene the conflicts of interest provisions in sections 62-66 of the Act (see section 53 of the Act); and
 - 14.2 not to pursue their own interests at the expense of the Commission's interests (see section 55 of the Act).
- 15. Breaches of individual duties can lead to members:
 - 15.1 being removed from office (section 59(2) of the Act); or
 - 15.2 being subject to court action by the Commission or the Minister (sections 59(3) and 60 of the Act).

³ *Managing Conflicts of Interest: A guide for the public sector*, available at <https://oag.parliament.nz/2020/conflicts/part1.htm>

16. If the Commission becomes aware of a failure to comply with the conflicts of interest provisions in sections 62-66 of the Act, then it must notify the Minister of the failure and of the acts affected as soon as practicable after becoming aware of the failure.

What does the Act require of Members?

17. Sections 62-66 of the Act place two main requirements on any member who is interested in a matter relating to the Commission:
 - 17.1 they must disclose details of the interest (section 63); and
 - 17.2 they must refrain from involvement in the matter (section 66); that is:
 - 17.2.1 they must not vote or take part in any discussion or decision of the Commission or any committee relating to the matter, or otherwise participate in any activity of the entity that relates to the matter;
 - 17.2.2 they must not sign any document relating to the entry into a transaction or the initiation of the matter.
18. The question of when a member may have an interest is discussed in more detail in **Attachment A**. Another important source of guidance in this area is the detailed guidelines on conflicts of interest issued by the Controller and Auditor-General for the public sector.⁴
19. Importantly, having a personal interest does not in itself give rise to a conflict. A potential conflict of interest arises only where a member's duties or responsibilities to the Commission overlap with one of their other roles or interests outside their work at the Commission.
20. Conflicts can be actual, or perceived (that is, there is no conflict, but to an outside observer it might look like there is one). Perceived conflicts require the same level of active management as actual conflicts. Case law in this area emphasises that members of the public can only judge by appearances and information in the public domain.
21. In summary, a member will have a disclosable interest if they:
 - 21.1 may derive a financial benefit (including remuneration as an employee) from a matter before the Commission;
 - 21.2 are the spouse, de facto partner, child or parent of a person who may derive such a financial benefit;
 - 21.3 have a financial interest in a person to whom the matter relates;

⁴ See fn 3 above.

- 21.4 are a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates;
 - 21.5 may be 'interested' because of a provision in any legislation under which the Commission has powers, duties or functions; or
 - 21.6 are otherwise directly or indirectly interested in the matter (so that 'interests' are not only financial).
22. As noted below, the disclosure requirement in section 63 of the Act has been supplemented by this policy with respect to financial interests. While section 63(2) only requires disclosure of an interest where a conflict has arisen, this policy requires disclosure of **all** financial interests (other than where a specific exemption applies).
23. Matter-specific disclosure is important, and members have an obligation independent of ongoing standing disclosure noted above, to consider the issue of interest disclosure whenever they become involved in a new matter or acquire a new interest that could relate to a matter in which they are already involved. The matter should be raised and discussed with the Chair as soon as the potential for conflict of interest is identified.

Disclosure

What interests should be disclosed under the Policy?

24. The approach to be taken to disclosure depends on whether the interest is financial or non-financial.

Financial interests

25. A financial conflict of interest is any situation where a member stands to gain or lose financially from a decision they are involved in making. Financial interests can be direct or indirect. There are also situations where members might be deemed to share the same financial interests as another person or organisation; for example, those of a spouse or partner.
26. A financial interest need not involve cash changing hands directly. It could, for example, be an effect on the value of land or shares that are owned, or the turnover of a business that a member is involved in.
27. Under this policy, members are required to disclose **all** financial interests, with the exception of the following:
- 27.1 If a member has an interest in a unit trust or managed fund (including index funds), or a pension or KiwiSaver plan, or a blind trust and the member does not have any active trading involvement in the trust or fund (such involvement might include being in a position to provide directions to the trustee or fund manager), then disclosure is only required of the

trust or fund, and not of the underlying financial instruments within the trust or fund.

- 27.2 Being the beneficiary of a discretionary trust does not require disclosure of the underlying financial instruments, since the beneficiary will not have a legal interest in the capital or income of the trust until the trustee makes a decision to apply income or capital in favour of that beneficiary. It follows that, even if the beneficiary is aware of the underlying trust property, for the time being he or she does not have any interest in it.
 - 27.3 Debts owed to banks and non-bank deposit takers (such as mortgages from retail banks) do not need to be disclosed.
 - 27.4 Members do not need to disclose the financial interests of any dependent children that are held in online trading platforms, provided that the value of the financial interest is less than \$500 NZD. Where a Member's dependent child holds shares in any business price-quality regulated by the Commission, those interests shall be declared regardless of value.
28. It should be noted that this disclosure obligation for financial interests goes further than the requirements of the Act, which only mandates disclosure when a conflict has arisen (see s 63(2) of the Act). There are three principal reasons for taking this approach:
- 28.1 it assists members and staff to monitor and avoid conflicts of interest arising, enabling a considered and impartial evaluation of whether the statutory threshold for disclosure/disqualification is met. This is particularly important in the context of the work of the Commission, which has potential jurisdiction over conduct in virtually all sectors of the economy and so could have 'matters' arise (as the term is used in s 62(1) of the Act) in connection with almost any commercial enterprise active in New Zealand;
 - 28.2 the common law treats financial conflicts of interest more strictly than non-financial conflicts of interest. Where a person has a direct pecuniary interest that is more than "de minimis"⁵ (or "more than the most minimal character"),⁶ then at law, bias is presumed to exist; and
 - 28.3 it is consistent with the Controller and Auditor-General's good practice guidance that it is better to err on the side of openness when deciding whether something should be disclosed.
29. **Attachment A** contains more information regarding the identification and assessment of financial interests.

⁵ *Auckland Casino Ltd v Casino Control Authority* [1995] 1 NZLR 142 (CA) at 148.

⁶ *Muir v Commissioner of Inland Revenue* [2007] 3 NZLR 495 (CA) at [42].

Non-financial interests

30. A non-financial conflict of interest is any situation where a member is not affected financially by a decision but is affected in some other way that might make them biased or appear to be biased.
31. A non-financial conflict of interest might arise, for example, from a family relationship, friendship, or any other sort of personal relationship. Non-financial conflicts can also arise from membership of, or involvement with, an organisation outside of work for the Commission.
32. The Act preserves the common law approach to bias for interests not expressly covered by the Act. The most authoritative decisions are currently *Muir v Commissioner for Inland Revenue* [2007] 3 NZLR 495, *Lab Tests Auckland Ltd v Auckland District Health Board* [2009] 1 NZLR 776 (CA)), *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2009] NZSC 72 (SC) and *Auckland Casino Ltd v Casino Control Authority* [1995] 1 NZLR 142 (CA).
33. Bias is unfairly regarding with favour or disfavour the case of a party to the issue under consideration. There are three main types of bias: actual, apparent and presumptive bias. The first two types, actual and apparent bias, involve the principle that a decision-maker should not impartially favour one side over another. Presumptive bias involves the principle that it is improper for a decision-maker who has an interest in the outcome of a case, no matter how small, to decide that case.
34. The test for apparent bias is whether “*a fair-minded lay observer might reasonably apprehend that the [decision-maker] might not bring an impartial mind*” to the matter to be decided.
35. Case law emphasises the importance of full and ongoing disclosure of the nature of any interests to enable the Commission to assess whether these interests may give rise to a conflict of interest in a particular case and to manage any conflicts that arise.
36. Although not an exhaustive list, standing disclosures of non-financial interests may include an interest:
 - 36.1 in a business or other organisation (e.g. a professional body) as a director, officer or principal; or
 - 36.2 as a trustee.

Remoteness

37. Section 62(3) of the Act provides that a person is not interested in a matter:
 - 37.1 only because he or she is a member or an officer of a wholly-owned subsidiary of the entity or of a subsidiary that is owned by the entity together with another parent Crown entity or entities;

- 37.2 because he or she receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act or another Act;
 - 37.3 if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act or another Act; or
 - 37.4 if an entity's Act provides that he or she is not interested, despite this section.
38. The most relevant provision for members is, in most cases, likely to be section 62(3)(c). If the member's interest is remote or insignificant, it is likely that the member will not have an interest that prevents them from being involved in making a decision on a matter.
39. The Act does not provide any guidance as to when an interest should be regarded as so remote or so insignificant that it cannot reasonably be regarded as likely to influence a member in carrying out his or her responsibilities. This needs to be assessed on a case-by-case basis. Commentary on this matter is set out in **Attachment A**.

What is the procedure for disclosure?

40. The Act provides for members to make a "standing" disclosure where they have an ongoing interest in an entity or any matter which could in reasonable contemplation come before the Commission and therefore consider that they should not be involved in any decisions affecting that entity, or particular matter, or that the appropriateness of their involvement in such decisions should be assessed at the relevant time.
41. Under this policy, members shall therefore disclose all relevant interests on a confidential basis to the Commission:
- 41.1 on commencement at the Commission;
 - 41.2 annually; and
 - 41.3 as soon as practicable after becoming aware that their interests have changed.
42. Disclosures are made by completing the conflicts form in Streamline.
43. Members must ensure that their disclosures are kept up-to-date by submitting a new Streamline entry on the Commission's Interests Register.
44. Members should err on the side of openness when deciding whether an interest should be disclosed. Many situations are not clear-cut. If a member is uncertain about whether or not something constitutes a relevant interest, it is safer and more transparent to disclose the interest.

Extent of Disclosures

45. Disclosure of any relevant interest must be made in sufficient detail that the appropriate person can determine whether the member may act on a particular matter. Members must disclose not only the name of an entity in which they have an interest, but the nature of the interest in that entity.

Confidentiality

46. The Commission will take all reasonable steps to keep the details of members' interests confidential in accordance with the Privacy Act 2020, subject to its obligations under the Official Information Act 1982. In most cases, the information disclosed will be kept confidential and will only be disclosed to other parties as is necessary for the appropriate person to obtain advice on any conflict of interest that arises.

Interests Register

47. The Governance Manager will maintain an Interests Register, derived from members' disclosures in Streamline, which will:
- 47.1 be the Commission's central register of information relating to the disclosure and management of members' interests;
 - 47.2 contain a mix of information confidential to the appropriate person and the member, information available to Commission employees, and information that may be made available to the public on request;
 - 47.3 consist of all disclosures, decisions of the appropriate person, any requests for reconsideration, the appropriate person's final decisions and any advice obtained by the appropriate person; and
 - 47.4 include a summary schedule called the Interests Schedule, listing the entities that may give rise to a conflict for each member (this will be made available to Commission employees via Intercom for the purpose of managing members' disclosed interests, although the reasons for the interest will be kept confidential). Interests that are to be kept confidential will not be included on the Interests Schedule.
48. At each regular Commission meeting, there will be an agenda item reminding members of their obligation to ensure that their disclosures are up-to-date.

Management of Conflicts

How will potential conflicts of interest be managed?

Who is the appropriate person to take decisions on conflicts?

49. Under section 64 of the Act, in normal circumstances, disclosure should be made to the Chair, and they will be the appropriate person to reach a decision on any conflict issues. If the Chair is unavailable, or has an interest in the relevant matter,

the Deputy Chair is the appropriate person. If both the Chair and Deputy Chair are unavailable, or have an interest, the appropriate person is the Minister.

50. If it is necessary for disclosure to be made to the Minister, the Chair will make all necessary arrangements, including, where appropriate, requesting that the Minister determine whether a member may act on a particular matter.

What factors may be considered?

51. In considering whether there is a conflict of interest, the appropriate person must focus on what the member's disclosed interest has to do with the particular matter before the Commission.
52. Factors of relevance to the assessment of financial interests will include:
 - 52.1 the financial value of the interest;
 - 52.2 the type and stability of the financial investment, e.g. fixed interest securities, bonds, shares;
 - 52.3 the nature or significance of the particular decision or activity being carried out by the Commission;
 - 52.4 the extent to which the member's financial interest could be affected by the Commission's decision or activity; and
 - 52.5 the nature or extent of the member's proposed involvement in the Commission's decision.
53. A financial interest on the part of a member's spouse, civil union partner, de facto partner, child,⁷ parent, business partner or business associate will give rise to an interest on the part of a member under s 62 unless it is reasonable for the member not to have knowledge of that interest so that, as a consequence, the member's interest is remote.
54. A non-financial interest on the part of a member will give rise to an interest under s 62 if a fair-minded lay observer might reasonably apprehend that the decision-maker might not bring an impartial mind. Factors of relevance to that assessment are:
 - 54.1 the nature of the member's other interest;
 - 54.2 the duration and intensity of the member's past professional or other relationship;
 - 54.3 the time that has elapsed since the professional or other relationship came to an end;

⁷ Please note the exemption discussed at [27.4].

- 54.4 the nature or significance of the particular decision or activity being carried out by the Commission;
 - 54.5 the extent to which the member's other interest could specifically affect, or be affected by, the Commission's decision or activity; and
 - 54.6 the nature or extent of the member's involvement in the Commission's decision.
55. How strictly the statutory test is applied by the appropriate person in any given situation must be informed by case law and depends on two factors:
- 55.1 whether the interest at stake is a financial or non-financial one; and
 - 55.2 whether the Commission is undertaking a quasi-judicial function.
56. A stricter approach will be taken to financial interests, and when the Commission is undertaking a quasi-judicial function.

Decision on conflict

57. The appropriate person may seek advice from the General Counsel on the appropriate course of action in relation to any actual, potential or perceived conflict of interest.
58. The assessment is not primarily about the risk that bias or misconduct will occur. It is about the seriousness of the connection between the relevant interests, the risk of compromising the Commission's capacity to make decisions lawfully and fairly, and the risk of damaging the Commission's reputation. In making this assessment, the Commission needs to consider how the situation may reasonably appear to an informed outside observer.
59. Commission decisions often directly affect the legal rights, interests and obligations of individuals and/or organisations. The Auditor-General has suggested that although there are no universal rules for identifying and dealing with conflicts of interest, greater strictness might be appropriate for quasi-judicial and regulatory bodies such as the Commission.
60. The appropriate person will consider what, if anything, needs to be done to adequately avoid or mitigate the effects of the disclosed interest. In some instances, the appropriate person may decide after examining the facts that a disclosure does not constitute a disqualifying interest under s 62(2) of the Act. In exercising judgment, the appropriate person needs to assess the seriousness of the actual, potential or perceived conflict of interest and the range of possible mitigation options.

61. Where a member's interest is 'in common with the public'⁸ i.e. the interest would be substantially the same in degree and kind as held by a large segment of members of the public, then a member might still be able to act.
62. There is a broad range of options for avoiding or mitigating an actual, potential or perceived conflict of interest. Options include withdrawal or exclusion from involvement in the Commission's work on the particular matter.
63. Any such decision will be made in accordance with sections 66 and 68 of the Act, guidelines from Tumuaki o te Mana Arotake - the Office of the Auditor-General, any relevant guidance from Te Kawa Mataaho – the Public Service Commission and in light of recent case law on the appropriate mechanisms for management of such conflicts of interest. The appropriate person may decide that a member may continue to act on a matter despite being subject to an actual, potential or perceived conflict of interest, if this is in the public interest. It may be in the public interest that a member continues to act if, for example, the member has specialist expertise and relevant parties with knowledge of the reasons for the conflict expressly consent to the member acting. Such permission must be disclosed in the Commission's annual report.
64. Once the appropriate person has made a decision about how to manage the conflict, the appropriate person must advise the disclosing member. If the disclosing member disagrees with the decision, that member may ask the appropriate person to reconsider the decision by notice in writing. The appropriate person must then reconsider the decision. A decision following reconsideration is final.

Version control

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⁸ For information on 'interests in common with the public', see: Managing Conflicts of Interest: A Guide for the Public Sector, Office of the Auditor General, June 2020, paragraphs 3.10 and 4.35 (see fn 3).

Attachment A: Guidance on interests

SECTION	TYPE OF INTEREST	COMMENTARY
s 62(2)(a)	Financial interest A person is interested in a matter if he or she may derive a financial benefit from the matter.	<p>A financial interest in an entity with an interest in a Commission decision may arise in various circumstances, including from a shareholding in a company, an interest in a partnership, owning a business, another such source of income, owning or occupying land, being owed or owing debts, holding or issuing debt securities, or as a result of being a trustee or beneficiary of a trust.</p> <p>Under this policy, members should disclose all financial interests, even if such disclosure is not required by the Act.</p> <p>If a member has an interest in a unit trust or managed fund (including index funds), or a pension or KiwiSaver plan, or a blind trust and the member does not have any active trading involvement in the trust or fund (such involvement might include being in a position to provide directions to the trustee or fund manager), then disclosure is only required of the trust or fund, and not of the underlying financial instruments within the trust or fund. In addition, being the beneficiary of a discretionary trust does not require disclosure of the underlying financial instruments in the trust, since a beneficiary will not have a legal interest in the capital or income of the trust until the trustee makes a decision to apply income or capital in favour of that beneficiary.</p> <p>If a member considers that the underlying financial instruments in a trust or fund could conceivably give rise to a conflict (for example, because the trust or fund is focussed on investments in a narrow sector), then the member is still able to make a disclosure of those underlying instruments.</p> <p>In relation to debts, if a member is owed a debt by, or owes a debt to, an entity with an interest in a Commission decision, the interest arises because the decision the Commission makes may affect the financial position of the entity and hence the likelihood either that the entity will repay any debt owed to the member, or that the member will be called upon to repay any debt that it owes to the entity. However, debts owed to banks and non-bank deposit takers (such as mortgages from retail banks) do not need to be disclosed.</p> <p>In relation to debt securities, an interest may arise if the debt security has a market value which could be affected by the outcome of the matter before the Commission. In cases where the debt security is</p>

SECTION	TYPE OF INTEREST	COMMENTARY
		<p>not readily tradeable and its value to the member cannot practically be affected in any way by the matter before the Commission, the interest could be viewed as so remote or insignificant that the member will not have an interest that prevents them from being involved in making a decision on a matter. This financial interest should still be disclosed, however.</p> <p>Note that a matter before the Commission could include a decision to procure goods or services from a particular supplier.</p>
s 62(2)(b)	<p>Familial interests</p> <p>A person is interested in a matter if he or she is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter.</p>	<p>The Commission will apply the guidelines for direct financial benefits above. If a member is not aware that a family member has an interest in a matter before the Commission because, for example, they are merely a partner or employee of a law firm representing the entity, the Commission is likely to consider the interest as being too remote or insignificant to influence the member. If a member is aware that a family member has an interest in a matter before the Commission because, for example, that family member seeks to appear in person before the Commission, or is likely to be a material witness for an entity, the Commission is likely to consider the interest as not being too remote or insignificant to influence the member.</p>
s 62(2)(c)	<p>Interests in a person</p> <p>A person is interested in a matter if he or she may have a financial interest in a person to whom the matter relates.</p>	<p>A “person” in this context includes a company or other body corporate. The Commission interprets a financial “interest” as potentially including a broader category of situations than is contemplated under the financial “benefit” headings above. For example, this may include being employed by an entity with an interest in a Commission decision, or by any related entity, or being engaged in any other professional capacity by such an entity, or by any related entity.</p>
s 62(2)(d)	<p>Positional interests</p> <p>A person is interested in a matter if he or she</p>	<p>As noted above, a “person” in this context includes a company or other body corporate. The Commission will apply the guidelines for financial interests above. The Commission considers that this is a subset of the broader financial interests described above (being specific types of positional</p>

SECTION	TYPE OF INTEREST	COMMENTARY
	is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates.	interest). For example, an interest is likely to arise if a member is a trustee or director of a finance company that invests in a number of public companies and one of those companies is an entity with an interest in a Commission decision; or if the member is a partner in a law/consultancy firm acting for an entity and, while they may not be directly involved in acting on the matter, as a partner, they may have an indirect financial interest due to the fees that the firm receives from that entity.
s 62(2)(e)	Statutory interests A person is interested in a matter if he or she may be interested in the matter because the entity's Act so provides.	The relevant Act for the Commission is the Commerce Act 1986 because this is the Act which establishes the Commission. That Act does not prescribe that a member is interested in relation to any particular matter.
s 62(2)(f)	Other (Non-Financial) Interests A person is interested in a matter if he or she is otherwise directly or indirectly interested in the matter.	This covers any non-financial interest in a matter before the Commission, including the following: <i>Family/friends:</i> An interest may arise where a member has a family member or close friend with a non-financial interest in a matter where this may lead to a reasonable apprehension of bias. <i>Acquaintances:</i> An interest is unlikely to arise where a member has an acquaintance with a non-financial interest in a matter, or where a matter affects the interests of a professional organisation to which he or she belongs. <i>Prior business relationships:</i> An interest may arise where, prior to joining the Commission, a member had a close professional association for a significant amount of time with an entity that has an interest in a matter. The member may have acted as an advocate, adviser or material witness in a matter that is now before the Commission, or have a business partner or professional acquaintance

SECTION	TYPE OF INTEREST	COMMENTARY
		<p>that has done so. If this association occurred within 6 months of the relevant matter appearing before the Commission, the interest is not likely to be regarded as remote or insignificant.</p> <p><i>Personal beliefs:</i> An interest may arise where a member has a strong personal bias or prejudice toward a person or entity with an interest in a Commission decision that gives rise to a risk of predetermination, especially where they have expressed their beliefs publicly.</p> <p><i>Gifts:</i> An interest may arise where a member has received a gift from an entity with an interest in a Commission decision. A member must disclose gifts they receive in accordance with the Commission's Code of Conduct. At the discretion of the member or the Chair, any gifts received may be returned to the provider or, if appropriate, such as with gifts of bottles of wine, provide the gift to the Commission Social Club.</p> <p><i>Hospitality:</i> An interest may arise where a member has received hospitality from an entity with an interest in a Commission decision. Members may accept any invitation of hospitality that is of benefit to the Commission and the member in undertaking their role. Members must exercise judgment as to whether any invitation is likely to be seen as compromising their position and be perceived as being for private purposes or inappropriate lobbying. Members must disclose all invitations they receive in their role as member to the Chair, if reasonably practicable, prior to attending the event.</p> <p><i>Other dealings:</i> An interest may arise where the Commission proposes to enter into a contractual relationship with any party in which the member has an interest. An interest may also arise where a member seeks to register a personal complaint about unlawful business conduct within the Commission's jurisdiction. The complaint should be notified to the Chief Executive in the first instance for action before it is forwarded to the appropriate Division.</p>