

December 9, 2022

VIA EMAIL

Iratxe Puebla
Committee on Publication Ethics
New Kings Court, Tollgate, Chandler's Ford,
Eastleigh, Hampshire, SO53 3LG,
United Kingdom

Dear Ms. Puebla:

We write regarding your email dated December 8, 2022. Below we provide a series of definitions that clearly spell out Mr. Kersjes' conflicts of interest in this matter.

1. COPE states that, "Members of the Trustee Board are **Trustees** under charity legislation and Directors of the limited company under company law."¹
2. According to Section 177 of the U.K. Charities Act of 2011, "'**charity trustees**' means the persons having the general control and management of the administration of a charity."²
3. COPE defines Conflict of Interest for Trustees as follows: "**Conflicts of interest (COI)** arise where there is a **divergence** between an individual's responsibilities to COPE Council and their other interests, such that an individual's motives might be **compromised**, or perceived to be compromised. COIs are important since Council members' opinions and actions must be, and be seen to be, **impartial**."³

¹ <https://publicationethics.org/about/trustees>

² <https://www.legislation.gov.uk/ukpga/2011/25/section/177>

³ This statement is contained in the Conflict of Interest form required for all COPE Trustees.

4. COPE’s Code of Ethics for the Trustee Board states that Trustees must “Disclose any real or perceived conflicts of interest...”⁴

Here is how these definitions apply to this matter:

- Mr. Kersjes is a Trustee of COPE as that term is understood under U.K. Charities’ law.
- This means that Mr. Kersjes is part of a group of people who “control and manage” COPE.
- There is a divergence between Mr. Kersjes’ responsibilities to COPE and his interest in protecting his employer, Springer Nature, from any adverse action that may arise from complaints brought against Springer Nature via the COPE Facilitation and Integrity Subcommittee. Mr. Kersjes’ motives are thus compromised and he cannot be seen as impartial.
- Mr. Kersjes, according to COPE’s Code of Ethics, had a responsibility to disclose his “real or perceived conflicts of interest” in this matter, starting when he was elected to the Trustee Board in September of 2022. That did not happen.
- Recusal from participation in the Facilitation and Integrity Subcommittee is not sufficient. As a Trustee, Mr. Kersjes is in a governance role whereby he “controls and manages” COPE. In the organizational hierarchy, COPE staff are subordinate to company Directors and thus may feel pressure to conform to the interests of Mr. Kersjes and his employer, Springer Nature. COPE subcommittees are also subordinate to the Trustee Board and thus may feel pressure to conform to the interests of Mr. Kersjes and his employer, Springer Nature. These conflicts of interest taint the entire proceedings with the appearance of bias.

These conflicts of interest are unresolvable. Either Mr. Kersjes works for COPE or he works for Springer Nature, he cannot serve two competing interests in this matter without compromising the impartiality of COPE.

Sincerely,

Mark Blaxill

Mark Blaxill o.b.o.

Toby Rogers

Cynthia Nevison

⁴ https://publicationethics.org/sites/default/files/cope_code_of_ethics_trustees_and_council_members.pdf