Dear Dr. Downie and Dr. Baylis:

Thank you for your letter of October 17, 2013 concerning the Assisted Human Reproduction Act (AHR Act).

As noted in my letter of September 24, 2013, when the AHR Act was adopted by Parliament in 2004, it was known that gametes were being purchased from gamete banks, and the language of the Act did not prohibit such purchases in Canada provided that the bank in question is not "acting on behalf of the donor." Health Canada interprets that to mean acting as an agent or representative for the donor. Whether or not a bank or other company is "acting on behalf of the donor" is a question of fact. While Health Canada does not comment on individual business models, the Department's interpretation is that there is a risk that an individual in Canada who makes an offer to purchase eggs (and/or purchases eggs) from an individual or company that could be deemed to be acting on behalf of a donor could be in contravention of section 7 of the Assisted Human Reproduction Act.

With respect to your other questions, I can only restate that these are Health Canada's interpretations of the AHR Act. Ultimately, whether or not an activity transgresses the provisions of the Act is something that would be determined by the courts.

Regards,

Assisted Human Reproduction  |  Procréation Assistée
Biologics and Genetic Therapies Directorate  |  Direction des produits biologiques et des thérapies génétiques
Health Products and Food Branch  |  Direction générale des produits de santé et des aliments
Health Canada  |  Santé Canada
Tunney's Pasture | Pré Tunney, Ottawa K1A 0T6
Mail stop | Localisateur: 0702B
bgtd_ahr_dpbtg_pa@hc-sc.gc.ca