Private/Public Interest and the Enforcement of a Code of Professional Conduct[1]

James Fisher
Sally Gunz
John McCutcheon

ABSTRACT. There has been considerable interest in the literature about how professions operate in both the private and public interest. This paper examines this issue in the context of the enforcement of the professional code of conduct of a particular professional accounting association. The paper explores whether certain enforcement actions of the association suggest behaviour motivated at least partially by private interest. It then considers whether the consequences of such behaviour or practices are troubling.

Introduction

It might be said that a profession represents a group of people with a common set of interests, skills, education, and roles within society (Johnson, 1972). Those people are bound together by formal association which, in many cases, in many societies, is given the right of self governance. This right is a reflection of, among other things, the notion that the uniqueness and importance of what that profession does, places the profession in a special trust relationship with society. When society assigns a profession the right to define who may become a member, and when society allows that profession to determine the acceptable forms of practice, and the function has the potential both to help and harm the users of the services, society has typically felt more comfortable when the profession can point to some set of rules of behaviour with which all its members must comply. In order to make those rules meaningful it is considered appropriate that the profession has the power to censure those who transgress the rules (Collins, 1975; Johnson, 1972; Saks, 1983).

Much of the above description is premised upon the assumption that we are talking of a "common set of skills and roles"; that those within the profession represent a reasonably homogeneous group with homogeneous interests. Yet for most professions today, this does not gibe with what we observe. So, for example, while we readily accept that an attribute of professions is their autonomy, how does this apply to the employed professional, an increasingly important group within society (Gunz and Gunz, 1994)? Can it be reasonably expected that one definition of profession applies to the wide variety of private practice forms that are found, for example, in law or accountancy?

A further assumption that might flow from the above description, is that, when society assigns the responsibility of enforcing a code of ethics (enforcing the trust relationship) to the designated leaders of a given association of professionals, the enforcement that ensues is motivated by the best interests of the public. This assumption has increasingly been challenged (Parker, 1994). It has been argued that, at the very least, the codes of ethics of the professions and their enforcement, are a reflection of the perceived need to defend the private interest of the

James Fisher is a Professor of Accounting at Wilfrid Laurier University. His research interests include international accounting, control of non profit organizations and ethical issues in accounting.

Sally Gunz teaches Business Law at the University of Waterloo where she also serves as Director of the Centre for Accounting Ethics. Her research is in the areas of legal and ethical responsibilities of professions.

John McCutcheon teaches Accounting at Wilfrid Laurier University. His research interests center on various ethical issues involving the accounting profession.

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profession as well as the desire to protect the public.

In this paper we explore the balance between the private and pubic interest of the profession in the enforcement of one particular code of professional ethics. We do so, in part, by considering the diversity that exists within that particular professional group. The results of our review of the private/public interest will lead us to consider its impacts upon the assumption that there can exist a common code of ethics that is equally applicable to all members. In this respect we are building upon the work of others who have examined the manner in which professions enforce their codes of ethics. Our focus in this paper is the accountancy profession, and the empirical examination will be based upon one of the several professional accountancy bodies in the United Kingdom.

Literature review

One of the early examinations of how accountants enforce their codes of ethics by way of disciplinary cases, was by Loeb (1972). One of Loeb's contributions was to categorize cases in terms of offences against the public, colleagues and clients. This is clearly a reflection of how the provisions of the codes themselves can be categorised. Typically the accounting codes of ethics address broad ethical issues relating to the public/accountant interface. Here we find the issues that have preoccupied much of the academic literature and which represent the essence of the trust relationship between the profession and the users of its services. So, for example, codes require that accountants avoid conflicts of interest and maintain their independence. Codes also establish rules that relate to how the accountants operate vis-a-vis each other. Traditionally they could not compete or advertise. They continue not to be allowed to criticise colleagues or the profession in general. Finally, there is a set of rules that might be described as relating to the client. They call upon the accountant to maintain requisite expertise and to apply an appropriate level of skills to the particular task. Loeb developed his taxonomy using an American context but it does not involve factors that are uniquely American and which preclude its use in other countries. This taxonomy was utilized in studies by Schaefer and Welker (1994), Fisher and McCutcheon (1996), and McCutcheon and Fisher (1996).

While it is useful to categorise both codes and enforcement of codes along these lines, most of the literature has assumed that each of these aspects is intended to represent a given level of ethical behaviour that is essential in order to protect the public interest. If we recall the attribute that is most often considered the key to what it means to be a professional, we come back to the notion of a trust relationship with the users of the services. The code and its enforcement is the embodiment of this altruistic quality.

Preston et al. (1995) examined the evolution of codes of ethics within the accountancy profession in the United States. They observed a shift over time so that today "The scope of the accountant's morality [in contrast to that at the turn of the century] now appears to be defined by and limited to the rules and their increasingly precise interpretation. To the extent that 'state of mind' is referred to, this is likely to focus on the morality of individual self-interest and business-like behaviour" (Parker et al., 1995). The authors take care to note that they do not mean by this that accountants at one time were/are more moral than at another. Rather this is a reflection of the broader social changes that have occurred and it should not be viewed as purely an "opportunistic" response on the part of the profession (Parker et al., 1995).

Other authors have questioned the altruism implicit in the traditional descriptions of the role of the code of ethics. In its crudest sense, these writers have suggested that, while certain behaviours might be in the public good, they are also important to the self-interest of the profession itself. They look behind the words of the documents and the deliberations of the enforcers, to the motivations behind the disciplinary process. Parker (1994), for example, has argued that codes of ethics address both public and private interests. By public he meant the best interests (here defined as "economic" best

interests) of the clients/users of the services. Private was defined as "the latent motivation of ethical codes to protect the interests of the professional body's social status, political power, and influence over economic and business activity" (Parker, 1994). Parker (1987) identified the protection of the private interest as a primary rationale underlying much of what the profession says and does. In a later article (Parker, 1994), he examined this concern for the private interest in terms of the ethical rules of the profession. From his review of the literature he drew the conclusion that "professional ethics serve a dual role. While encouraging a sense of social responsibility in the professional member, they also provide justification for professional self-interest" (Parker, 1994). Parker reviewed the sociology literature of the professions and, from this, developed a private interest model of professional accounting ethics. This model conceptualised five interrelated roles that ethics fulfils in serving the private interest of the accounting profession: professional insulation, interference minimalization, self-control (the monopoly over the given tasks and activities), professional authority, and socio-economic status preservation (Parker, 1994).

Parker sees professional insulation as the "foundation" private interest role or primary strategy for creating professional mystique. The three other roles of interference minimization, self-control and professional authority are a product of this primary interest. Parker then considers the enforcement of the code of professional ethics (the disciplinary process) in the context of his private interest model of professional accounting ethics and describes it as "disciplinary symbolism". At the "manifest" level he describes this enforcement in traditional terms: as a means of supporting and enforcing a code of ethics. However, at a "latent" level, he states that "the disciplinary processes and actions serve as a symbol whose main intent is to project an image of the accounting profession's ethical attitudes, commitment and behaviour. Thus the disciplinary symbol lends general support and reinforcement of the various dimensions of the private interest model of professional accounting ethics" (Parker, 1994). Parker reviewed data from disciplinary actions of Australian accountants over an extensive period and found some evidence to support his private interest model (Parker, 1994).

The literature on disciplinary actions is not extensive and the balance is predicated on more traditional assumptions. Work by Schaefer and Welker (1994) identified males who practise in small firms as the most likely to be disciplined. Other writers have examined enforcement actions by regulators (Campbell and Parker, 1992; Mitchell et al., 1994) while Brooks and Fortunato (1991) considered the relationship between the disciplined members and the accreditation process. There is little connection, however, between the literature that discusses enforcement from the perspective of the motivation of the profession, and the literature that examines attributes of the disciplined accountant, other than the work of Parker. Even with Parker's work (1994), the hypothesis was to examine the validity of the private interest model of professional accounting ethics.

In this paper, we accept the premise from Parker, Preston, and others, that there is more to the enforcement of a code of ethics than the defence of the public interest. It is not a criticism of a profession to identify a coincidence between the public and the self-interest (or, using Parker's terminology, private interest). Even in our private lives, we may well be motivated to "do good", not only by a genuine willingness to do the right thing by others, but also by the sense that "doing good" makes us feel good (or, if we prefer to think in the negative: doing "bad" makes us feel bad which is a sense that we are motivated to avoid). Moreover, doing good may also make us look good in the eyes of others which, in turn, reinforces our positive sense of self.

If we accept that codes of ethics and their enforcement are as much about the maintenance of the positive reputation of the profession as the desire to protect the public, what is it about such a statement that may give rise to concern? Alternatively, where might the desire to enhance the private interest conflict with the desire to protect the public good? Presumably, our concern arises because we fear that the profession might let the need to enhance the private

interest prevail over what should be done to protect the public good. In other words, there is no longer a convenient coincidence of interests, but rather, the code and its enforcement, becomes a tool to enhance private interest even at the expense of the public interest.[2]

We saw this concern raised by governments when they addressed price fixing in the professions.[3] The legal profession, for example, argued that it was essential for the well-being of the public, to have fees charged in accordance with a set scale. The basis for this argument was that, reduced profit taking would force a reduced level of care in the work performed, and ultimately the client, while reaping the benefit of some initial savings, would suffer the longer term harm that resulted from poorer quality work. In many countries this argument was eventually rejected by those setting public policy. They took the position that price fixing had more to do with the protection of the private interests of practitioners than with defending the public interest and that the market place alone should act as defender of the cost of service. Quality would be protected by both the market place and the profession itself. In the accounting profession, this same movement resulted in changes to codes of ethics that opened up the audit to the bidding process.

Discipline cases at the Association of Chartered Certified Accountants

Our research design called for us to examine the outcomes of the disciplinary process for a particular professional body and, in this respect, we had access to records of all discipline cases of the Association of Chartered Certified Accountants (ACCA)[4] between the years 1978 and 1995.[5] The hypotheses that we wished to test are outlined below. Our interest, in general terms, however, was in the balance between the private and public interest of the association, and how the association enforced its rules across a diverse membership. Our research design was enhanced by the coincidence of the study period including a period during which the accounting profession in the United Kingdom was facing considerable turmoil. Since it has been argued by others[6] that external threats cause a professional body to focus more upon private interests, this would provide an interesting additional perspective for examination.

ACCA is one of four professional accounting organizations in the United Kingdom whose members are authorized to conduct audits.[7] There tends, however, to be some degree of specialization within each professional body. Members of the three Institutes of Chartered Accountants (England and Wales, Scotland, and Ireland), for example, tend to perform most of the large audits and tend to be found within the large, national accounting firms. ACCA members are less dependent upon the audit function and are often employed in smaller firms. Less than thirty percent of ACCA members are actively engaged in public practice.[8] Of those in public practice, approximately forty percent are either partners or employed within partnerships of fellow members ("Certified firms"). The balance are employed in relatively equal numbers either in firms whose partners are all chartered accountants ("Chartered firms"), or firms whose partners are either fellow members or chartered accountants ("mixed firms"). In the latter case the member may be a partner or an employee. Certified and mixed firms tend to have small firm clients. In general, these practices tend also to be relatively small themselves.

An increasingly important characteristic of ACCA is the large proportion of its membership coming from outside of the United Kingdom and Ireland ("overseas members") – in 1994, close to 40 percent – see Table I. Members come from a broad range of countries and approximately two-thirds of overseas members are located in Nigeria, Malaysia, Singapore and Hong Kong. While growth in numbers of overseas members in general has been disproportionately higher than growth of numbers of members within the United Kingdom and Irish Republic, growth has been particularly marked in Malaysia, Singapore and Hong Kong. In the five years preceding 1995, the increase in numbers for the United Kingdom and the Irish Republic was approximately 20 percent, whereas for the other three countries, it was 68 percent.

TABLE I
Data on ACCA membership[a] and discipline cases[b]

	Cases: U.K. and Irish Republic	Cases: Hong Kong, Singapore and Malaysia	Cases: Other overseas	Members: U.K. and Irish Republic	Members: Hong Kong, Singapore and Malaysia	Members: Other overseas
1979	3					
1980	7					
1981	13					
1982	10	1	2			
1983	9		2	17,837	3,134	5,081
1984	6			18,378	3,536	5,362
1985	9		3	19,012	3,941	5,477
1986	10		1	19,608	4,329	5,680
1987	10	1	3	20,325	4,972	5,732
1988	12	1	3	20,883	5,431	6,049
1989	34		8	21,849	5,926	6,090
1990	28	1	7	22,783	6,448	6,342
1991	17		1	23,912	7,197	6,656
1992	17			24,700	8,152	6,894
1993	16	2	1	25,984	9,115	7,295
1994	39	2	3	27,504	10,307	7,368
1995	59	2	1			

[a] Detailed membership information by country for 1983–1994 was provided by the Association. Membership information by country does not exist for 1979–1982 and ACCA declined for commercial reasons to make this information available for 1995.

[b] Discipline cases became public in 1978 and details of cases are available for perusal in the Association's London office. The database is effectively limited to 1978–1995 due to changes effective in 1996 in Association procedures and sanctions. The database was mostly compiled through attendance at the Association office and some details were supplied by the Association by mail. There are 94 cases where the domicile of the disciplined member was not recorded in the record of the discipline case. An analysis of case details gives no reason to expect that any more than a handful involve overseas members. Thirty of the missing cases are from 1993.

In 1994 members from these three countries accounted for 23 percent of the total membership[9] – see Table I.

The period during which our data were collected was unusual for two reasons. First, it was a period in which the accountancy profession in the U.K., as well as elsewhere, was under considerable public scrutiny because of the number of very public business and audit failures. Second, for ACCA and other U.K. professional accounting bodies, this was also a period of real turmoil (Worsely Report, 1985; Robson et al., 1994). There were challenges being made to their right of self-regulation (Financial Services Act, 1986) and there were moves by the European Community that would affect the relationship between the audit work of a firm and its other activities. This period culminated in the U.K. Companies Act, 1989.

In some ways ACCA was impacted less by these changes than were the Institutes of Chartered Accountants since its members were not as heavily dependent upon audits, and, in particular, large audits. It was not until early 1987 that matters of direct concern to ACCA arose. The Department of Trade and Industry (DTI) issued a response to the EC Eighth Company Law Directive (Worsely Report, 1985; Robson

et al., 1994). Of the three alternative proposals for regulating the relationship between audit and non-audit work, two were of immediate concern to ACCA. The first would have been viewed positively since it proposed the creation of a new body comprised of representatives from both the professions and government for regulating the profession. This would have had the impact of placing ACCA on an equal footing with the Chartered Institutes, assuming representation from all professional bodies. The second option was of very real concern to ACCA since it called upon the Ministry to approve those accounting bodies it was satisfied would meet requisite standards. The continued right to conduct audits was essential to ACCA members' professional credibility, prestige and incomes. In 1989 it became clear that it was this second option that would ultimately be incorporated in the new Companies Act passed late that year.[10] ACCA, along with the Institutes of Chartered Accountants, would have to satisfy the Ministry that it met the requisite standards in order for members to continue to have the right to conduct audits.

Research hypotheses

Taking what we know of ACCA and considering both the theoretical issues developed above and the attributes of disciplined accountants identified in earlier studies, it is possible to develop certain hypotheses which can be tested in the balance of this paper. We note that we assume throughout that the enforcement of the *ACCA Rulebook* (includes a code of ethics) is driven by the private interests of the profession as well as the public interest. We also note that, because of limitations in our data, we are unable to examine one of the more common findings about attributes from earlier studies; namely that, accountants from small or sole person practices are over represented amongst those accountants who have been disciplined (Schaefer and Welker, 1994; Campbell and Parker, 1992; McCutcheon and Fisher, 1996). We have already observed that members of ACCA tend to work primarily in small practices. Of those in public practice, approximately 35 percent are employed by Chartered firms many of which are large and some very large. This raises issues of a different environment and one governed by a different professional body. Further, it is a weakness of our data set that we are unable to determine the type of firm in which individual members practice. A final weakness is that Association records group members in the United Kingdom and the Irish Republic together under the category of "home members." We do not believe this is a concern as member numbers in the Irish Republic will be quite small in comparison to numbers of members in the United Kingdom.

Our beginning observation relates to the tempestuous environment during which at least some of our data were gathered. It was noted above that while the 1980s in general was a time of much upheaval for the accountancy profession in the United Kingdom, ACCA was most impacted by external threats to its professional status, in the period surrounding the passage of The Companies Act, 1989. Until ACCA received Ministerial approval that it met requisite standards, it would be exposed to a major threat to its professional status. If we accept that codes and their enforcement are, in part, a response to external threats, we would expect to find increased disciplinary action in this period. We would therefore expect to find a significant increase in disciplinary activity on the part of ACCA around the 1989 period. Note, that we would not necessarily expect such an increase starting from when the Directive first came out (1987) because at that stage, there were three options on the table, one of which was entirely favourable to this association. This leads us to our first hypothesis:

H_1: The proportion of disciplinary cases to membership would rise significantly beginning in 1989.

Increases alone, should they be evidenced, will not tell us much about whether this activity is in defence of the private or public interest. Here, the typology developed by Parker (1994) will be used to define public and private interests. Therefore:

H_2: There would be a disproportionate increase in numbers of disciplinary cases representing the private interest of the profession in the period beginning 1989 compared with previous periods.

The fact that our data comes from ACCA allows us the opportunity to examine another issue. A large proportion of the membership of the Association comes from members residing outside the United Kingdom and Irish Republic (Table I). If we assume that the purpose of the enforcement of the Code is to defend the public interest, then we would expect to find disciplinary actions occurring in similar proportions in all countries of practice of the practitioner. However, some members are in countries where the total number of members is low and it might therefore be assumed that enforcement is difficult. In other countries, the same barriers to enforcement would not exist. In principle there should be an equivalent rate of disciplinary cases across these latter countries including the United Kingdom and Ireland. If we were to assume that defence of the private interests of the profession would prevail in the pattern of enforcement, we might, however, expect quite different results. It could be argued that the primary reputational effect of interest to the profession may be that of the "ruling" or dominant group, namely those in the United Kingdom and Irish Republic. What members living in far off countries did would be of little concern since it would simply not become known and, as a result, have no impact in the United Kingdom. Allowing for large numbers of "off-shore" members, would, however, serve the private need of ACCA as it would provide an additional membership base.

For the next hypothesis, Hong Kong, Malaysia and Singapore will be taken as representing overseas membership. These are the countries with the highest actual numbers of members and the highest rates of growth of membership.

H_3: The rate of disciplinary actions to total membership in Hong Kong, Malaysia and Singapore, will be significantly lower than the rate of disciplinary action to total membership in the United Kingdom and Irish Republic.

Again, if H_3 is supported, what types of offences are the subject of enforcement? The private interest argument would suggest that only the most obvious violations would be prosecuted, since there would be little motivation on the part of the United Kingdom based body to seek out offences. In this regard we would expect that offences disclosed by, for example, random practice inspections, to be under represented, while offences such as violation of the criminal law, would be prosecuted. In contrast, in the United Kingdom and Irish Republic, the private interest argument would suggest that enforcement of all three categories of offence (against public, colleagues and clients) would be rigorous since it would enhance the reputation of ACCA to be seen to be taking such action.

H_4: The distribution of types of overseas discipline cases will be different than that experienced in the United Kingdom and Irish Republic.

It has been noted above that less than 30 percent of ACCA members practice in public accounting. The rest are employed in industry, government or elsewhere. There is an extensive literature review on possible organizational professional conflict (OPC) for employed professionals (Friedlander, 1971; Berger and Grimes, 1973; Flango and Brumbaugh, 1974; Jauch et al., 1978; Harrell et al., 1986; Pei and Davis, 1989). However, despite the hypothesised conflict, more recent studies suggest that professionals seem to be able to show a strong commitment to both the employer and their profession (Aranya et al., 1981; Aranya and Ferris, 1984; Gunz and Gunz, 1994). This has led researchers to question the ethical implications of these findings: if professionals do not perceive that they experience conflict between their obligations to their profession and to their employer, what does this mean about how they meet their respective obligations (Gunz and Gunz, 1994)? While there have been suggestions by some that perhaps the codes of ethics should be different for the

different forms of practice (Loeb, 1984, 1990; Wilkes, 1989) it remains the case that for most professional associations and, certainly for ACCA, there is only one code of ethics for all members whatever their form of practice. It should be noted that, even when it has been suggested that a separate set of rules should be introduced for, say, those members of a professional group who are employees in contrast to those in private practice, there is never any suggestion that they should be accountable to a lower standard of ethical behaviour.

Returning to our concern for private/public interest in the enforcement process, it might be hypothesised that ACCA, particularly in the period surrounding the Companies Act, 1989 changes, would have good reason to focus primarily upon the disciplining of ethical transgressions by its members employed in public practice. It has already been noted that the ministerial approval related to the audit function, a function that obviously relates only to those members in public practice. If we argue that it would be important for the self-defence of ACCA to be seen to be enforcing professional standards, those standards that would be of most concern would be those arising in public practice. Further, members employed elsewhere, in the same way as members located overseas, could be seen as valuable in defence of the private interest of ACCA, both because of their numbers and the revenue their membership would generate.

Data is not available to test the obvious hypothesis that the rate of discipline action is higher against members in public practice than is the case with other members. However, an examination of a single year of data is quite enlightening. For example, the results for the year 1994 show that 51 of the 55 cases, or 92.7 percent, involved members in public practice. In that year, members in public practice comprised only 27.9 percent of ACCA membership. There is no reason to expect that these figures are unrepresentative

Data is available to test whether the distribution of types of offences is different for employed members in comparison to other disciplined members who are virtually all in public practice. We should expect to find that employed members are involved in few offenses against the public as the *ACCA Rulebook* and the enforcement apparatus are oriented to public practice.

H_5: The types of offences will be different for employed members in comparison to other members.

Analysis and results

Hypothesis H_1

This hypothesis was tested by calculating the rates of discipline cases per thousand members resident in the United Kingdom and Ireland using data from 1983 through 1994. A paired samples *t* test was performed to determine if there was a significant difference between the means of the periods 1983–1988 and 1989–1994.

Variable	Corr	2 tailed sig.	Mean	SE of mean
Pre 1989 rate	–0.035	0.948	0.4802	0.034
1989 and later			1.0363	0.169

Paired differences

Mean	SD	SE (mean)	*t* value	df	2 tailed sig.*
–0.5562	0.419	0.171	–3.25	5	0.023

* Significant at 0.05 level.

Hong Kong, Singapore and Malaysia cases:

Variable	Corr	2 tailed sig.	Mean	SE of mean
Pre 1989 rate	0.823	0.044	0.0948	0.043
1989 and later			0.0642	0.041

Paired differences

Mean	SD	SE (mean)	*t* value	df	2 tailed sig.*
0.0305	0.061	0.025	1.22	5	0.278

Other overseas cases:

Variable	Corr	2 tailed sig.	Mean	SE of mean
Pre 1989 rate	–0.383	0.453	0.5186	0.226
1989 and later			0.3561	0.090

Paired differences

Mean	SD	SE (mean)	*t* value	df	2 tailed sig.*
0.1625	0.671	0.274	0.59	5	0.579

* Not significant at 0.05 level.

These results support the hypothesis that ACCA discipline cases rose significantly in 1989. Similar tests were performed using data from outside the United Kingdom and Ireland to determine whether the increase occurred in general across ACCA membership or was restricted to the United Kingdom. The results below illustrate that there is no significant difference outside the United Kingdom between discipline rates pre 1989 and later.

The obvious next question is whether this was an increase experienced across all accounting bodies in the United Kingdom or was one particularly noted for ACCA. If ACCA, for example, was defending its private interest in response to external threats perceived to be delivered by the Companies Act, 1989, then any increase would be significantly higher for ACCA than for the more "secure" accounting bodies. Here, relatively limited data were available to us. A further test was made by using Scottish Institute data[11] for the 1983–1994 period. The number of Scottish cases should not rise significantly in 1989 as this Institute would not feel the threat to professional status from the 1989 Companies Act experienced by ACCA. However, if some factor pervasive to the United Kingdom accounting profession was the cause of the increase in ACCA discipline cases, this factor should also apply to the Scottish Institute. We are not aware of any other economic or political factors unique to Scotland and the Scottish Institute that would render such an analysis meaningless. A paired samples t test was performed to determine if there was a significant difference between the means of the periods 1983–1988 and 1989–1994. As Scottish membership data was not publicly available, the annual number of cases was used rather than the discipline rate as was the case with the earlier tests.

The results support the conclusion that the increase in cases in 1989 and later, was due to factors that were unique to ACCA and not shared by at least one other United Kingdom accounting body.

Variable	Corr	2 tailed sig.	Mean	SE of mean
Pre 1989 rate	–0.179	0.735	0.633	1.333
1989 and later			7.1667	1.167

Paired differences

Mean	SD	SE (mean)	*t* value	df	2 tailed sig.*
–0.8333	4.708	1.922	–0.43	5	0.683

* Not significant at 0.05 level.

Hypothesis H_2

Data on the year of offence was recoded as either 1988 and earlier or 1989 and later. This variable was then cross tabulated against the cases classified according to Loeb's taxonomy (1972) – Table II. Offences against clients would fall into Parker's category of the private interest of the profession and so a significant increase in this category of case would indicate an increase in cases representing the private interest of the profession.

There is no statistically significant support for the proposition that the increased volume of discipline cases was achieved by finding cases that serve the private interest of the profession. Instead, the increased number of cases appears to be the result of a general stepping up of the discipline process.

Hypothesis H_3

Rates of discipline cases per thousand members were calculated for the United Kingdom and Hong Kong, Singapore and Malaysia using data from 1983 through 1993. A paired samples t test was conducted to determine if there was a significant difference between the means of the two groups.

TABLE II
Discipline cases by Loeb's categorization and year

	Offences against Clients (Due care offences)	Offences against Public (Criminal offences, taxation law, etc.)	Offences against Colleagues (Association rules)
1988 and earlier cases	36	25	57
	(31.5)	(24.1)	(62.4)
	30.5%	21.2%	48.3%
1989 and later cases	91	72	194
	(95.5)	(72.9)	(188.6)
	25.5%	20.2%	54.3

Cell contents: Observations/expected count of observations/row percentage.
Number of missing cases: 2.

	Value	DF	Significance*
Pearson chi-square	1.49197	2	0.47427

* Not significant at 0.05 level.

Variable	Corr	2 tailed sig.	Mean	SE of mean
U.K. rate	–0.005	0.989	0.365	0.110
Hong Kong etc. rate			0.0691	0.029

Paired differences

Mean	SD	SE (mean)	*t* value	df	2 tailed sig.*
–0.6314	0.378	0.114	–5.53	10	0.000

* Significant at 0.05 level.

As might be expected, given the few discipline cases in Hong Kong, Singapore, and Malaysia, there is a significant difference between the rates of discipline activity. The Association discipline process is much less active outside the United Kingdom and Irish Republic. There are a number of factors such as culture and differing economic and political environments present when international comparisons such as these are made. We acknowledge this but feel the magnitude of the differences of discipline rates makes an allowance for these factors. Further, it should not be forgotten that this remains one professional association with common administration, qualifications and standards. This is not a comparison between a professional accounting body in one country and a second one in another.

Some cases from Hong Kong, Singapore, and Malaysia are dealt with by local discipline processes and are not reported by ACCA so the comparison of discipline rates may not offer a complete analysis.[12] The very existence of the local disciplinary processes may be construed as supportive of the notion that the discipline process operates in the private interest of ACCA. Events in these far removed jurisdictions are simply not of enough importance to justify the use of the Association's discipline apparatus. An alternative argument is that it is more efficient and effective to operate a local discipline process when the number of members warrant such an activity.

There were only ten Hong Kong, Singapore, and Malaysia discipline cases reported by ACCA for the period 1978 through 1995.[13] Details of these cases are outlined in Table III. It is interesting to note the eclectic nature of the cases which range from highly public and visible (convicted of corruption whilst Chairman of the Hong Kong Stock Exchange) to much less important and noteworthy cases. It is clearly in the private interest of ACCA to pursue such a high profile case but this is not the situation with some of the other cases.

Hypothesis H_4

Offenses classified by Loeb's (1972) classification were cross tabulated by location of disciplined members to determine whether the patterns of offenses varied between the United Kingdom and overseas.

The small number of cases (10) from Hong Kong, Singapore, and Malaysia precludes meaningful statistical analysis. There is an obvious paucity of non United Kingdom cases involving offenses against clients which could be the result of a non proactive approach to discipline matters outside the United Kingdom and Irish Republic. An interesting note is the fact that criminal cases are not over represented in the category of "other overseas cases." This type of case could be expected to form a high proportion of overseas cases as they are relatively easy to detect.

Hypothesis H_5

A cross tabulation of disciplined members' occupation and category of offence (Loeb, 1972) was run to determine if there was a significant

TABLE III
Details of Hong Kong, Malaysia and Singapore Cases[a]

Year	Gender	Year of admission	Location	Offence	Penalty
1982	Male	1955	Singapore	Bribery	Excluded for five years, fined
1987	Male	Student	Hong Kong	False representation of examination history	Unfit to be a member, removed from register, assessed £600 costs
1988	Female	Student	Malaysia	False representation of examination history	Ineligible to sit examinations for six months
1990	Male	1986	Singapore	Failed to reply to Association, no practicing certificate	Reprimanded, fined £250 and assessed £500 costs
1993	Male	1979	Hong Kong	Failed to reply to Association, no practicing certificate	Reprimanded and assessed £100 costs
1993	Male	1976	Hong Kong	Voluntary arrangement to pay creditors	Admonished
1994	Male	1957	Hong Kong	Convicted of corruption whilst Chairman of Hong Kong Stock Exchange	Excluded and assessed £550 costs
1994	Male	1993	Hong Kong	Supplied inaccurate resume	Severe Reprimand, assessed £250 costs and removed practicing certificate
1995	Male	Unknown	Hong Kong	Convicted of conspiracy to blackmail	Removed from register and assessed £396 costs
1995	Male	1976	Hong Kong	Convicted of theft	Excluded and assessed £99 costs; no readmission for 5 years

[a] Data compiled from records of discipline cases at the Association.

TABLE IV
Discipline cases by Loeb's categorization and location

	Offences against Clients (Due Care Offences)	Offences against Public (Criminal Offences, Taxation law, etc.)	Offences against Colleagues (Association rules)
U.K. and Irish Republic cases	98 29.0%	63 18.6%	177 52.4%
Hong Kong, Singapore, and Malaysian cases	0 0%	4 40.0%	6 60.0%
Other overseas cases	5 14.3%	3 8.6%	27 77.1%

Cell contents: Observations/row percentage.
Number of missing cases: 94.

difference in the type of offences that employed members committed compared to other members.

There are significant differences between the two groups of members in the types of offences that give rise to disciplinary action. As expected, employed members have proportionally fewer offences against clients and are over represented in offences against the public. These cases against the public are almost all the result of criminal convictions, arguably the offences most easily detected. It is important to remember that while relatively few cases (8.4 percent) involve employed members, these people represent the majority of ACCA's membership.

Discussion, limitations and future directions

The primary focus of this paper was to explore the enforcement of a code of ethics from the perspective of the balance between the defence of the private and the public interest, as defined by Parker and others. We noted that professions in general, and ACCA in particular, have a diverse membership. We introduced this quality as one that might be relevant to the consideration of private/public interest in the enforcement process. We also observed that the environmental turmoil of the study period, allowed us a unique opportunity to explore the premise that professions use the enforcement process as a means of reacting to external threats.

Our first hypothesis arose from this interest in environmental threats. There were strong reasons to suggest that ACCA and its fellow members should find the period surrounding the passage of the Companies Act, 1989 as one that might cause them deep concern. The audit function remains an essential attribute of what it is to be a public accountant, and, even for a professional body whose members do not depend heavily on audits for income, the reputational effect of being permitted to conduct audits is significant.

Our study did find some evidence to suggest that, during this period, there was a statistically significant increase in the numbers of disciplinary cases. When a comparison was made with the Scottish Institute, a professional body that might not feel the same concern about the legislation, there was strong evidence to suggest that, at least as between these two bodies, the increase in enforcement was evidenced only by the entity most likely to feel threatened.

If it is indeed the case that the increase in

TABLE V
Discipline cases by Loeb's categorization and employment status

	Offences against Clients (Due care offences)	Offences against Public (Criminal offences, taxation law, etc.)	Offences against Colleagues (Association rules)
Employed member	3 (8.9) 8.6%	12 (7.2) 34.3%	20 (18.9) 57.1%
Other members	103 (97.1) 26.9%	74 (78.8) 19.3%	206 (207.1) 53.8

Cell contents: Observations/expected count of observations/row percentage.
Number of missing cases: 59.

	Value	DF	Significance*
Pearson chi-square	7.80248	2	0.02022

* Not significant at 0.05 level.

disciplinary actions by ACCA that we observed was a response to the external threat – a signal to the Government that it takes appropriate steps to ensure it meets the requisite standards to be allowed to perform audits – is there any suggestion that this has negative connotations for the public? In other words, we observed earlier that our concern was not that professions might act in the betterment of their private interest, but that this might occur at the expense of the public interest. In this case, we can think of no obvious negative connotations (other than if we were to suggest that ACCA would cynically enforce standards in this period and then stop later – something for which there is no evidence). Indeed, such behaviour might coincide with just what the Government, representing here the public interest, might desire and possibly even expect. The provisions in the Companies Act, 1989, were undoubtedly motivated by the widely expressed desire to improve auditing standards. If we look at the data in Table II, we can see that, with enforcement of offences against clients and the public, the offences that it might well be argued should be of most concern to a Ministry interested in improving audit quality, increase in roughly the same proportion, before and after 1989.

The results of our testing of H_2 provide us with mixed evidence and there is not much more that can be added to the discussion than has already been outlined above. We had originally hypothesised that ACCA would respond to the threat brought about by the introduction and then passage of the Companies Act, 1989, by not only increasing the incidence of disciplinary actions but seeking out those offences that would most protect the private interest of the profession; namely, cases against clients in particular. Our data provide no evidence of any such pattern of enforcement and, as such, this hypothesis was not supported. This does not mean, however, that there is no evidence of the profession acting in defence of private interests. The very fact that we observed a significant increase in enforcement in general by ACCA (H_1), and, that there was no comparable increase at least with the Scottish Institute, supports the private interest argument. It must remain, of course, supposition, that the increase that we observed was a result of a conscious or even unconscious act in defence of the private interest. We note, however, that there is no reason to expect that there has been some dramatic decline in the morality of members which would account for the increase in cases.

With H_3 we raised an issue that we have not observed elsewhere in the literature. Here we were able to rely on the, perhaps unique, make-up of the membership of ACCA; namely that a significant proportion of the memberships, and a proportion where rate of growth is significantly higher than with the majority, is located other than in the United Kingdom and Republic of Ireland. We observed that the defence of the private interest argument would suggest that rates of enforcement should be significantly higher in the United Kingdom and Republic of Ireland in comparison to other countries. Further, (H_4) proposed that the same distribution of enforcement across client, public and colleague offences, would be dissimilar in the two locations.

Our findings show a significant difference in cases reported by ACCA with discipline rates in our three overseas countries being at a far lower rate than in the United Kingdom and Republic of Ireland. The existence of local disciplinary processes clouds the significance of this finding. Numbers of disciplinary cases for the three overseas countries were too low to allow us to draw any meaningful conclusions about distribution of enforcement. We return to our question about the balance between public and private interest and whether, in this case, the significant differences we observed should give us cause for concern.

These differences can certainly be used in support of the argument that enforcement here is in the defence of the private interest of the profession. An initial response may well be that, the fact that very little enforcement of overseas members occurs, is indeed harmful to the public interest. ACCA is prepared to accept revenue from these members and, presumably, is appreciative of the value this growth in numbers adds to its reputation. However, it is not, apparently, prepared to put in place the types of monitoring and enforcement actions that might be required

to ensure that members practise in accordance with the rules of the profession.

A case can be made for arguing that this is not, in fact, against the public interest. It might be argued that, what ACCA is offering its overseas members is primarily an accreditation service. ACCA is certifying that overseas members have met the appropriate educational and professional standards in order to be considered a professional accountant. How those members continue to apply those standards is, essentially, a matter of concern for the particular jurisdiction in which they practise. It might indeed be the case that this is the de facto rationale behind an apparently laissez-faire enforcement policy. If this can be said to meet the public good as well as the private good of the profession, then it would, however, be essential that this policy be explicit and one that, therefore, overseas countries can approve or not approve. It is understood that for many countries the number of members is so small as to make enforcement difficult. But, at least in the three countries identified in our study, there would appear to be evidence that this is a very desirable form of accreditation. The concentration of members, and the growth in numbers, is such as to make enforcement practical, particularly considering the level of sophistication of these three societies.

Our final hypothesis (H_5) examined enforcement as between employed members and members in public accounting. We knew that, with this professional body, as with most others, the incidence of disciplinary actions, at least in one particular year, was far higher against members in public practice than with employed members. We could test the distribution of offences and observed our hypothesis to be substantiated: employed are disproportionately disciplined for offences against the public (primarily criminal offences), in comparison to those who were in private practice.

Again, what bearing do these findings have upon our concern for the balance between public and private interest? It may well be the case that offenses against clients are more difficult to uncover in the case of employed accountants where there is not the right to conduct random practice inspections. It might also be argued that the rules of conduct themselves are focussed upon private practice and, hence, one should expect to find what we did. This latter argument is, however, circular. The fact that rules are drafted in this way is undoubtedly a cause of the results, but it does not justify their content. Surely it is as important that employed accountants maintain high ethical standards and quality of work as it is for privately employed practitioners. Certainly, what we observe can be considered to give rise to concern, if we pursue our argument about public interest being sacrificed for private. It is certainly in the interests of this profession to have employed members – they add revenue and numbers – but it is far from clear that the public interest is being appropriately defended.

With respect to this last point, it is important to repeat that ACCA is likely no different from most other professional bodies. Those professional bodies with a mix of members employed and in private practice, typically have allowed the focus of their rules of conduct to be upon private practice. It is undoubtedly time that greater consideration be given to the role of the employed professional, particularly since this is the growth area for practice in most jurisdictions.

We wish to make two final observations. One of the obvious limitations to any study of this sort is that we may only observe. It would be incorrect for us to assume that we understand fully the motivations behind what we observe. That would require quite different methodology. Very clearly, studies of this type, cry out for follow-up, in depth, discussion with relevant personnel in order to acquire a better understanding of the findings. A final consideration is that the statistical methodology utilized rather small data bases. Although statistically significant results emerged, larger sample sizes would be preferable.

Conclusions

These results are consistent with the proposition that the disciplinary process operates both in the public interest and in the Association's private interest. There is moderate support for the notion that the level of discipline activity

increased in 1989 which would serve the private interests of ACCA. This was achieved by a general increase in the volume of discipline activity rather than a concentration on specific types of offences. The discipline process is focused on members in public practice and on members in the United Kingdom and Ireland. A possible explanation is that ACCA acts primarily as an accreditation body for these members while it serves a broader role for members in public practice in the United Kingdom and Ireland.

Notes

[1] This project was funded by grants from the Centre for Accounting Ethics, University of Waterloo, and CMA-Canada. The authors wish to thank the Association of Chartered Certified Accountants for giving access to records and its staff for their cooperation and help.

[2] A similar point was cited by Robson et al. (1994) at 547 from the Worsley Report (1985): "The Worsley Report invites its readers to engage in a chain of reasoning that shows how wise governance of the Institute reconciles and fulfils both individual and collective purpose, self interest and public interest. The *possibility* of a conflict between 'self interest' and a duty to the 'public interest' is acknowledged. But it is argued that the potential for conflict is not realized so long as 'the balance is constantly reassessed and the two elements clearly distinguished' (Worsley, 1985, p. 22)."

[3] For example, on January 11, 1988, the (then) Supreme Court of Ontario issued an order, on the application of the Attorney-General of Canada, that members of the Waterloo (Region) Law Association comply with the Combines Investigation Act. Specifically, the order directed that members of the Association should no longer charge clients in accordance with a set scale of fees.

[4] Members hold the designation ACCA or FCCA.

[5] Discipline cases became public in 1978 and details of cases are available for perusal in the Association's London office. The database is effectively limited to 1978–1995 due to changes effective in 1996 in Association procedures and sanctions. The detail of data is not uniform over the data period (Table I). The database was mostly compiled through attendance at the Association office and some details were supplied by the Association by mail. We acknowledge the assistance of the Association's legal staff in helping us compiling the database.

[6] For example, Parker (1994) and Sikka and Willmott (1995).

[7] Note, that in Britain virtually all companies, public or private, are required to have an annual audit.

[8] These figures are similar to other studies of accounting bodies which have members both in practice and other occupations (McCutcheon and Fisher, 1996).

[9] In 1990 this figure was 18 percent and in 1985, 14 percent.

[10] We have been informed that the ACCA knew informally of this in 1988.

[11] Discipline cases are public and details of cases are available for perusal in the Institute's Edinburgh office. The database was compiled through attendance at the Institute office. We acknowledge the assistance of the Institute's legal staff in helping us compile the database.

[12] We were informed of the existence of the local discipline processes by a representative of the Association. We could not find any explicit references to such processes in the *ACCA Rulebook*.

[13] There are 94 cases reported without a place of domicile but an analysis of case details gives no reason to expect that any more than a handful involve overseas members.

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James Fisher and John McCutcheon
School of Business and Economics,
Wilfrid Laurier University,
Waterloo, Ontario,
Canada

Sally Gunz
Department of Accountancy,
University of Waterloo,
Waterloo, Ontario,
Canada