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—
Chair

The Honourable Hedy Fry

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• (1100)

[English]

The Vice-Chair (Mr. Larry Maguire (Brandon—Souris, CPC)): Good morning, everyone. I'd like to welcome you to the 41st meeting of our House of Commons Standing Committee on Canadian Heritage.

I want to welcome our witnesses this morning: from the Department of Finance, we have Sean Keenan, director, sales tax division, tax policy branch; and from the Canada Revenue Agency, Danielle Laflèche, director general, excise and GST/HST rulings directorate, legislative policy and regulatory affairs branch.

Thank you very much for attending this morning. I'll turn it over to you in a moment for your opening remarks, and then I will allow seven-minute sessions back and forth. That's seven minutes for the questions and the answers. I look forward to your presentations and the information you can share with us so that we can work it into the report that we'll be making on rural and remote areas and communications.

With that, I will turn it over to Mr. Keenan, who is the first witness on our list.

Mr. Sean Keenan (Director, Sales Tax Division, Tax Policy Branch, Department of Finance): Thank you for inviting me to appear before the committee to discuss the application of Canada's national sales tax, the goods and services tax/harmonized sales tax, well known as the GST/HST, to supplies of digital products.

As the chairman said, I'm Sean Keenan. I'm the director of the sales tax division in the tax policy branch at the Department of Finance. Among my responsibilities, I oversee the policy and design elements for the GST/HST system.

The GST/HST is a broad-based tax intended to apply to most goods and services that are consumed in Canada. The broad tax base ensures that the GST/HST is fair, efficient, and simple.

Vendors who supply taxable goods and services are generally required to register and collect the GST/HST from their customers and then remit the tax collected to the Canada Revenue Agency. The tax is also generally levied on imported goods and services in the same manner as it is levied on domestic purchases. This helps to ensure that imported goods and services do not have a competitive advantage over goods and services sold in Canada.

The GST, or the federal component of the HST, is currently levied at a rate of 5% across Canada. The Provinces of Ontario, New

Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador have elected to harmonize their provincial sales taxes with the federal GST. In these five provinces, the GST is levied as part of the HST at a joint federal-provincial rate of 13% or 15%, depending on the particular province.

E-commerce and Internet sales are an emerging and rapidly growing aspect of consumption in Canada. Under the GST/HST, Canadian businesses, as well as foreign companies that carry on business in Canada, are generally required to register and collect tax on their Internet sales of goods and services to Canadians where the items are to be used in Canada.

E-commerce sales by foreign-based companies can present a challenge for proper sales tax collection. Foreign-based Internet vendors' businesses with no physical presence in Canada are generally not required to collect GST/HST on their sales. Instead, in the case of physical goods that are purchased online and shipped to Canada by post or courier, the applicable customs duties and GST/HST would generally be collected by the Canada Border Services Agency at the time the goods are imported.

In cases other than the importation of physical goods, the GST/HST legislation imposes a general requirement to self-assess the tax. For businesses that would be entitled to recover any tax payable by claiming input tax credits, there is generally no requirement to self-assess tax on such imports.

The challenges related to the proper collection of sales tax on digital supplies by foreign-based vendors are not unique to Canada. It's a difficult issue for all jurisdictions with a sales tax. In this regard, the issue was examined as part of the recent initiative of the G20 and the Organisation for Economic Co-operation and Development to address what is known as "base erosion and profit shifting", or BEPS.

In the context of that international initiative, budget 2014 invited input from stakeholders on what actions the government should take to ensure the effective collection of sales tax on e-commerce sales by foreign-based vendors. Specific feedback was solicited on whether foreign vendors should be required to register with the Canada Revenue Agency and charge the GST/HST on digital sales to residents of Canada. The feedback from these consultations helped shape Canada's input and participation in the G20 OECD BEPS project.

The final reports of the BEPS project were issued by the OECD on October 5, 2015, including “Addressing the Tax Challenges of the Digital Economy, Action 1”. The Action 1 report examined issues related to the effective collection of sales tax on cross-border digital supplies and services and recommended that where countries decide to institute a regime for taxing foreign suppliers of digital content, the regime should follow the principles of the OECD’s international value-added tax/GST guidelines for these supplies. These guidelines indicate that, at the present time, the most effective and efficient approach to ensure the appropriate collection of VAT/GST on cross-border business-to-consumer supplies is to require the non-resident supplier to register and account for VAT/GST in the jurisdiction of the consumer—essentially, the usual residence of the customer.

Following up on the BEPS Action 1 report, the OECD’s Working Party No. 9 on Consumption Taxes is developing a report on mechanisms for the collection of VAT/GST on digital supplies and services by foreign vendors. The report will examine and identify the best practices of jurisdictions that have required non-resident digital suppliers to register and collect tax on sales in their jurisdictions, in order to assist those that are considering doing so. Canadian officials are participating in the development of this OECD report.

• (1105)

Those are my opening remarks. I’d be happy to answer any questions that you have.

The Vice-Chair (Mr. Larry Maguire): Thank you. We’ll proceed with Ms. Laflèche and then open it up to questions.

Ms. Laflèche.

Ms. Danielle Laflèche (Director General, Excise and GST/HST Rulings Directorate, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency): Good morning, Mr. Chair. My name is Danielle Laflèche. I’m the director general of the excise and GST rulings directorate at the Canada Revenue Agency. I’d like to thank you for inviting me to attend your meeting.

To set a helpful context for today’s discussion, I’d like to briefly describe the role of the Canada Revenue Agency in the administration of the GST/HST. As mentioned by my colleague, the Department of Finance is responsible for developing and evaluating federal tax policy and the legislation through which policy becomes law.

As administrator, the Canada Revenue Agency is responsible for the functions that implement these laws, including: providing information to the public and stakeholders; establishing processes through which individuals and businesses may meet their tax obligations and receive benefits; and, of course, carrying out compliance activities to help ensure that everyone respects the law as intended by Parliament.

The role of the excise and GST rulings directorate within the Canada Revenue Agency, for which I am responsible, is to interpret the GST/HST legislation—that is, the Excise Tax Act—as it is worded. We provide this service to clients over the phone, in person, and by responding to their written requests for rulings and interpretations. I can thus speak about the application of the legislation as it is worded.

Mr. Chair and members of the committee, this concludes my opening remarks. I’d be pleased to respond to your questions.

The Vice-Chair (Mr. Larry Maguire): Thank you very much, Ms. Laflèche.

We’ll start the questioning with Ms. Dabrusin, please.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you for coming today.

My questions for the CRA and for Finance are actually a little broader than the GST/HST. I’m hoping that you might be able to help me with some of them.

Some of the witnesses who have come before us—and I’ll speak specifically about The Tyee as one example, but there were others—talked about challenges with forming a not-for-profit or a charity to support media. We’ve been asked to try to consider what some of the different options are that might support media.

Apparently, for charities, there’s no legal basis on which a media organization can be granted charitable status in Canada. Is that correct?

• (1110)

Ms. Danielle Laflèche: Thank you for your question.

The charitable environment is not my area of expertise. I do understand that there are criteria that need to be met to be granted charitable status, but I’m not really in a position to respond to you. I can go back and get the answers for you.

Ms. Julie Dabrusin: It would be wonderful if you could do that.

Mr. Sean Keenan: I could say, though, that the definition of a charity comes from the common law. It’s not a defined term, but it comes from common law. It covers.... I’m not going to give out the waterfront of what it covers, but the relief of poverty, promotion of education, and religion are generally considered to be charitable purposes. To the extent, then, that you’ve heard some witnesses say that the promotion of media probably is not considered to be a charitable purpose, that is likely the case. Again, we would have to speak to the experts that...it’s not covered by that definition.

Ms. Julie Dabrusin: If there is a policy direction on that, it would be helpful for us.

Additionally, then, for not-for-profits, I was looking at section 149 of the Income Tax Act, which deals with not-for-profits. My understanding, when we were given evidence by The Tyee, was that they do have a foundation that is tied to their operations. My question is, within the tax act, is there an opportunity to create foundations to support media organizations? If not, what would be the change we would need to make from a statute perspective in the Income Tax Act? That might be another “bring it back to me later” point.

Mr. Sean Keenan: I think that’s going to have to be the case. Foundations generally.... Charitable foundations would need to have a charitable purpose. Again, it would swing back to what’s the definition of the foundation’s charitable purpose.

Ms. Julie Dabrusin: I was also looking at the not-for-profit sector as another opportunity, with section 149 being the section I was directing it to.

I'm going to share my time with Mr. Vandal, so I will pass it over to him.

Thank you.

Mr. Dan Vandal (Saint Boniface—Saint Vital, Lib.): *Merci beaucoup.*

Are you aware of any provinces across Canada that use the tax credits successfully as a way to facilitate and encourage Canadian content in media production or television production?

Mr. Sean Keenan: I know that film and video tax credits exist in certain provinces. I couldn't comment on the efficacy of those credits. There is one at the federal level as well. It's not really my area of expertise, but I know that some provinces have film and video production tax credits.

Mr. Dan Vandal: Could you tell us about the federal tax credit?

Mr. Sean Keenan: Unfortunately, no, not in any great detail.

Mr. Dan Vandal: Several of our witnesses have suggested that we study ways to encourage innovation in digital media using a tax credit. Others have suggested that we use a tax credit to help the production of local news on television or, as something that's suffering, in newspapers. Do you have an opinion on those suggestions?

Mr. Sean Keenan: I don't personally. Again, generally those credits are something that would fall under the income tax side. There would be income tax credits that are offered. At this time, I would say that in the last budget the government announced a review of the tax expenditures that exist in the tax system to ensure they are properly targeted, well functioning, serving, as fair and efficient as possible, and as simple as possible. A number of tax credits that exist are under review as part of this tax expenditure review, but in terms of the efficacy of proposals for new credits, I wouldn't be able to comment on that.

• (1115)

Mr. Dan Vandal: Thank you.

The Vice-Chair (Mr. Larry Maguire): Our next questioner will be Mr. Waugh.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Mr. Chair.

Thanks to both of you for coming today.

This is complex for us, as you can see, but I'm going to pick up on Mr. Vandal's point, because for the last several months we've heard, as you know, that media everywhere in this country seem to be in a bit of trouble, whether it's newspapers, radio or TV, digital, or whatever. Tax credits have been mentioned here for those forums. That would be intended, I guess, to support the communications industry in the process to shift to digital.

You've mentioned that probably you personally don't have many thoughts on this now, because it has just been floated here in the last little while, but what would be the recommendation to create this new tax credit for the purchase of advertising in traditional Canadian

media? We haven't seen this before: tax credits for television, newspapers, radio, and so on, and now we have the new digital. What would that look like if it did get rolled out? Do you have any thoughts on that?

Mr. Sean Keenan: I would say generally that the work of the Department of Finance, certainly in the tax policy branch, is to examine proposals that the government asks us to examine and also other aspects of the system. When we look at proposals to introduce new tax credits or new aspects of the system, we're looking at it from the tax policy perspective to see how that is going to promote fairness and efficiency in the tax system. The perspective that we generally take is that a broad-based tax system that allows for low rates and doesn't distort economic decision-making is usually the best kind of system.

We also look at administrative issues. How would a tax credit be designed? How would it be best designed to serve the purpose? Is the design of a tax credit going to be the most effective way to lead to the desired outcome? Oftentimes, tax credits are.... The tax system has a broad application, so if you're targeting a single area and you use a broad instrument like the tax system, you may be supporting things that businesses might do anyway, in which case you're going to provide a windfall gain to economic actors who would have undertaken certain action anyway. You're not going to change their behaviour, because they would have acted that way. In that case, that might not be most targeted way to support the activity.

I think in the area of.... Newspapers are a thing that people know, and you could sort of say that here's something that people understand, how they're produced, and where they're bought. I think that when you go into the digital aspect, again, for the design aspects on how it would apply and how it would affect... Because it's such a cross-border thing and it's a different type of media, those aspects would become important elements of any proposal. How would it work? How would you target it? How would you ensure its effectiveness? Those are all the considerations that we certainly would look at from the view of the Department of Finance in assessing any policy proposals brought forward.

Mr. Kevin Waugh: Yes. Do you have any thoughts on the amount this would cost the federal government if we went to the tax credit? I know that we don't have a structure, but obviously this would cost millions.

Mr. Sean Keenan: I think the cost would certainly depend on the scope of the credit and what it would apply to. Without the specific details, that would be something that I certainly couldn't comment on.

• (1120)

Mr. Kevin Waugh: Okay.

Ms. Laflèche, I have a question for you. At our meeting on November 15 of this year, we had with us Mr. Jason Kee, counsel, public policy and government relations, from Google Canada. He said:

On the question of the GST, which Mr. Nantel flagged, I'll quickly explain that it's a function of the structure of the tax. GST, remember, is a tax [really] on consumers.

It's not a tax on the businesses. It's a tax on consumers.

He said:

It's payable by consumers, not by Google, by a retailer, by whoever. CRA has rules. In the case where you're serving services from outside of the country, you're not required to register, collect, or [even] remit GST.

Is this true? Are consumers themselves required to submit the GST on the service?

Ms. Danielle Laflèche: Thank you for your question.

Mr. Chair, it is true that the GST is payable by consumers. If a consumer is in Canada and the supplier is in Canada, then I think it's relatively clear that any supplier who's making supplies of advertising or media to a Canadian consumer is required to charge the tax, so the consumer is required to pay the tax, generally speaking. The question is different when we have a non-resident supplier, whether it's advertising, media, and so on and so forth.

Under the legislation and the way it is worded now, a non-resident is outside Canada and normally would not, generally speaking, charge and collect GST. However, there are instances where, I'll say, a supplier will have to, and the situation would be if the supplier is making a sale of something that is intangible or tangible to a Canadian consumer. If it's a tangible good, such as newspapers, magazines, and so on and so forth, the law is specific. That supplier is required to charge GST and get a registration number, so at least the non-resident supplier is treated the same way in regard to goods as the supplier who is located in Canada. The consumer has to pay. The non-resident has to charge and remit the GST.

Where it gets a little difficult is in talking about something that is intangible, such as digital supplies. Digital supplies don't go through the border, so there's nothing to touch. The way the legislation is worded, we have to determine whether this non-resident, this person who is making a supply in Canada, is making the supply through a location, a place of business in Canada. I'll give an example. We have supplier X, who is in the States and is making a supply of advertising to someone in Canada, but really, everything is being done through a place of business in Canada. That supplier has to charge and remit the GST, because he's considered to be carrying on business in Canada, so he's treated like everybody else. A—

The Vice-Chair (Mr. Larry Maguire): I'll have to get you to wrap up your answer, but go ahead.

Ms. Danielle Laflèche: Okay. My apologies.

A person who is a non-resident who is making supplies through a place of business in Canada or is carrying on a business in Canada is required to register and to charge GST to the consumer. If that person is not considered to be carrying on business in Canada, the consumer is required to self-assess the tax, right?

Mr. Kevin Waugh: Okay. So I would be—

The Vice-Chair (Mr. Larry Maguire): I'm going to have to move on.

Ms. Danielle Laflèche: Thank you.

The Vice-Chair (Mr. Larry Maguire): Mr. Nantel, please.

[*Translation*]

Mr. Pierre Nantel (Longueuil—Saint-Hubert, NDP): Thank you very much, Mr. Chair.

Ms. Laflèche and Mr. Keenan, thank you for being here because it's very important that you enlighten us.

Ms. Laflèche, as I understand it, entrepreneurs who sell things from other countries and haven't made the effort to open a branch in Canada have the best of everything because they aren't required to charge taxes.

Ms. Danielle Laflèche: Actually, if non-residents don't have a place of business in Canada, they may still have to charge taxes.

• (1125)

Mr. Pierre Nantel: Of course, but it's less automatic.

Ms. Danielle Laflèche: There are circumstances in which non-residents must. If we consider that they have a place of business in Canada, they are required to charge taxes.

Mr. Pierre Nantel: I rarely do this, but since we're talking about regional media and the survival of written media, I will read you an article. It's an editorial by Paul Journet that appeared on Monday and is titled "E-commerce: the scandal that no one cares about":

There is no reason to tolerate foreign digital companies like Netflix paying no sales tax.

In a normal world, this should be obvious. This article would even seem clumsy, like smashing into an open door with a bulldozer. But we don't live in a normal world.

We are wading into a new astonishing ecosystem, the digital age, where injustice is disguised as innovation.

Club Illico (Vidéotron), Tou.tv (Radio-Canada) and CraveTV (Bell) have to charge sales tax. Netflix does not, a windfall of about \$85 million. The reason? The legislation is outdated. If a foreign digital company does not set up an office in Canada, it is not required to charge sales tax, even if its goods and services are consumed here and are taxable.*

Foreign giants can therefore place their starting blocks ahead of the line. And what does the referee say? Almost nothing. After all, consumers love the show!

If the debate has gone astray, it is primarily because of the Harper government. His remarks were no longer addressed to the citizen, nor even to the taxpayer. They were intended for the consumer. The message? We will not ruin your shows by taxing them. So the Conservatives created a taboo, the "Netflix tax". During the last election, the Liberals and the New Democrats in turn promised not to impose it.

It's a sneaky expression because it can mean two different things. The first is that the giant should contribute to the Media Fund to finance Canadian productions. The second is simply to require Netflix to charge sales tax as well.

Participation in the Media Fund is both a burden and a benefit (if you fund it, you can also be funded in return to pay for local productions). It is a legitimate debate, but the one on the sales tax is not because there is nothing to debate. There is no justification for submitting to unfair competition.

If you accept it, it is also because of some fuzzy techno-speak. People claim that the Internet is something that wants to be free. It's impossible to regulate it.

Yet, tax fairness is not a 20th century idea, doomed to go the way of the fax machine.

Resignation, however, is not the only choice. Australia is proving that with its new law that will require foreign digital companies to charge sales tax. The European Union and Japan, among others, have already moved in this direction.

In Canada, people are finally speaking out and demanding the same thing. There was the Godbout report on Quebec taxation, the heartfelt cry of entrepreneur Peter Simons, and finally, this fall, the recommendation from the Chair of the Canadian Radio-television and Telecommunications Commission (CRTC).

The ball is in Ottawa and Quebec's court. It is the very start of the fight for tax fairness. The first step is the easiest. If we do not dare to take it, how can we claim to be fighting tax avoidance by tackling more complex problems, such as the transfer of corporate profits to other countries or to dozens of bilateral treaties?

Charging sales tax is not a technical issue. It's a moral test.

The author added the following at the bottom of the page:

* The \$85 million estimate was made by Marwah Rizqy, a professor at the School of Management at the University of Sherbrooke. If the foreign digital company does not have a significant presence on Canadian soil, such as an office, a bank account or employees, it is not required to register with the GST and QST or charge these taxes. It is therefore up to the consumer to remit sales taxes to the tax authorities.

This is what the author says here.

Self-assessment is extremely rare. Revenu Québec received only six self-assessment forms in 2011 and five in 2012.

I was keen to read this article.

According to your presentation, Mr. Keenan, we have been in international negotiations since 2015. Where are we now and why is it taking so long?

[English]

Mr. Sean Keenan: As I mentioned in my remarks, and as you noted, there is work ongoing. There is a lot of experience in other countries related to the proper collection of the VAT or GST from foreign vendors who don't otherwise have an operation in Canada.

As Madam Laflèche explained, the way the law is written right now, there's generally a self-assessment requirement on the importation of digital services, and that generally relates to the era when the law was written.

• (1130)

[Translation]

Mr. Pierre Nantel: Allow me to make a comment, Mr. Keenan. Everyone here has already done business with some service provider or another who has asked them if they wanted to pay the taxes or if they wanted to settle the bill under the table. Everyone has had to answer the question. Yet everyone says it is illegal not to pay taxes and that we need to pay taxes to pay for our roads and health care systems.

What's wrong? Why is it taking so long to agree at the international level that suppliers have to do their part, if only by collecting transactional taxes? We're only talking about that for the moment. Why is it taking so long? The report will come, as you mention. I am not blaming you; this is happening abroad. That said, why are we tying ourselves in knots over something so simple?

[English]

Mr. Sean Keenan: Obviously, changes in the law need to be made by Parliament, and they need to be introduced by the government. That's a decision that ultimately needs to be made. I would say that the work that's ongoing and the work we're doing with the international community is to ensure that we understand the best way to ensure proper collection of the tax.

What we've heard in our consultation and in the work with the OECD is that companies want to comply with their tax obligations, but at the same time, they're doing business in a lot of countries. They want to make sure, then, that the regime that's in place is as easy to comply with as possible. The experience of other countries that we're gathering to see what works and what doesn't work is certainly helping us in providing the best advice we can to the government of the day.

The Vice-Chair (Mr. Larry Maguire): Thank you, Mr. Keenan.

We're going to have to move on.

Mr. Breton.

[Translation]

Mr. Pierre Breton (Shefford, Lib.): Thank you, Mr. Chair.

I don't have many questions.

Imposing a tax works in some countries. Australia was given as an example in the article that Mr. Nantel read.

My question is about the report. Could you talk more about it? Where exactly are we with the recommendations? What role do you play?

[English]

Mr. Sean Keenan: I'd like to address a couple of points.

For example, the Government of Australia and the Government of New Zealand announced early last year that they would be introducing mechanisms. The regime in New Zealand just came into force. There's a long delay, essentially, or some time, between the announcement of the proposal and then working out all the details, to ensure that the companies are properly registered and that the considerations in terms of the registration regime are in place to ensure they actually work.

In the work that's ongoing with the OECD, we're members of the Working Party No. 9 committee. We are participating in the deliberations on and preparation of the report on what works in certain countries and what doesn't work. As I mentioned before in response to a previous question, when we look at tax policy proposals such as this one, how do we develop a regime that would allow us to implement this policy if it needed to be implemented and if it were to be implemented? We're looking at the experience of other countries, seeing what works and what doesn't work, and consulting with our colleagues at the CRA to make sure that any rules put in place are going to be enforceable, so that the mechanisms to collect the tax would be something that we could get.

There are certainly questions about how to treat supplies from businesses to businesses. Those are covered by certain rules. Are we going to have a regime that applies only to supplies from businesses to consumers? What does that mean for things such as input tax credits? These are technical issues that need to be considered and resolved. They're the kinds of things in relation to the design that are part of our work in providing that analysis and advice to the government of the day.

• (1135)

[Translation]

Mr. Pierre Breton: We're here today to ask you questions, but I would like to know who originally requested the report from October 5, 2015.

[English]

Mr. Sean Keenan: As to the work on the base erosion and profit shifting that the OECD was doing, if I remember the origins correctly, there was a proposal that the member states of the OECD took up just to say, is there work that we can do? Then the G20 countries worked in coordination with the OECD to ensure this work was done.

As I mentioned, there were a number of reports. There were 15 reports on various aspects of this, of which the digital economy was only one.

[Translation]

Mr. Pierre Breton: Would one of my colleagues like to take the rest of my time?

Mr. Darrell Samson (Sackville—Preston—Chezzetcook, Lib.): Yes.

Is it okay, Mr. Chair?

[English]

The Vice-Chair (Mr. Larry Maguire): Go ahead, Mr. Samson.

[Translation]

Mr. Darrell Samson: Thank you.

If memory serves, people from Google told this committee that they paid taxes in Canada. Could you confirm that?

Ms. Danielle Laflèche: For confidentiality reasons, I can't confirm whether or not Google pays taxes. Generally speaking, I can say that if a non-resident provides goods or services in Canada, under the regulations, the non-resident must collect the sales tax and remit it to the government.

Mr. Darrell Samson: Right.

Based on your knowledge, does Google respond to the description of a company that must pay taxes?

Ms. Danielle Laflèche: I don't know this situation, and I cannot comment. Furthermore, I can't comment on a particular taxpayer.

Mr. Darrell Samson: Forget it. I'll phrase the question in a different way.

Knowing the environment in which it operates and how it operates, might we think that the company should collect the tax?

Ms. Danielle Laflèche: If a non-resident company had a server in Canada and provided goods or services in Canada—advertising, for instance—it would be considered a Canadian business for the GST. Therefore, it would have to collect and remit the tax to the government.

Mr. Darrell Samson: Thank you.

I will move on to another question.

We've been doing this study for several months now. Many witnesses have told us that the playing field isn't level. I think it was Mr. Lord who said that Canadian telecommunications companies had to pay sales tax while others didn't. I think that's a problem.

Community newspapers and radio stations do exceptional work, but they are disappearing. They won't be able to survive in the current environment because the conditions aren't favourable.

I know that you aren't the one who creates taxation formulas, but is there something in the toolbox that could help these companies that provide an exceptional service to the local communities?

[English]

Mr. Sean Keenan: I'm not sure that we have specific ideas on that. From the viewpoint of tax policy, as I mentioned earlier, when we look at the tax system, we want to make it as efficient as possible so that it provides a regular source of revenue to ensure the expenditure needs of the government can be met. To the extent that the tax system may or may not be the most appropriate tool to promote certain activities, that's part of the analysis provided when we're presented with proposals. A lot of this is cultural policy, and ultimately, if the decision is on how we support cultural policy, is the tax system a way to do that, they would—

Mr. Darrell Samson: I understand the hesitation of being able to help directly in answering those questions. Let me rephrase it.

Is there any taxation and tax credit system strategy out there in the world that you know of and that would support small local radio and newspapers? They are the heart and soul of the real story of what's happening on the ground. Help us.

• (1140)

The Vice-Chair (Mr. Larry Maguire): Please provide a very quick answer, if you could.

Mr. Darrell Samson: Come on. My colleagues will give me more time, I'm sure. I'm sure there's more time to be had around the table.

Voices: Oh, oh!

Mr. Sean Keenan: I'm certainly not aware of specific supports that other countries have through the tax system that are devoted to that type of local media and small newspapers. The limits on deductibility of advertising expenses set up to apply with respect to Canadian newspapers are unique to Canada.

The Vice-Chair (Mr. Larry Maguire): Thank you, Mr. Samson. Because your colleagues were a minute short the first time, I let you go on for about nine.

That was a very good question, though.

Mr. Darrell Samson: I knew you were a good person.

The Vice-Chair (Mr. Larry Maguire): Thank you. I'll take that as a compliment.

I'll go over to Mr. Waugh, please. We'll do a round of five minutes.

Mr. Kevin Waugh: Okay. It will be very quick.

I am going to pick up on Darrell's question. This week, Rogers laid off 87 people. We've talked about analog dollars and digital dimes, and in terms of their digital dimes, Rogers this week announced 87 layoffs coast to coast. How do we deal with this?

Their subscriptions may or may not be the same, whether they mail that out or do it digitally now, and that's what they've all gone to. It's cheaper, to be honest with you, to send it out by email than it is to go through Canada Post. We're seeing these massive layoffs in the newspaper industry, yet their cost for sending a magazine out is gone now, because they just hit "send" and it's gone. Can we have this payroll tax to support these small businesses? Can that be something that we look at?

We're looking at local media here. Rogers isn't small. That's the top of the food chain. At the bottom of the food chain are the humble journals and the small weeklies that, as we have heard here, are really struggling to keep their operations open.

Mr. Darrell Samson: They're doing an exceptional job.

Mr. Kevin Waugh: Yes.

Mr. Sean Keenan: I guess it's certainly not for me to say to the committee what can and can't be done. What I would reiterate is that from a tax policy point of view, when we look at a tax policy proposal, we're looking to see if it's the most efficient and effective way. Is that the best use of the tax dollars? Is the tax system as fair and as equitable as possible in the way it's applied? Is it an efficient way to generate revenues?

To the extent that we intend that certain other goals, cultural goals in this case, or media goals, are intended to be met, then we would

have to examine proposals to see if the tax system or the proposals that come up are an efficient way to serve that purpose.

Mr. Kevin Waugh: Getting back to Facebook and Google, in this country we see "Facebook Canada" and "Google Canada". Those are their names. Does it not constitute a physical presence in this country when they actually have "Facebook Canada" and "Google Canada"...? They are here. They have to be paying some tax.

Mr. Sean Keenan: As Madam Laflèche mentioned, for confidentiality reasons, whether an individual company pays or doesn't pay tax, that's their business with the CRA. I will say, though, that when we look at the size of the retailing that goes on in the e-commerce world, and when we think about how much money is out there, it's complicated to estimate, because a lot of transactions that occur are business to business. Businesses would buy goods online and get an input tax credit for it. There would be no revenue collected.

A lot of foreign businesses are registered for the GST and the HST because they have operations in Canada. They have online components and in-store components. For us to look at all the data and say what is the total amount that could possibly be collected by the application is very difficult, because of the circumstances as to whether an individual company is actually a registrant. They might be. They might be the owner of some of the things that they sell, in which case they're required...or they might be acting as an agent for someone else. The industry is evolving all the time. We've talked to people and they've said that they charge tax on some things, but not on others. To determine an estimate is quite difficult.

• (1145)

Mr. Kevin Waugh: Let me give you an example. If I have an account with Netflix, I have to pay with a credit card. Could these companies add the tax and remit it? Or if it's a direct debit, the bank could add the tax and remit it. The banks and credit card companies are benefiting from these transactions, so could they be required to do this?

Mr. Sean Keenan: I would say in regard to the experience of other countries in terms of imposing a requirement on a foreign-based vendor to collect and remit the sales tax—the value-added tax in such cases—on sales to residents in those countries, that it is something that other countries have done. There have been some discussion of and some work done on whether using the financial institutions as a tax collector would be feasible.

Again, that's a different model of tax collection from what we have now, where the ultimate lead is to the vendor and the financial institution that is providing intermediary services is doing something different and may not know all of the information with respect to whether this is a taxable good. Essentially, they're getting an amount. Let's call it \$100, for example, and what is that \$100 is made up of? Is it made up of \$50 that's taxable and \$50 that's not taxable? There are just some complications that—

The Vice-Chair (Mr. Larry Maguire): Thank you, Mr. Keenan.

Mr. Sean Keenan: Ultimately, the retailer might know more. I think we're a bit of a ways away from whether the financial institution could—

Mr. Kevin Waugh: Okay. I just thought I'd throw it out there.

The Vice-Chair (Mr. Larry Maguire): Thank you, Mr. Keenan.

We'll move on to Mr. Samson.

Mr. Darrell Samson: I really don't have any more questions, but I would like to make a comment. My comment would be to confirm that both Mr. Waugh and I pay taxes in Canada.

The Vice-Chair (Mr. Larry Maguire): Is there anyone else on the Liberal side who would like to ask questions?

Mr. Darrell Samson: We don't know if Google Canada pays, but we do.

Voices: Oh, oh!

The Vice-Chair (Mr. Larry Maguire): Go ahead, Mr. Nantel.

[Translation]

Mr. Pierre Nantel: These are issues that have to do with confidentiality. I understand your caution, but certainly everyone is scratching their heads, wondering how it all works. The public will be pleased to know that we aren't sitting idly by situations that may seem unfair to average citizens.

This committee also heard people say that advertising purchases on these platforms remained expenses that could be used to benefit from the advertising deduction.

Companies that advertise in Canada condemn the fact that these international companies have many advantages. First, they don't collect taxes. They don't have to pay general fees, either, since they operate outside the country, don't have employees and don't have an office here. In addition, they don't provide support to communities or sponsor a soccer team, for instance. It's a series of fees that a corporate citizen ends up paying.

Furthermore, the advertising that is bought from these international companies is just as eligible for a deduction as advertising that is bought from a community newspaper.

Would it be possible to exclude advertising that would not be purchased from traditional advertising suppliers? The word "traditional" may not be appropriate here. Basically, I'm talking about companies that are located here and have employees.

• (1150)

[English]

Mr. Sean Keenan: As I said, there are rules that have been in place for quite some time in respect of the ability for businesses.... In general, businesses can claim a deduction for expenses that they incur to earn income. That's generally, but not in all cases. There are certainly special considerations, but generally that's the principle: that businesses incur expenses and they can claim those. If those expenses are properly incurred to earn income, they can claim those against the determination of their profits for tax purposes.

Mr. Pierre Nantel: Yes.

Mr. Sean Keenan: In the case of newspapers, in respect of advertising in a newspaper, a full deduction can only be claimed in

respect of advertising in newspapers that are owned by Canadians. There are certain other rules in respect of magazines and broadcast media as well. Those are there to promote certain cultural goals and were put in at a time when those were the primary sources of media that Canadians used.

Obviously, the world is changing and, as in the GST case, we had certain rules that applied to the way that Canadians in businesses bought things. New challenges arise, so is it.... We may need—

Mr. Pierre Nantel: Is this adaptation possible?

Mr. Sean Keenan: Well, I guess the question that comes to mind is that those rules in respect of newspapers and magazines are more of a cultural policy, but the tax system promotes that policy. The question for the government, I guess, and for the committee that's looking at this becomes, is that a cultural policy that should be promoted with the tax system—

Mr. Pierre Nantel: You refer it to us as parliamentarians to potentially influence that change. Just to make things clear, can we summarize and say that, for the moment, in 2016, close to Christmas, a hardware store owner can buy advertising in the local paper and have some deductions for the advertising, and he can do the same on Facebook, and it's still admissible? Is it right to say that?

Mr. Sean Keenan: That is my understanding: that there are no limitations on the deductions that can be claimed on advertising taken out in—

Mr. Pierre Nantel: The question I'm asking is, if we do our work, we can potentially speak in favour of having some discrimination on what's eligible for deductible advertising. Is this is what you're telling us?

Mr. Sean Keenan: Yes.

Mr. Pierre Nantel: Okay.

I have another simple question. I notice that when I buy music on iTunes, there's no tax. When I subscribe to iTunes music on a monthly basis, there is no tax, but if I buy an app, there is tax. Would you have any idea of why that is? It's the same supplier, but obviously it's not. It's looks and is branded as the same. Why would it be this way?

The Vice-Chair (Mr. Larry Maguire): We have some time, so go ahead and answer.

Mr. Sean Keenan: I would say what I was saying in respect to the previous question. When we look at how to determine the revenue loss in coming up with an estimate, there are instances where an individual's experience with purchasing things online.... If I wanted to buy something and there was a store where I could buy it, but I bought it online, then that company may be registered, and the online purchases are subject to tax.

Our understanding is that for certain app providers, they purchase them from individuals. They may be acting as an agent for the company. If the company is a registrant, then they would be required to collect the tax, even though they may not be a registrant. If the situation is different, if they own it, then—

• (1155)

Mr. Pierre Nantel: So it—

Mr. Sean Keenan: It's kind of a—

Mr. Pierre Nantel: It could be, let's say, that this application has been created by a Canadian-owned company, so they charge taxes. The other one has been created by some Korean company, and since they don't have to pay taxes, then Apple iTunes, as a middleman, would not charge the tax. Would that be the idea?

Mr. Sean Keenan: It would very much depend on the circumstances and whether ultimately the provider is the registrant for GST purposes. Perhaps I could speculate—

The Vice-Chair (Mr. Larry Maguire): I'm going to have to—

Mr. Sean Keenan: —but I wouldn't be speaking with knowledge.

Mr. Pierre Nantel: Thank you, Mr. Chair.

The Vice-Chair (Mr. Larry Maguire): I will ask if there are any other questions from my colleagues.

Mr. Pierre Nantel: I will just complete this.

The Vice-Chair (Mr. Larry Maguire): If you have one, go ahead.

Mr. Pierre Nantel: I have just a final point.

Could it be that, for example, under iTunes or the Apple Store...? I'm sorry. I'm confused, but I think it's iTunes. The app store has a Canadian office and iTunes doesn't have a Canadian office, so could that lead to this discrepancy?

[*Translation*]

Ms. Danielle Lafèche: It could certainly be a factor. As my colleague mentioned, it depends on where the application comes from and who sells it. Is it being sold on their own behalf or that of a non-resident? The outcome depends on how it's structured. That's why it is more difficult.

[*English*]

Mr. Pierre Nantel: A bunch of wild guys in Newfoundland create a great app and are penalized when the South Korean guy is not. We have to change this. It's terrible.

Thank you.

The Vice-Chair (Mr. Larry Maguire): Thank you very much, colleagues.

Given that there's a committee meeting coming in here right after us, if there are no questions—I'm looking around, and I don't see any—if that's the case—

Hon. Peter Van Loan (York—Simcoe, CPC): I'd like to move adjournment, Mr. Chair.

The Vice-Chair (Mr. Larry Maguire): Thank you, Mr. Van Loan.

The meeting is adjourned.

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