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• (1100)

[English]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): Folks, welcome back. We are still on clause-by-clause consideration of Bill C-10.

Most of you now must know the rules, of course. For those of you who are listening outside and for whom this is your first time joining us, welcome. This is Canadian democracy at its best. We go clause by clause through the bill. We've had some amendments thus far, and we're continuing.

I'll get to that in just a moment, but just as a reminder to everybody about the way we do this, if you hear us talking about letters and numbers, those are for the particular amendments put forward by each group with us at the committee. In other words, if you hear us say, "PV-1", that would be a Parti Vert—Green Party—amendment. We have CPC ones, which would be from the Conservative members on the committee; LIB would be from the Liberal members, BQ from the Bloc Québécois, and NDP amendments come from the New Democrats. Finally, G amendments, as in G-1 or G-2, would be amendments from the government.

Are there any questions before we start? Are there any issues? I'm going to start this one fairly quickly, since I think we know most of the machinations that happen.

I'll get to our guests from the department later, but I will say thank you again for joining us.

I want to say all the best to everyone. I hope you have a safe week, no matter where you are.

Let's get back to the business at hand. We will go back to clause-by-clause study.

(On clause 6)

The Chair: We are currently at—and this is a newer version of what we had before—amendment BQ-15(N), so we go to the new page and BQ-15(N).

I am going to Mr. Champoux.

[Translation]

Mr. Martin Champoux (Drummond, BQ): Thank you very much, Mr. Chair.

Good afternoon, everyone.

In amendment BQ-15(N), we want to retain a regime of conditions of licence and to prevent any relaxing of the regulatory framework.

We're also proposing provisions to establish registration categories for online undertakings. We obviously aren't talking about the same conditions of licence as for conventional broadcasting undertakings. We think registration categories for online undertakings would be entirely appropriate in facilitating the CRTC's efforts to oversee the broadcasting system.

To establish registration categories for online undertakings, we must obviously be able to determine the term of the registration's validity, whether fixed or indeterminate. We must also be able to renew licences in the same way and for the same terms. Lastly, we have to be able to regulate undertakings, which means having the power to suspend or revoke an undertaking's registration if it fails to comply with conditions of service.

I'm prepared to discuss this.

[English]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): My grave concern with this proposal is with its overbreadth, that it would simply cover all of the Internet in the end, rather than only the ones that have the larger impact that we would be concerned about. Everyone would be required to register in the first instance.

Perhaps the department can help to clarify what the impact of this amendment would be. How broad would its scope be for requiring registrations?

The Chair: We'll go to Mr. Ripley, and then we'll go to Mr. Champoux after.

• (1105)

Mr. Thomas Owen Ripley (Director General, Broadcasting, Copyright and Creative Marketplace, Department of Canadian Heritage): Thank you, Mr. Chair, and good morning everybody.

If I understand the amendment correctly, perhaps I'd comment on two elements of it.

The first element relates to reintroducing the idea that there could be conditions of licence that take the form of contributing to the policy objectives of the act. This is similar to a Green Party amendment that we spoke about on Friday.

To perhaps recap, Bill C-10 seeks to move away from a regime whereby the expenditure contributions that broadcasting entities are required to make are contained within their licence, which is their actual authorization to operate.

Instead, as I think the committee is aware, Bill C-10 creates new order-making powers for the CRTC in clause 9.1, and new regulation-making powers. Those order-making and regulation-making powers are meant to substitute for the old conditions of licence.

If you look at the wording of clause 9.1, for example—the order-making powers—you will see that they are able to apply to a category or a class of undertaking, but they're also able to apply to an individual undertaking if the need requires. Just as in the old world when you had a condition of licence and maybe you needed a unique condition of licence specific to one company, the CRTC still has that power at clause 9.1.

The concern would be that if the committee reintroduces the idea of conditions of service, it muddies the waters about the type of instrument that should be used to impose conditions on companies. Moving forward, not only would a company potentially be subject to regulation and relevant orders, but it could also be subject to additional requirements specific to their conditions of licence.

We heard from Mr. Manly on Friday that one of his concerns related to the idea of enforcement. How do you know that companies are actually meeting the requirements of their licence? This generally waits until the renewal of the licence. Bill C-10 outlines a different vision whereby, as we outlined, companies would be subject to an administrative monetary penalty where they're not in compliance. The idea behind that is the CRTC takes a much more active, regular enforcement stand vis-à-vis broadcasters.

The idea behind Bill C-10 is that broadcasters shouldn't have to wait until the renewal of their licence to be able to go to the CRTC and say that a company is not compliant. Rather, Bill C-10 outlines a perspective that you should be able to go to the commission and say that a broadcaster is not meeting their requirements and the CRTC would be able to do an investigation on that right away.

The second piece relates to the registration requirements. Perhaps I would just indicate on this one that Bill C-10 took the stance that registration is not intended to be permission to operate in Canada.

Once again, Bill C-10 starts to regulate various online undertakings—various Internet-based companies—and the government was very clear that it didn't want to set the CRTC up as a gatekeeper before a company could launch its business online. The CRTC would have the ability to say yes or no. That stance goes against the idea of an open and free Internet. On the registration regime contemplated by Bill C-10, I would remind the committee that at paragraph 10(1)(i), the CRTC can make regulations respecting the registration of broadcasting undertakings in Canada. That was intended to essentially facilitate them knowing the contact information and the way to get in touch with these companies. It was not intended to be substituted for a permission to operate in Canada.

• (1110)

My understanding, based on what Mr. Champoux outlined, is that, if the idea is to suspend or revoke a registration or something like that, it seems to be setting the CRTC up much more for a gatekeeper role with a permission to operate. That would have implications for a free and open Internet and the ability for online undertakings to offer their services without first having to go and seek permission from the CRTC.

The Chair: Thank you, Mr. Ripley.

Mr. Housefather.

Mr. Anthony Housefather (Mount Royal, Lib.): Mr. Chair, I read the amendment. I am opposed to this amendment completely because I think this is a broad overreach. It is essentially regulating all of the Internet. It's going to kill small businesses. It seems to say that every website would have to register with the CRTC, no matter how small. I think this just goes too far.

To the department, given the excessive amount of power that seems to be given to the CRTC here, is there any other country that you're aware of that would have such an overreaching scope of regulation on the Internet, if this were adopted the way it is now?

The Chair: I'm going to Mr. Ripley and then Mr. Champoux.

Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Housefather.

As far as I'm aware, when we look at comparator countries, liberal democracies, the answer to that would be no. Those countries that are, like Canada, moving forward with broadcasting regulation that seeks to include streaming activities within its scope... When you look at the EU, for example, there is a recognition in those jurisdictions as well that the business model between a conventional broadcaster that traditionally has to hold a licence and the business model of streaming services is different.

Bill C-10 seeks to ensure a level playing field, a more fair system and have these players contribute, but Bill C-10 was very intentional about not extending a licensing model to Internet-based companies.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

Many things have been said, and they've triggered many reactions. I'll try to be brief.

First of all, with respect to the question that Mr. Housefather just asked Mr. Ripley, I'd like to say that we haven't always felt compelled to wait for other countries before taking action. In 1999, we decided to exclude online undertakings from regulation. That resulted in the mess we found ourselves in for years thereafter and the unfair system in which our Canadian actors were forced to try to survive. Now we're trying to regulate what we didn't regulate 20 years ago. I think we have a responsibility to do that without being forced to wait for an inspirational model to emerge somewhere in the world. Let's do something on our own for once, based on what we want to put in place. I think we have a duty to do that.

Now, as regards the registration of undertakings, I understand that we have concerns about what the CRTC may want to regulate. That's why we're proposing that it be given the authority to establish categories. I'm not saying all undertakings must be subject to registration. The CRTC would have the power to establish categories.

Incidentally, our amendment BQ-16, which we'll discuss later, would provide that an undertaking that doesn't have a significant effect on the Canadian broadcasting system would not have to be subject to registration, and that decision could be reviewed in the event the undertaking in question began to have a more significant effect on the Canadian broadcasting system.

We'll be introducing amendment BQ-34 later on, and I hope we have a chance to get there during this week's debates. Under that amendment, an online undertaking would be allowed to operate without a licence, without registering and without being exempted by the CRTC from the obligation to hold a licence or to register. That would obviously apply to undertakings that don't have a significant effect on the Canadian broadcasting system.

I think we also have a duty to bring fairness to the market in which our Canadian broadcasting undertakings, both conventional and online, operate. The idea here is not to prevent free Internet services; we're talking about our broadcasting system, which foreign online players are entering. Foreign undertakings that come and operate here, in our broadcasting system, which I think has characteristics that are unique in the world, must abide by the rules we put in place. We have to establish rules, not to please those undertakings, but to ensure we have a system that's fair for all participating players.

That's why I think amendment BQ-15 is entirely appropriate.

• (1115)

[English]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: I'm very concerned by the fact that this would end up regulating all of the Internet. When I'm listening to what the department said, I'm concerned about the over-regulation of small businesses, and as much as we're trying to work through this bill to try to bring in web giants, the plan isn't for us to regulate all of the Internet. That is not the intention. It just seems, as I mentioned, to be a great overbreadth of the powers that we intend to give to the CRTC and where we intend to go with this, so I oppose this and am very uncomfortable with the scope of this amendment.

[Translation]

The Chair: Go ahead, Mr. Rayes.

Mr. Alain Rayes (Richmond—Arthabaska, CPC): Thank you, Mr. Chair.

I'd like to make sure my understanding is correct. Today we're starting a new meeting, but I thought we had already begun to discuss amendment BQ-15. Is proposed paragraph 9(1)(g) still included in the amendment? Has it been withdrawn? Do we have to decide on that? I'm confused. It's important that we determine what's what because that paragraph is a very important part of the amendment. Some clarification would assist us in making a decision.

[English]

The Chair: Okay. I see.

Do you wish to respond, Mr. Champoux?

[Translation]

Mr. Martin Champoux: We're discussing amendment BQ-15(N). Actually, it's amendment BQ-15, but it has already been amended. We removed the initially proposed paragraph 9(1)(g), which was designed to provide a framework for contract practices. The new amendment BQ-15(N) doesn't include that idea.

The Chair: Go ahead, Mr. Rayes.

Mr. Alain Rayes: Thank you, Mr. Chair.

I have a question for the officials on this point. What, in their view, is the consequence of withdrawing paragraph 9(1)(g) as initially proposed in the amendment?

[English]

The Chair: I'm looking for a volunteer.

Mr. Ripley.

[Translation]

Mr. Thomas Owen Ripley: Thank you for your question, Mr. Rayes.

From what I understand, the initial amendment provided that the CRTC would have authority to regulate contract practices. That would definitely have affected the bill because it currently doesn't provide for that power to be granted to the CRTC.

The withdrawal of this initially proposed paragraph obviously alters the scope of the amendment proposed by Mr. Champoux. However, as I just explained, the idea of conditions of licence is being reintroduced in order to contribute to Canadian broadcasting policy. There's also the registration element.

[English]

The Chair: I see no further conversation or debate, so we'll now go to a vote.

Once again, I will ask for it to carry, and if I hear silence, it will be carried. If I hear a “no”, I will go to a vote unless otherwise instructed to do it on division. You can say, “on division”, which means carried on division, or “no” or “negatived, on division”.

We will vote on amendment BQ-15(N).

Shall amendment BQ-15(N) carry?

Some hon. members: No.

The Chair: We'll have a recorded vote, Madam Clerk.

(Amendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

• (1120)

The Chair: Now, folks, we go to, in your hymn book, CPC-8.

I see it's submitted by Mr. Rayes.

Will you be speaking to this?

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

Amendment CPC-8 concerns the CBC, as all of you have clearly seen. We think the modernization of the Broadcasting Act should have addressed the CBC's mandate. Consequently, we're proposing a series of amendments under which the CRTC would require the CBC to act as the public broadcaster and not to compete unfairly with private broadcasters.

We hope you'll support the amendment so that the CBC conducts itself fairly with all other players in the market.

[*English*]

The Chair: Mr. Louis.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): Mr. Chair, as a member of Parliament and as a member of the arts community, I do not think this amendment is in the scope of the bill, because the Broadcasting Act is not focused on the CBC. We're talking about web giants contributing their fair share. I'm concerned about this motion's intent to have recourse to actually attack the CBC.

In my riding, constituents care deeply about the CBC. We're proud of the work it does and the stories it tells. This issue came up in my riding in 2017 when a Conservative MP at the time voted to defund the CBC, so this amendment is worrisome, in my view.

CBC is an independent Crown agency. It has a board. It has an ombudsperson. It reports to Parliament. It has a demonstrative process to ensure that it follows its mandate. Adding CRTC as a watchdog to the CBC, which already licenses them, is not necessary in my opinion. The CRTC already goes through a wholesome process to provide the CBC and Radio-Canada with its licence to operate.

For the reasons above, I do not believe that it's up to the CRTC to decide what the CBC's mandate is. I submit that for discussion.

[*Translation*]

Le président: Go ahead, Mr. Champoux.

Mr. Martin Champoux: I'd be curious to hear more details from Mr. Rayes.

As I understand the amendment, the CRTC would be asked to ensure that the CBC carries out its mandate. I don't think that's so scary.

I'd like to hear what Mr. Rayes has to say about the intent behind this amendment, to see whether there's any concealed intent.

[*English*]

The Chair: Ask, and you shall receive.

Mr. Rayes, please.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

I'm pleased to be asked that question.

I find it hard to understand how the Liberals could resent us for moving an amendment that asks the CBC to abide by its mandate as the public broadcaster. We aren't talking about funding here. There's nothing binding. We're simply asking the CBC to abide by the mandate for which it receives government subsidies, period.

If the Liberals want to vote down an amendment designed to ensure the public broadcaster abides by the mandate Parliament has given it, that's their own business, but I don't know how people would understand that. It would be quite surprising.

• (1125)

[*English*]

The Chair: Seeing nobody else on my speakers list, we will now go to a vote on amendment CPC-8

Shall CPC-8 carry?

Mr. Tim Louis: No.

The Chair: We'll now go to a vote.

(Amendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

The Chair: We'll go to BQ-16 with Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

First of all, amendment BQ-16 proposes the following wording:

(4) The Commission shall, by order, on the terms and conditions that it considers appropriate, exempt persons who carry on broadcasting undertakings of any class specified in the order from any or all of the requirements of this Part, of an order made under section 9.1 or of a regulation made under this Part if the Commission is satisfied that compliance with those requirements will not have a significant effect on the implementation of the broadcasting policy set out in subsection 3(1).

So we propose to replace "contribute in a material manner to the implementation of" with "have a significant effect on the implementation of".

We also propose to add, after line 26 on page 6, the following:

(5) The Commission shall review the exemption order if it considers compliance with the order to have a significant effect on the implementation of the Canadian broadcasting policy.

[English]

The Chair: Is there any further debate on BQ-16?

Seeing no further conversation, shall BQ-16 carry?

An hon. member: No.

The Chair: We will go to a recorded vote.

Ms. Julie Dabrusin: I'm sorry. Actually, can I revoke my no?

The Chair: Sorry, Madam Dabrusin.

Mr. Anthony Housefather: I apologize—

The Chair: One second, everybody. I don't need a mishmash of conversations across everyone here. I need someone to recognize, to begin with. I had Ms. Dabrusin, and then I'll go to Mr. Housefather.

Ms. Dabrusin.

Ms. Julie Dabrusin: I apologize. I was kind of following along and said no, but actually I am not opposed to this, and given that there were no comments, I expect that it would actually pass without the need for a recorded division.

The Chair: Okay.

Mr. Housefather.

Mr. Anthony Housefather: Mr. Chair, I think we were looking at the wrong one. I am fine with this one.

The Chair: We're in a virtual world and sometimes this stuff gets confused. What I'm going to do then is call the question again.

So that there's no confusion, we haven't advanced. We are still on BQ-16.

(Amendment agreed to)

The Chair: That brings us to the end of clause 6, which invites the inevitable question. Shall clause 6 as amended carry?

[Translation]

Mr. Alain Rayes: No.

[English]

The Chair: I hear no.

Ms. Julie Dabrusin: On division?

The Chair: Can I proceed on division?

• (1130)

[Translation]

Mr. Alain Rayes: No.

[English]

The Chair: Mr. Rayes, do you want a recorded vote?

[Translation]

Mr. Alain Rayes: Yes, please.

[English]

The Chair: We'll go to a recorded vote. My apologies, sometimes I forget that the interpretation needs to catchup.

We're going to go to a recorded vote.

(Clause 6 as amended agreed to: yeas 7; nays 4 [See Minutes of Proceedings])

The Chair: Before we go to clause 7, I believe our legislative clerk, Mr. Méla, has a comment.

Mr. Philippe Méla (Legislative Clerk): Yes. Thank you, Mr. Chair.

I just want to point out that in amendment BQ-16, if you look on the second line in the French version, there is a duplication.

[Translation]

The word "la" appears twice. The text reads, "sans conséquence importante sur la la mise en œuvre".

[English]

Can we understand the amendment being adopted without the duplication of "la"?

The Chair: I think you could probably get acceptance for that. I'm seeing a lot of nods in the room, so yes, please do fix as necessary.

Thank you, Mr. Méla, for pointing that out.

Mr. Philippe Méla: Thank you.

(On clause 7)

The Chair: Without further ado, if you're as excited as I am, we're going on to clause 7. We're just moving right along.

We are going to start with amendment PV-19. It's deemed moved, as it is from the Green Party. If amendment PV-19 is adopted, BQ-17 and NDP-11 cannot be moved, as they are identical. If PV-19 is negatived, so are BQ-17 and NDP-11 for the same reason, that they are identical.

Let's proceed with debate.

Mr. Manly, this would be you, sir.

Mr. Paul Manly (Nanaimo—Ladysmith, GP): Thank you, Mr. Chair.

The bill introduces conditions of service, and this amendment applies a seven-year maximum on conditions of service, the same term that currently applies to licences under the existing act.

Conditions of service should be subject to periodic mandatory review. The organizations that supported this were the Coalition for the Diversity of Cultural Expression and la Société des auteurs de radio, télévision et cinéma.

I hope the committee will support this amendment.

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: First, I'd like to apologize for the confusion before. I'm working on three screens and every now and then that becomes a bit confusing for me, so I apologize for that.

The Chair: Ms. Dabrusin, let me interject.

Trust me folks, if you are having technical problems, there is a fair bit of leniency on this, simply because we're in a virtual world, which is new to our system, not envisioned by the Standing Orders that we have in the House of Commons, or at least by most of them.

Ms. Dabrusin, you have the floor.

Ms. Julie Dabrusin: Thank you.

Amendment PV-19 would end up having the impact that all of the orders, even non-controversial ones, would have to be reviewed every seven years, which is quite a burdensome approach to take.

I want to direct the committee's attention to amendment G-15, which would impose a duty on the CRTC to, at least once every seven years, engage with parties to figure out which ones should be reviewed and then publish a plan for conducting the reviews. It is an approach that would be able to direct attention to what needs to be reviewed without requiring every single piece to be reviewed by the CRTC.

My recommendation is that this is not a strong way to go, but I am not opposed to doing it. I'm just putting this out as a thought. I would agree with it. It just seems like a lot of review.

● (1135)

The Chair: Mr. Louis.

Mr. Tim Louis: I have a quick question, perhaps for the department.

I'm just curious to see, then, whether amendments BQ-17 and NDP-11 are similar enough that they would not be consequential. Is my understanding correct?

I just want to get clarification.

The Chair: Before I go to the department, if they wish to comment, this is a ruling from the table about the similarities.

I know what you meant, Mr. Louis. I just want to make clear to everyone that the ruling is not from the department. Nevertheless, you asked that the department give further clarification.

I'm looking for a volunteer once more.

Mr. Olsen.

Mr. Drew Olsen (Senior Director, Marketplace and Legislative Policy, Department of Canadian Heritage): Thank you, Mr. Chair.

In answer to Mr. Louis's question, you answered it.

Indeed, amendments PV-19, BQ-17 and NDP-11 would all have the same impact of requiring the CRTC to review the conditions of service every seven years—that's every condition of service that it might put on every broadcasting undertaking. It would require the CRTC to do a full review of all of it.

As Ms. Dabrusin indicated, I believe there's an amendment coming later that would have a slightly more flexible approach, should this committee choose that approach. The CRTC would then be able to consult with stakeholders to determine what conditions of service need to be reviewed and review those ones, setting out its plans so that stakeholders would know what the plan is and be able to prepare for it, rather than requiring that every single condition of service be reviewed every seven years.

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: I want to clarify. I have no strong opposition when I put this out there, but I just want to be clear that there's G-15 coming up that covers similar territory. It's just so we know that it's there and everybody is aware of it. I think sometimes we're voting on things that have pieces that are coming up later, and it's good to see what the options are.

Regardless, I'm not voicing any strong opposition on this one here.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Yes, Mr. Chair, I would've liked to ask the legislative clerks whether the adoption of amendments PV-19, BQ-17 or NDP-11 would nullify amendment G-15 or whether this last amendment might be complementary.

As Mr. Rayes has already said, you can't be too careful. It's not the end of the world if you have amendments that share a single objective, provided they don't contradict one another.

Some say the provisions we're introducing are too restrictive. We're creating regulations and setting rules, but I think we get gunshy when it comes to establishing the tools we need to put them in place and enforce them. Seven years is an eternity in the digital world. We already know that. Personally, I don't feel the period for reviewing conditions is excessive.

In short, I'd first like to know whether we'd wind up with duplicate amendments if this amendment were adopted or whether it would conflict with amendment G-15. Then I'll give others a chance to speak.

[*English*]

The Chair: You most certainly can. Since you referred to Mr. Méla, I'll let him take the floor.

Mr. Philippe Méla: Thank you, Mr. Chair.

It's hard for me to comment on the contents. At first glance, I would say it might be related, but maybe the department would be better suited to answer that question.

The Chair: I guess at this stage we'll go over to the department, before I go back to Ms. Dabrusin.

I see both Mr. Ripley and Mr. Olsen. I'll go to Mr. Ripley.

Mr. Thomas Owen Ripley: My view is that the spirit of them is the same. As the committee is aware, in the conventional world, licences had to be renewed at a maximum of seven years.

Bill C-10 as tabled did not have a cap on the length of orders and conditions of service, and I am aware that the committee heard from stakeholders who expressed concern about that.

As Mr. Olsen highlighted, the government recognizes that there are certain very important elements that will be done through orders. If you look at the kinds of things that are listed in proposed section 9.1, we talk about presentation of Canadian programming and certain things along those lines, and it will be important that those things have an opportunity to be reviewed on a periodic basis and that stakeholders have an ability to provide input on that.

If you also look, there are more administrative things. I would point out to you, for example, the carriage of emergency messages. The spirit of the government's amendment that Ms. Dabrusin alluded to gives the CRTC some flexibility to, again, tease out the issues that stakeholders want to engage on and let those orders that are more administrative in nature not be subject to a process whereby it will be more burdensome for both the CRTC but also the stakeholder community that would be expected to engage on those processes. The spirit was to tease out those things where there is strong interest in them being reviewed but acknowledge that there are going to be orders that are more administrative in nature.

The amendment before the committee right now would subject all orders to having to be renewed every seven years, regardless of their administrative nature or not.

• (1140)

The Chair: To reiterate, what we're dealing with right now is, of course, PV-19, which would attach to BQ-17 and NDP-11. There are striking similarities to a government amendment later, but this was the ruling that came as we decided how we wanted to proceed.

I'm not seeing any more conversation or debate. Therefore, we will now go to a vote.

Shall PV-19 carry?

An hon. member: No.

Ms. Julie Dabrusin: On division.

The Chair: Can I say it is negated on division?

[*Translation*]

Mr. Alain Rayes: No, I request a recorded vote.

[*English*]

The Chair: Madam Clerk.

(Amendment negated: nays 9; yeas 2 [*See Minutes of Proceedings*])

The Chair: For those of you who are following along on your agenda, since PV-19 has been negated, we also have to negate both BQ-17 and NDP-11.

That means we now move on to BQ-18.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

Under amendment BQ-18, we would clarify an aspect that has not often been clarified with respect to francophone content. We would ask broadcasting undertakings to make their contribution, but we want them to do so by creating new material, new programs and new content.

Consequently, in this amendment, we propose paragraph 9.1(1)(a.1), which would follow proposed paragraph 9.1(1)(a) of the bill:

(a.1) the proportion of Canadian programs to be broadcast that shall be French language original programs, including first-run programs;

The objective here is to prevent the broadcasting of previously broadcast content, meaning old translated television series or old Quebec or French Canadian series that are rebroadcast just so they can count as Canadian content. We want to establish a new content percentage that must be produced by broadcasting undertakings, particularly online undertakings.

• (1145)

The Chair: Go ahead, Mrs. Bessette.

Mrs. Lyne Bessette (Brome—Missisquoi, Lib.): Thank you, Mr. Chair.

I think Mr. Champoux's amendment is a valid one. We feel it's wise to include this measure in Bill C-10 rather than in the order. So we'll be supporting this amendment.

The Chair: Go ahead, Mr. Rayes.

Mr. Alain Rayes: Thank you, Mr. Chair.

We appreciate the wisdom of the amendment proposed by Mr. Champoux. We'll be supporting it too.

[*English*]

The Chair: Madam Bessette, is your hand still up? No.

We will now go to the vote on BQ-18.

(Amendment agreed to)

The Chair: We will now go to amendment G-8. Just of note to everybody, if G-8 is adopted, BQ-19 and NDP-12 cannot be moved due to a line conflict.

Ms. Dabrusin.

Ms. Julie Dabrusin: This one is actually important to make sure that there is discoverability across the spectrum for programs and programming services. For example, this would ensure that Canadian programming services like apps, which are quite popular, and channels and programs themselves be discoverable or at least highly visible on broadcasting undertakings.

It's a piece to make sure that it is captured as well.

I see there are others who want to speak, so I'll leave it to the others for now.

The Chair: Ms. McPherson.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Mr. Chair, I will be supporting this amendment. I would like to add one word, make a subamendment, if I could.

I would like to add “showcasing and” right before “discoverability”, just to strengthen and enhance the amendment, if possible.

The Chair: Ms. McPherson, I'm sorry, but could you detail again the word you want to use?

Ms. Heather McPherson: I'll read the entire clause.

It would say:

the presentation of programs and programming services for selection by the public, including the showcasing and discoverability of Canadian programs and programming services;

The Chair: I don't think we need to go any further by clarifications or something in writing. I think what Ms. McPherson is doing here is adding the word “showcasing” to this particular amendment. Therefore, now we need discussion on the subamendment as put forward by Ms. McPherson.

Is everyone clear on what she's proposing here?

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: I just want to check on the procedure, Mr. Chair. If Ms. McPherson's subamendment, which we are debating at the moment, is adopted, it will still be possible to put forward another subamendment afterwards. Is that correct?

[*English*]

The Chair: If you want to further amend, yes, but you can't do it within a subamendment. We have to dispense with this subamendment first, and then we can move on.

Mr. Housefather.

Mr. Anthony Housefather: Mr. Chair, I need clarification here.

The word “showcasing” is not a word that you normally see in a law, and I just want to understand what the French translation is.

[*Translation*]

Would we say “mettre en valeur”?

[*English*]

How would we say this in French?

I'm on the floor channel and not the interpretation channel, so I didn't hear.

[*Translation*]

Mr. Champoux, would it be “mettre en valeur”?

Mr. Martin Champoux: Yes.

Mr. Anthony Housefather: Okay. Thanks.

[*English*]

The Chair: Mr. Housefather, are you okay with that?

Let's go to Mr. Shields.

Mr. Martin Shields (Bow River, CPC): Mr. Chair, this question is for the department.

I think “discoverability” is a term that has been used. What would their view be on adding the word “showcasing” in the sense of what this would mean?

That's another adjective that has been added into it. How would they view this change in the sense of adding that word into it as to what discoverability is?

• (1150)

The Chair: Mr. Ripley.

Mr. Thomas Owen Ripley: Mr. Shields, thank you for the question.

The two terms seem related in the sense that both speak to increasing the visibility of Canadian programming or programming services.

“Discoverability” perhaps is a broader term. From my perspective, “showcasing” speaks more to thinking about when you log on to a home screen or something like that and you have the showcase of programs that are being displayed or advertised. To me, “showcasing” has more that promotional element to it; “discoverability” is a broader term.

My view is that showcasing, in some respects, would be one way to increase the discoverability of Canadian programming or programming services.

Mr. Martin Shields: As a follow-up question—

The Chair: Mr. Shields, can I go to Ms. McPherson first and then come back to you?

Ms. Heather McPherson: Mr. Chair, I was just going to provide my own interpretation, but if Mr. Shields has a follow-up question, I'm happy to listen to it.

The Chair: Okay.

Mr. Shields.

Mr. Martin Shields: I can go to the marketing sense that if you walked into a store, you might see displays in certain sections that would show discoverability, but what you're talking about is the storefront out there in a sense of showcasing something in the window on the street to get somebody to come into the store.

I'm guessing that's how you're interpreting this to happen. The question then is who is determining what goes in that storefront window?

The Chair: I'm assuming your question is for the department.

Mr. Martin Shields: Yes.

The Chair: I see Mr. Ripley's hand up.

Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you, Mr. Shields.

That would be my view of it, again that “showcasing” has a promotional aspect, although I certainly defer to Ms. McPherson in terms of her reason for putting it forward and what she understands the amendment to be on that.

It would be the CRTC, so we're in the context again of where the CRTC has been given certain order-making powers.

For example, the way this could work in practice, you could imagine the CRTC making an order to require a certain number of Canadian programs to be surfaced in terms of programming that's offered to Canadians. However, this could also speak to requiring them to showcase, have the thumbnail, for example, on the landing page when you log into your streaming service, have a proportion of that needing to be Canadian titled or Canadian programming.

That's how I would understand what's on the table.

The Chair: Ms. McPherson.

Ms. Heather McPherson: To clarify, that is what I was intending with the subamendment, the enhanced profile—though not just having discoverability, but ensuring that there is an enhanced promotion, an enhanced profile of Canadian content.

The Chair: Thank you.

Mr. Shields, I'm assuming that you don't want anything else. Your hand is still raised.

Thank you, folks.

Seeing no further conversation, let me remind everybody that we are still on amendment G-8, but we are currently on the subamendment put forward by Ms. McPherson, which adds the word “showcasing” before “discoverability”.

We'll now go to a vote on the subamendment by Ms. McPherson to amendment G-8.

Shall the subamendment carry?

(Subamendment agreed to [See Minutes of Proceedings])

The Chair: Mr. Champoux, I believe you have something to add.

[Translation]

Mr. Martin Champoux: Yes, Mr. Chair. I'd like to put forward a new subamendment to amendment G-8, which was just amended. The purpose is to add the element shown at the end of amendment BQ-19, which says, “such as French language original programs”. We would thus keep the wording of amendment G-8 as amended, but it would end as follows:

—Canadian programming services and programs, such as French language original programs;

• (1155)

[English]

The Chair: I think that's pretty straightforward; however, for fairness, because I'm not completely versed in French to do the full translation, I'm going to ask Mr. Méla to repeat what was just put forward by Mr. Champoux as a subamendment to amendment to G-8.

Mr. Méla.

Mr. Philippe Méla: Thank you, Mr. Chair.

I'm going to read the French version first. For my colleague interpreters, I'll do the English version afterwards.

[Translation]

The French version would read as follows:

b) la présentation des émissions et des services de programmation que peut sélectionner le public, y compris la mise en valeur et la découvrabilité des émissions canadiennes et des services de programmation canadiens, notamment les émissions de langue originale française;

[English]

The Chair: I'm looking for a nod from Mr. Champoux to see whether he's okay with that.

It looks okay.

Mr. Rayes.

[Translation]

Mr. Alain Rayes: Thank you, Mr. Chair.

Amendment G-8 would be much more acceptable to us if this subamendment were adopted.

[English]

The Chair: Is there any further debate?

Seeing none, let me remind you—I think we're all clear now on what's being proposed—that this is the subamendment by Mr. Champoux regarding amendment G-8.

(Subamendment agreed to [See Minutes of Proceedings])

The Chair: We now return to the main amendment, G-8, as amended on a couple of occasions.

(Amendment as amended agreed to [See Minutes of Proceedings])

The Chair: Amendment G-8 now being adopted, proposed amendments BQ-19 and NDP-12 cannot be moved because of a line conflict.

I'm sure that comes as no shock to any of you.

Now we'll go to amendment PV-20.

Mr. Manly.

Mr. Paul Manly: Thank you, Mr. Chair.

[Translation]

This amendment specifies that the CRTC could make orders that impose official languages conditions.

[English]

Specifically, this amendment adds that the CRTC may impose conditions of service respecting the proportion of original language programs to be broadcast in each official language.

The bill currently has a long list of what the CRTC can make these orders about, but official languages were not included in the first version of the bill. It's important to ensure the presentation of original French language content in particular. This amendment would give the CRTC greater ability to ensure that original language presentation is occurring in both official languages.

The Chair: Mr. Housefather.

[Translation]

Mr. Anthony Housefather: Thank you, Mr. Chair.

I believe that we have already addressed the question of original French language programming via amendment BQ-18. I therefore don't understand why we would adopt amendment PV-20 when what it is proposing has already been dealt with in amendment BQ-18.

[English]

The Chair: Mr. Champoux.

[Translation]

Mr. Martin Champoux: Mr. Chair, could we ask a departmental official to tell us whether these two amendments are redundant? It's true that we addressed the matter in amendment BQ-18, but perhaps the lines being addressed in both are not exactly the same. Perhaps it needs to be mentioned in both.

I'd like to hear what the department's officials feel about this.

• (1200)

[English]

The Chair: I see Ms. Tsui.

Ms. Kathy Tsui (Manager, Industrial and Social Policy, Broadcasting, Copyright and Creative Marketplace Branch, Department of Canadian Heritage): Thank you for the question.

I agree that the wording is quite similar. BQ-18, however, speaks to French language original programs, whereas PV-20 speaks to original programs to be broadcast in both official languages.

I will also ask about BQ-24, which I believe passed on the first day of study and also had a similar element, but I'm a bit confused about the process there. There may be some connections to be made to BQ-24, as well.

The Chair: Do you mean BQ-24 that is coming up?

Ms. Kathy Tsui: If I remember correctly, BQ-24 may have passed as a result of carrying BQ-1.

The Chair: I can seek clarification on that.

Mr. Housefather.

Mr. Anthony Housefather: Mr. Chair, you had ruled when we adopted the definition in BQ-1 that it was ancillary to BQ-24 and that BQ-24 was also adopted.

Again, I just want to come back to the question Mr. Champoux just asked. I'm not against the concept in PV-20, but it seems to me that we've dealt with this concept in a broader way already with respect to French language original programming in BQ-18, in exactly the same area of the bill where we're seeing that the CRTC can already make regulations on how much original French language programming, including original programming, should be carried.

I understand that this one adds English programming to it, but it doesn't include the same words. I'm just wondering, if we wanted to deal only with French language original programming, does PV-20 add anything to BQ-18 or not. I guess that's my question.

Is there something about this being in a different location that adds something or, as I understand it, isn't it in exactly the same place, and essentially, can't that regulation already be made by the CRTC? I hope that was clear enough for the department.

The Chair: Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you, Mr. Chair. Thank you for the question, Mr. Housefather.

If the intention is to ensure that the CRTC has an order-making power to require that there be a proportion of French language original programming, BQ-18 covers you. If that is the intention and the spirit behind PV-20, I do not believe it adds anything.

The Chair: Now we have Mr. Rayes.

[Translation]

Mr. Alain Rayes: Thank you, Mr. Chair.

According to Mr. Housefather, it would appear that we have already covered this element in another amendment. I'd like the officials to confirm this, because what my colleague has just mentioned leaves me very puzzled. I don't mean this in a nasty way. I simply want confirmation that the two amendments are redundant and that amendment PV-20 doesn't add anything more.

[English]

The Chair: Go ahead, Mr. Ripley.

[Translation]

Mr. Thomas Owen Ripley: Thank you, Mr. Chair.

Thank you for your question, Mr. Rayes.

We discussed the intent of amendment PV-20. The two amendments are not identical, because amendment PV-20 adds the idea of giving the CRTC the power to ensure that a specified percentage of French language programs, and also English language programs, is broadcast. If the intent of amendment PV-20 is to ensure that the CRTC will have this power for French language original programs, then I'd like to point out that the committee has already adopted amendment BQ-18, which gives the CRTC this power.

• (1205)

[*English*]

The Chair: Mr. Rayes, do you wish to speak again?

Mr. Alain Rayes: No. Thank you.

[*Translation*]

The Chair: Thank you.

[*English*]

Ms. McPherson.

Ms. Heather McPherson: I was just going to suggest that perhaps we could have a health break if you needed more time to think about this one.

The Chair: Your suggestion is to go to a health break before we deal with PV-20.

I see a lot of thumbs up on that. How about we go to our health break?

I appreciate your doing that, Ms. McPherson, in many ways, as most people are aware. Thank you.

Let's break for no more than five minutes, please, until we come back. We'll see you shortly.

• (1205)

(Pause)

• (1210)

The Chair: I was going to ask this question before, but with the health break, it's fine. This is a first for this particular session on Bill C-10, but I would like to ask the department a question, if I may.

Just so we're all clear, there has been some discussion about amendments BQ-18 and PV-20 and the remarkable similarities between them.

I think, Mr. Ripley, you may be prepared for this.

In amendment BQ-18, it seems to me at first blush that what we are looking at is a distinct way of describing the presence of French language as one of the official languages. Amendment PV-20 covers both languages.

In amendment BQ-18, is it the case that, when adopted, the English aspect would be covered as well—meaning that you've only identified that part, but does it follow logic that the rest would be covered under this particular bill, in the department's interpretation?

Mr. Ripley.

• (1215)

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Chair.

The answer would be no, amendment BQ-18 as drafted only covers French programming. It adds a new order-making power for the CRTC.

I would point the committee to new subsection 9.1(1), paragraph (a) of the Broadcasting Act, which already in Bill C-10 has provided the commission with the ability to make orders with respect to

the proportion of programs to be broadcast that shall be Canadian programs and the proportion of time that shall be devoted to the broadcasting of Canadian programs;

Then it continues in paragraph (b) with “the presentation of programs for selection by the public”, etc.

Bill C-10 had already provided the CRTC with the ability to make orders with respect to Canadian programs, which would include English, French, third language and indigenous language programs. In some respects, amendment BQ-18, which includes a new proposed paragraph (a.1), is putting a special emphasis on the importance of the CRTC having special order-making power with respect to French language.

You are absolutely correct that amendment PV-20 is broader, in that it speaks to both official languages. My question with that would be for Mr. Manly, in the sense of the intention or spirit of the amendment. Was it specifically a concern rooted in French language? If so, amendment BQ-18 may already have covered you off. Is the intention to be broader?

The Chair: Thank you for answering that.

Ms. McPherson is next and then Mr. Manly.

Ms. Heather McPherson: Mr. Chair, I had some very similar questions. I'm sure Mr. Manly will be able to answer them. I'm wondering what the impacts would be for indigenous or non-official languages.

If you could provide that clarity, that would be great.

The Chair: Mr. Manly.

Mr. Paul Manly: Originally, this was to ensure that the French language was included. They said my original draft was inadmissible. That's why we went for both official languages.

The Chair: Seeing no further discussion on this or clarity on the matter, we will now go to a vote.

Shall PV-20 carry?

Mr. Martin Shields: No.

Ms. Julie Dabrusin: Can it be negated on division?

The Chair: There is a proposal to negative the amendment on division. Are we okay with that?

(Amendment negated on division [*See Minutes of Proceedings*])

The Chair: We now go to amendment BQ-20.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: The intent of amendment BQ-20 is to clarify an element in paragraph 9.1(1)(e) that the bill is proposing to add to the act.

The English version of the bill states

[*English*]

“a requirement for a person carrying on a distribution undertaking to carry”, and so on.

[*Translation*]

In the French version the wording is "l'obligation pour les exploitants de ces entreprises d'offrir certains services de programmation".

We want to amend the wording to clearly specify that the term "ces entreprises" means broadcasting undertakings.

That said, if our proposal does not reflect the intent of clause 7 of the bill, then I would ask the departmental officials to make any needed corrections or additions.

[*English*]

The Chair: I am seeking input from the department.

Mr. Ripley.

[*Translation*]

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Champoux.

In fact, paragraph 9.1(1)(e) proposed in the bill refers to operators of distribution undertakings such as cable companies. The CRTC absolutely has the power to regulate under the Wholesale Code, which governs relations between cable companies and programming undertakings.

My understanding is that your amendment would broaden this power to extend it not only to distribution undertakings, but also to all broadcasting undertakings, including online undertakings.

• (1220)

[*English*]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: If everyone looks forward they'll see there is G-9, which is about a similar kind of discussion point. My main concern here is about trade risk.

In G-9, rather than imposing, there is a good faith negotiation part that's in the last subclause of that motion. The difference really is the imposition of these requirements on international companies and the potential for a very real trade risk that we would have to worry about. That's certainly not something we would want to bring into this because that would cause all sorts of extra complications for the system to work.

The Chair: Seeing no further conversation and no further debate, shall BQ-20 carry?

An hon. member: No.

The Chair: We'll now go to a vote.

(Amendment negatived: nays 9; yeas 2)

The Chair: Now it's off to G-9, briefly referenced before.

Ms. Dabrusin.

Ms. Julie Dabrusin: I just referenced it, and I won't go too long into the conversation about this point, except that this seeks to cover the same ground that BQ-20 sought to cover, but this time negating the trade risk and taking into account good faith negotiations.

The Chair: Before we go to Mr. Champoux, I just want to point out to everyone that the vote on amendment G-9 applies also to amendment G-16, as they are consequential to each other.

Now we'll go to Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: I have a question about the proposed paragraph 9.1(1)(e.1):

(e.1) a requirement, without terms or conditions, for a person carrying on an on-line undertaking to carry programming services...

Specifying "without terms or conditions" means that these undertakings—online broadcasters—should also provide Canadian programming services, but would not be required to pay anything, irrespective of any revenue they would derive. I agree with this principle.

My problem is with the fact that our Canadian broadcasters, which are already subject to conditions of licence, have to pay into the Canada Media Fund. In other words, a condition is imposed upon them to finance programming services that they are required to provide. At a time when we are trying to make the system more equitable, they are being told that they have to continue to pay, except for the online portion of their activities, and that other online undertakings will not have to pay either.

So I'm wondering whether the words, "without terms or conditions" are really required. If we can't impose terms or conditions, whether financial or otherwise, there should certainly be obligations tied to the requirement to disseminate and present Canadian programming services.

• (1225)

[*English*]

The Chair: Mr. Champoux, is that a question for Ms. Dabrusin or for the department?

[*Translation*]

Mr. Martin Champoux: Right. I will perhaps begin with Ms. Dabrusin.

[*English*]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: I think that point goes exactly to the trade risk point, which is imposing obligations.

I think, actually, that Mr. Champoux even, when he was speaking about it, spoke about "Canadian" versus "international" and about what we can impose on international actors, taking into account the trade obligations and good relations between countries.

That is the main piece that I would put to this, that even in his question he rather drew the distinction as to where that trade risk would lie.

The Chair: Mr. Champoux, shall I go to you, or would you rather hear from the department?

Let's go to you first.

[*Translation*]

Mr. Martin Champoux: Well, Mr. Chair, that amounts more or less to the argument I raised earlier in our meeting today.

If I have an undertaking and want to do business abroad, there will be rules to comply with in the countries concerned, whether my undertaking is online or has physical facilities. No matter what I sell or distribute in other countries around the world, I have to comply with whatever rules are in place.

Why do we always argue that there might be a trade war if we impose rules? There will come a point when we have to stop being afraid and decide on the rules we want, and the kind of environment we would like to recommend to broadcasting undertakings, and the kind of equity we would like to have in this market. We need to stop worrying about starting a trade war every time we want to regulate our own market.

My view is that everyone should participate equitably. It should not be up to a single category of undertakings to pay the bills on behalf of the others, and to their own detriment.

[*English*]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: I just want to clarify. There is a fair negotiation piece that is part of our motion as well. It's not actually true to say that there would be nothing paid. It's about striking a fair deal, and there is a negotiation part to that amendment, which I wanted to highlight.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: So I would imagine that there wouldn't be a problem in removing the words "without terms or conditions" and replacing them with something like "with terms or conditions", in accordance with conditions specified elsewhere in the act?

[*English*]

The Chair: Before I go to Ms. Dabrusin, are you proposing a subamendment, Mr. Champoux?

[*Translation*]

Mr. Martin Champoux: I'll wait to hear Ms. Dabrusin's answer before putting forward a subamendment.

[*English*]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: I guess I'll presuppose that subamendment, but the answer would be no, I wouldn't be in agreement with it.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I'd like to propose a subamendment, but I haven't drafted it yet. I might need Mr. Méla's help to find the appropriate wording. I'd like proposed paragraph 9.1(1) (e.1) to say something like "a requirement, with certain terms or conditions deemed appropriate by the Commission, for operators of online undertakings". The idea is to replace the words "without terms or conditions" by "with terms or conditions", but I'm open to any suggestions that might improve my wording.

[*English*]

The Chair: Mr. Champoux, I'm going to proceed. The subamendment that you're asking for here is quite straightforward and simple in both languages.

• (1230)

Mr. Philippe Méla: Mr. Chair, if I may, I'll propose this to Mr. Champoux.

[*Translation*]

If we wrote, "a requirement, in accordance with terms or conditions specified by", would that work for you?

[*English*]

The Chair: Mr. Méla, I think we may have lost you at the end.

Mr. Philippe Méla: Did you want me to repeat what I just said?

The Chair: No, it's fine. I thought we were adding more. I thought your microphone was cut off, but apparently not.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Your suggested wording, Mr. Méla, namely "a requirement, in accordance with terms or conditions specified by", strikes me as perfectly acceptable.

[*English*]

The Chair: Now that we have agreed upon wording in French and through the interpretation, seeing no further comment, is everyone comfortable with the wording that's been talked about thus far?

Let's go to a vote on the subamendment by Mr. Champoux to G-9.

Shall the subamendment carry?

Ms. Julie Dabrusin: No.

The Chair: Hearing no and only no, we now go to a vote.

(Subamendment negated: nays 9; yeas 2)

The Chair: We now return to G-9, which is the main amendment.

Mr. Shields.

Mr. Martin Shields: Mr. Chair, could we have the department explain the role that the CRTC would have with this change that's being proposed?

The Chair: Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Shields.

To clarify, what is on the table through this amendment is an extension, with some changes, of what we call mandatory distribution in the conventional system.

Right now the CRTC has the ability to require cable and satellite companies to carry certain TV channels, such as APTN, CPAC or your provincial legislative channel. The CRTC has the ability to impose terms and conditions on that, requiring Canadian cable and satellite companies to, in some instances, not only carry APTN but also actually pay a per subscriber fee to APTN, for example.

The committee heard from certain witnesses who felt that it was very important, as Bill C-10 moves forward, that the CRTC have a lever, as it has in the current system, to require online undertakings to carry certain channels.

The amendment that you have before you would allow the CRTC—and yes, it would be the CRTC that would make this kind of order—but it could allow, for example, such services as the Amazon channels or Apple or something like that, to carry APTN, for example, as part of their lineup. The difference—and this is where the debate has been focusing—is whether the CRTC should have the ability to require terms and conditions for that contractual arrangement.

The amendment before you proposes that the CRTC not be granted that power, but rather that the parties be required to negotiate in good faith and that the CRTC be equipped to facilitate those negotiations when appropriate, and if ever you had a party not negotiate in good faith, the CRTC would have the ability to levy administrative monetary penalties against the party acting in bad faith.

The reason for this is that the context and the marketplace are quite different between the conventional system and the new system. In the online world, there is less of an issue of shelf space. In many circumstances right now, in the commercial arrangement between services like Amazon channels or Apple, they'll come to a revenue-sharing agreement.

The goal here is to require those services to potentially carry certain Canadian services and require them to negotiate in good faith to come to a reasonable revenue-sharing agreement, which typically these days looks like being approximately fifty-fifty, in most cases.

I hope that helps to clarify.

• (1235)

Mr. Martin Shields: Thank you.

The Chair: Ms. McPherson.

Ms. Heather McPherson: Mr. Chair, first of all I'd like to propose a subamendment. One other option would be to take “without terms or conditions” completely out. That might be a possibility.

I guess that would be treated as a subamendment. I have that and another subamendment that I'd like to put forward.

The Chair: It's definitely a subamendment, but I think you're seeking clarification from the department as well.

Ms. Heather McPherson: Yes, that would be a good thing to have.

The Chair: I'm looking to the departments. Are there any volunteers?

Mr. Ripley.

Mr. Thomas Owen Ripley: The delay, Mr. Chair, is because we were organizing our thoughts on this.

What I would—

The Chair: Mr. Ripley, if you'd like to take a few more seconds to collect your thoughts on the question, you can do that, if you wish.

Mr. Thomas Owen Ripley: What I would say is that the law is specific, generally, wherever it grants the CRTC the power to impose terms or conditions.

Our view is that even if you struck it—again, because there are other instances in the act, I think, wherein it explicitly references terms and conditions—the reading would likely be that it doesn't include it here.

That said, I think it increases the ambiguity about whether the CRTC would or would not have the power to impose terms or conditions. I think it would be a more ambiguous outcome.

The Chair: I have Mr. Shields.

Mr. Shields, is that your legacy hand from before?

Mr. Martin Shields: I do want to speak.

The Chair: There you go.

Ms. McPherson.

Ms. Heather McPherson: I will not put that subamendment forward, but I do have another subamendment that I would like to put forward, if I could.

The Chair: The floor is yours.

Ms. Heather McPherson: Thank you.

Proposed subsection 9.1(7) reads in part, “The Commission may facilitate those negotiations”.

I would like it to say, “The Commission may facilitate those negotiations of the parties to the negotiations”, or even just to end it at “negotiations”. I haven't got it in my head yet.

What I'd like to remove is “at the joint request”. I don't think that's required or necessary.

The Chair: Okay.

You've put out a couple of options. Do you want to put that to the department to see which option you'd like?

Ms. Heather McPherson: That would perhaps be the best thing to do.

The Chair: I'm sorry, Mr. Ripley, I have to go back to you again.

Do you understand what was just proposed?

Mr. Thomas Owen Ripley: I do, and I will probably defer to Mr. Méla on the drafting.

To clarify, there would indeed be a substantial change. Right now, as drafted, facilitation could only be invoked at the joint request of the parties, meaning that if one party wanted facilitation but the other party didn't, you wouldn't meet the test for engaging the facilitation.

My understanding is that Ms. McPherson's change would allow one party or the other to potentially engage in a facilitation.

• (1240)

The Chair: Ms. McPherson, I hope that clears up the intentions of what you hope to do.

For my sake, and for Mr. Méla, which option would you like to propose for an amendment?

Ms. Heather McPherson: Having had a few more seconds to look at this, I could subamend by just removing “joint”, so it would read “at the request of parties to the negotiations”. I would remove the word “joint”.

The Chair: So that everyone is clear, what Ms. McPherson is proposing as a subamendment is to subamend proposed subsection 9.1(7) to say:

The Commission may facilitate those negotiations at the request of the parties to the negotiations

The proposal is to remove the word “joint”.

I now have Mr. Shields.

Mr. Martin Shields: To clarify, you're talking about binding arbitration.

Is that what you're moving to? Will it be binding arbitration by doing that?

The Chair: Ms. McPherson, I'm going to take a couple of questions.

Mr. Housefather may also have some questions for you.

Let me just go to Mr. Housefather and Mr. Champoux, and then I'll come back to you, Ms. McPherson, at the end.

Mr. Anthony Housefather: Thank you, Mr. Chair. I want to thank Ms. McPherson.

I actually think the right way to say it would be “at the request of either party”. What you want to do is to allow one party, the weaker party in the negotiations, to have the right to do this. I think I support that.

I want to ask the department, in the context of these negotiations—and Mr. Chair, you can allow that question to go to them whenever you think it's appropriate based on the sequencing of the order—would there be any problem with allowing—presumably one side is going to be a weaker party here—that one side, the weaker state, to ask for the CRTC's intervention?

I cannot see a trade risk in doing it that way. I just want to check to make sure that the department also doesn't see that this would be a trade risk.

I think the right way to word it, if Ms. McPherson agrees with me, would be “may facilitate those negotiations at the request of either party to the negotiations”.

Thank you so much, Mr. Chair.

The Chair: Yes. I think given your question and the relevance, I'm going to go to the department first to respond to that. I think that would serve us well.

Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you, Mr. Chair.

Thank you for the question, Mr. Housefather.

While I won't comment on the trade risk, what I would say is that the effect of this would be to allow either party, one or the other, to request facilitation, and it would prevent, as you pointed out, a party from signing the process by refusing to go to facilitation.

With regard to the concerns you've raised about whether this risks increasing trade tensions, I would say the outcome would require, again, online undertaking to submit to facilitation at the request of the other party. It would take a little more of an interventionist stance, but I would highlight—and perhaps this is actually responding to Mr. Shields' question—that the outcome of this process is not binding arbitration. What the government has put on the table is very explicitly a facilitation exercise and is different from binding arbitration, which does exist in the current environment, whereby the CRTC actually has the power, at the end of the day, to impose a deal.

What this amendment drives to is slightly different in the sense that it is trying to help the parties reach a mutually good deal, so to speak. Again, if ever there were an instance of a party engaging in bad faith or not engaging in good faith, that is backed up by the CRTC's ability to respond to that bad faith behaviour by imposing administrative monetary penalties on the party that may not be playing fairly, so to speak.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Mr. Ripley partly answered my question by saying that the CRTC could be more restrictive, if required.

The Chair: Thank you very much.

[*English*]

Ms. McPherson, do you want in on that? Some of the issues there were brought your way. We are now on your subamendment, so go ahead.

Ms. Heather McPherson: I would, only to say that I appreciate Mr. Housefather's intervention. That wording makes more sense. It's always a challenge to try to write these things in our heads as we go, but his legal background has helped me out there. I still think it would make a lot of sense to make sure there was a more equitable ability to request the negotiations. I do like the subamendment put forward by Mr. Housefather that says “the Commission may facilitate those negotiations at the request of either of the parties to the negotiations”.

• (1245)

The Chair: Ms. McPherson, unfortunately I can't move that right now because we're dealing with yours. Normally we have to dispense with the subamendment already moved.

Ms. Heather McPherson: It was just the rewording of mine.

The Chair: I'm sorry, Ms. McPherson. Go ahead.

Ms. Heather McPherson: It was exactly the same subamendment, just reworded. Can we not update the wording considering the speed at which we're running through this?

The Chair: I understand. Yes, I'll let that pass. I'm not sure if I'm allowed to do that or not, but nevertheless given the small, minute details of what you're talking about, why not?

Can I have the will of the committee to proceed that way?

Some hon. members: Agreed.

The Chair: Thank you so much, everybody. For the sake of clarification, can you read the new and improved subamendment of yours?

Ms. Heather McPherson: You mean the shiny new one? It reads:

The Commission may facilitate those negotiations at the request of either of the parties to the negotiations.

The Chair: Does everyone have an understanding? We'll now go to a vote.

Shall Ms. McPherson's subamendment to amendment G-9 carry?

I heard a no.

Mr. Rayes, was that you who said no?

[*Translation*]

Mr. Alain Rayes: That's right, Mr. Chair, I said no.

[*English*]

Ms. Julie Dabrusin: Can we do it on division, please, Mr. Chair?

[*Translation*]

Mr. Alain Rayes: All right.

[*English*]

The Chair: Okay.

(Subamendment agreed to on division)

The Chair: We now go back to the main amendment, G-9.

Shall G-9 carry?

[*Translation*]

Mr. Alain Rayes: No.

[*English*]

Ms. Julie Dabrusin: Can it carry on division?

The Chair: Shall it carry on division?

[*Translation*]

Mr. Alain Rayes: I'll be voting against, on division.

[*English*]

The Chair: Mr. Rayes, what was proposed was carried but on division.

Do you want to have a recorded vote?

[*Translation*]

Mr. Alain Rayes: Yes I would.

[*English*]

The Chair: Okay.

(Amendment as amended agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

The Chair: The vote on G-9 applies to G-16, as I mentioned earlier, so if you're following along in your hymn books, folks, we now go to BQ-21.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: It's just an addition to the amendment intended to allow the CRTC...

Mr. Alain Rayes: I have a point of order, Mr. Chair.

[*English*]

The Chair: There is a point of order from Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

I want to make sure that I've understood. The committee has just adopted amendment G-9, although the Conservative Party voted against. As a result, amendment G-16 is set aside and we're done with this amendment. Is that correct?

• (1250)

[*English*]

The Chair: No. Basically what has happened here, Mr. Rayes, is there are two amendments, and the ruling from the table was that they were consequential, one depending on the other. They are G-9 and G-16, and because we passed G-9, that will also apply to G-16, which is further ahead in the agenda.

I'm not sure what page it is on in your agenda, but if you race ahead there you'll find G-16.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): It's on page 113.

The Chair: There you go. Thank you, Mr. Waugh.

Mr. Rayes, would you like to pause for just a second?

[*Translation*]

Mr. Alain Rayes: I just found it, but I'm still unsure about something. I'm sorry, but it's just because of my lack of familiarity with procedures. Following what we have just adopted, are we going to return to amendment G-16 as amended, or will be no longer be looking at it, in which case I can put it in the recycle bin?

[*English*]

The Chair: Yes, feel free to put it away.

Mr. Alain Rayes: Thanks.

The Chair: Good.

All right, we're back to BQ-21.

Mr. Champoux.

[Translation]

Mr. Martin Champoux: I just want to mention to Mr. Rayes that the recycle bin would be fine. However, if he printed on both sides of the paper, I would suggest that he be careful, because page 12 contains important content that he might want to consult later.

The purpose of amendment BQ-21 is to add the following paragraph:

(e.1) the expenditures to be made by persons carrying on broadcasting undertakings for the purposes set out in subsection 11.1(1);

We want to make sure that the CRTC has the tools required to establish a framework for broadcasting undertaking operators with respect to the expenses they would be required to make under the subsection mentioned.

[English]

The Chair: Is there any further discussion on BQ-21?

Shall BQ-21 carry?

[Translation]

Mr. Alain Rayes: No.

[English]

The Chair: I'm hearing no.

Ms. Julie Dabrusin: On division.

The Chair: Can we say carried on division, Mr. Rayes, or would you like a recorded vote?

[Translation]

Mr. Alain Rayes: I would like a recorded vote.

[English]

The Chair: Madam Clerk, please go ahead.

(Amendment agreed to: yeas 7; nays 4)

The Chair: I declare BQ-21 carried.

This brings us to PV-21. It is deemed moved.

We now go to Mr. Manly.

Mr. Paul Manly: Mr. Chair, I proposed this amendment because a small number of big broadcasters control access to broadcasting and disproportionately impose their conditions on independent producers. The Yale report noted this major "power imbalance" and recommended that the CRTC regulate these relationships.

This amendment adds that that the CRTC may impose conditions of service to establish a framework for contractual practices between broadcasters and independent producers. A framework would serve as a tool to better support independent producers in contract negotiations. This amendment is related to amendment PV-23, which would also enable the creation of regulations to establish contractual frameworks.

The organizations that supported this are the Coalition for the Diversity of Cultural Expressions, the Alliance des producteurs francophones du Canada and the Canadian Media Producers Association.

I hope committee members will support this amendment.

Thank you.

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: Mr. Chair, I'd like to say that much of the intent would be covered by LIB-7, which is coming up, but this is a really rigid approach. It is getting involved in contractual arrangements in a way that's very prescriptive and rigid, so it would not be the preferred means of going about it. I would suggest that LIB-7 would be a better way to proceed.

• (1255)

The Chair: Mr. Shields.

Mr. Martin Shields: Mr. Manly, when you're talking about a framework, do you want to expand on what you mean by a framework? Are you talking about an extensive piece of documentation? This is something that you've been talking about a bit as we've gone through this process. Can you describe what a framework would be? What are we talking about? Is it a bureaucratic one? I'm a little concerned when you use the word "framework".

The Chair: Given the nature of the question, Ms. McPherson, before I go to you, I will ask Mr. Manly if he wants to respond to that.

Mr. Paul Manly: Sure.

A contractual framework would set some parameters around how these contracts would be set up between the big broadcasters and independent producers. As the Yale report identifies, this is a power imbalance, and it's something that has been identified as needing to be fixed.

It would be up to the CRTC to determine what that framework looked like.

The Chair: Go ahead, Ms. McPherson.

Ms. Heather McPherson: Thank you.

I like this amendment, so I will be supporting it. I think it offers up more certainty and more assurance for the smaller producers that the commission will have the power to level the playing field in negotiations with broadcasters. I commend Mr. Manly for bringing this forward and I'll be supporting it.

The Chair: Mr. Champoux.

[Translation]

Mr. Martin Champoux: I'd just like to draw a parallel.

We are in the process of reforming the Broadcasting Act because of an imbalance in the market. At the moment, major Canadian broadcasting undertakings are being treated unfairly. That's why we are reforming the act by means of bill C-10. However, there are some much smaller players in that same market. They are even more deeply affected than the major undertakings, and will be affected even more unless we take immediate action to support them, now and for years to come.

It's not at all a bad amendment. It deserves support.

[English]

The Chair: Mr. Housefather.

Mr. Anthony Housefather: Mr. Chair, I want to speak to this because I'm of two minds. I am actually also very sympathetic to the idea of the independent producers and the lack of power they have in relationships. I listened to both sides, and that is why I actually drafted amendment LIB-7 in the way I did, because the main issue was the exploitative nature of the relationship, which led the independent producers to not be able to retain their intellectual property.

I tried to find a balance. In LIB-7 I tried to incorporate what would constitute a Canadian program for the purposes of the act. In so doing, I said that the commission must consider whether Canadians own and control intellectual property rights over Canadian programs for exploitation purposes, and that they have to retain a material portion of the value.

I also stated that one of the requirements is whether online undertakings and programming undertakings collaborate with Canadian independent producers. I think the way I did it in LIB-7 is preferable to the way it's set out in PV-21, so I will vote against PV-21 because I support LIB-7, but I am sympathetic to the request, and I appreciate Mr. Manly's efforts here.

Thank you.

The Chair: Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

There's a minute left in the meeting and I'd like to ask a question. We'll be having another meeting this evening, during which we will be called to vote in the House. I'd like to know what the procedure is.

[*English*]

The Chair: I'm sorry, Mr. Rayes. The meeting in question will actually be next Monday, which is May 3. It's not tonight. That's the proposed extra meeting that we applied for and we will have. We will not be asking you to come this evening. I'm not sure if I answered your question fully.

[*Translation*]

Mr. Alain Rayes: Good. I mixed up the two Mondays. So I've just learned that this evening, apart from the vote in the House, my schedule will be less busy.

Thank you.

• (1300)

[*English*]

The Chair: That's all right. As the song says, I don't like Mondays either, so we're all good.

Is there any further discussion on amendment PV-21?

I see no further discussion, so we'll now go to a vote.

Shall PV-21 carry?

Ms. Julie Dabrusin: No.

[*Translation*]

Mr. Alain Rayes: No.

[*English*]

The Chair: I hear a no.

Ms. Julie Dabrusin: Can we say negated on division?

(Amendment negated on division [*See Minutes of Proceedings*])

The Chair: Ladies and gentlemen, I think that brings us to a conclusion.

We will see you at the next meeting, of course, on April 30, this coming Friday, at the same time.

As I mentioned before, we were unable to get extra hours for Friday, so we will be meeting in our normal two-hour block. Following that, on May 3, we have two meetings scheduled on Bill C-10. If we finish with Bill C-10, we can discuss at that point. We'll see how we're doing on April 30. I think April 30 will give us a far better indication of how we're going to do for May 3.

In any case, I will say thank you to our officials from the department.

Thank you to everybody participating virtually here and abroad.

Thanks, everyone.

The meeting is adjourned.

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