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Chair: The Honourable Hedy Fry



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• (1110)

[English]

The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)): I call this meeting to order.

Welcome to meeting number 55 of the House of Commons Standing Committee on Canadian Heritage.

I would like to acknowledge that this meeting is taking place on the unceded traditional territory of the Algonquin Anishinabe people.

Pursuant to the order of reference adopted by the House on Tuesday, May 31, 2022, the committee is resuming clause-by-clause consideration of Bill C-18, an act respecting online communications platforms that make news content available to persons in Canada.

Of course, today's meeting is taking place in a hybrid format, pursuant to the House of Commons order of Thursday, June 23.

I have a few comments for the benefit of the witnesses and members. Please wait until I recognize you by name before speaking. For those participating on video, there is a little icon at the bottom to activate your mike. Please mute yourself when you're not speaking. For interpretation for those on Zoom, you have the choice, at the bottom of your screen—

The Clerk of the Committee (Ms. Aimée Belmore): Dr. Fry, I'm sorry. Ms. Gladu has raised a point of order.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): There's a problem with the audio. I don't know if anybody else is having this problem, but it's very hard to hear. Perhaps we could turn the volume up, Madam Chair.

Thank you.

The Chair: Do you need me to start over, Marilyn?

Ms. Marilyn Gladu: No, Madam Chair, thank you so much.

Whatever they've done to adjust it has fixed the problem. I appreciate it.

The Chair: Thank you.

Again, for those who are virtual, you know by now how to get the interpretation. It's that little globe thing at the bottom. Again, all comments should be addressed through the chair.

In accordance with our routine motion, I'm informing the committee that all witnesses are present; therefore, no connection tests in advance of the meeting were required.

I want to welcome the witnesses who are present to answer any technical questions about Bill C-18 that the members of the committee might have.

We have the Department of Canadian Heritage here. We have Thomas Owen Ripley, associate assistant deputy minister of cultural affairs; Michel Sabbagh, director general, broadcasting, copy-right and creative marketplace branch; Joelle Paré, acting director, marketplace and legislative policy; and Frederick Matern, manager, marketplace and legislative policy.

Now we're going to begin. If you recall, at the last meeting, we went through three amendments. One was not carried, and two others were carried.

(On clause 2)

The Chair: We will begin with amendment CPC-2. We didn't vote on it, I don't think.

The Clerk: Excuse me, Dr. Fry.

Mrs. Thomas has her hand up in the room.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas (Lethbridge, CPC): Thank you.

I did have a question for the officials. I see that Mr. Ripley isn't here, so I'm not sure who to point the question to. Perhaps one of the three who are here would be able to answer.

My question is this. I'm wondering if the bill, in its current state, would allow for hyperlinks to be compensated for when copyright content is not present. If the links are not accompanied with an image or text from an article and it's just the link, can that be compensated for under this current legislation?

[Translation]

Mr. Michel Sabbagh (Director General, Broadcasting, Copyright, and Creative Marketplace Branch, Department of Canadian Heritage): Thank you for your question, Mrs. Thomas.

The bill provides that platforms must negotiate over all ways in which news is offered, including hyperlinks. If a company were to use just hyperlinks, then the negotiations could effectively be about hyperlinks.

[English]

Mrs. Rachael Thomas: Madam Chair, may I ask a follow-up question?

The Chair: Of course.

Mrs. Rachael Thomas: Thank you.

Currently under copyright law there is a certain amount of text that can be taken from a source and shared or made public. For example, professors in a university can copy part of a textbook and share it with their students if it's within a certain percentage. Here within Parliament we often do this when we might want to take from a source and share a paragraph, or a sentence or two, and under copyright laws we're permitted to do that.

I'm wondering, then, under this legislation, are those copyright provisions that are currently made kept intact by this legislation, or is this creating a different set of rules for DNIs?

Mr. Michel Sabbagh: This regime does not create any new copyright and is complementary to the existing copyright framework. The limitations and exceptions that are available in the copyright regime still apply, and nothing in this bill restricts the limitations and exceptions that are existent under copyright.

What we're talking about here.... If we're talking about hyperlinks specifically, there are decisions that show that hyperlinks are not protected by copyright under the current law. But since this regime is not about copyright protection specifically, those two regimes can coexist. The limitations and exceptions that are under the copyright regime can continue to apply, and this is the bargaining framework that exists in complementarity with the copyright framework.

The Chair: Marilyn, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

I think I heard you say that hyperlinks could be compensated, then. Does that go against the 2011 Supreme Court decision that said hyperlinks couldn't be monetized?

Mr. Michel Sabbagh: Again, the Supreme Court decision was in relation to copyright. This is a different matter.

• (1115)

The Chair: Mrs. Thomas, go ahead.

Mrs. Rachael Thomas: Just for further clarification then, actions such as sharing a headline or a certain portion of text, a snippet, a quote, a short summary, a hyperlink, these types of things are currently permissible under copyright law here in Canada. They don't require compensation, whereas of course if you exceed that allotment, then compensation is required and you need to pay for that source material.

This bill would seem to change it. It would intend to require platforms to compensate news organizations for actions that are legally permissible under copyright law. Is that not correct, that this bill would be requiring compensation for something that is currently legal under our copyright framework?

Mr. Michel Sabbagh: The requirement on platforms is to bargain with news outlets. That's the obligation that's being put on the platforms here. It's a requirement to bargain on the whole scope of the ways in which news is being made available by platforms. That includes, yes, snippets, hyperlinks, pictures and other ways for platforms to make that content available to users, but there is nothing in

the bill that requires specifically compensation for a hyperlink or a paper clip type of scheme.

Mrs. Rachael Thomas: I understand that there's nothing in the bill that requires compensation for these things, but at the same time the use of links and compensation from links is not excluded from this legislation. Is that correct?

Mr. Michel Sabbagh: That's correct. It's one of the ways in which platforms make available news content. Hyperlinks are part of the scope of the ways in which platforms make news content available to their users. Then they are part of the scope of the bargaining process.

Mrs. Rachael Thomas: Thank you for helping bring some further clarification to that. I think you're outlining why we feel it's so important to amend this.

Interestingly enough, the other day my colleague across the way made a comment with regard to Spain. I have since done a little bit of research on that, in terms of their legislation. Originally, they actually admitted that they made a mistake with their legislation, and they had to go back and fix it. My colleague forgot to mention that part. In fixing it, they actually went back and had to make a change with regard to hyperlinks and making sure that they alone were not reason for compensation. That is consistent with other European legislation as well.

The reason for the amendment on the table today, CPC-2, is to also be consistent with those other entities that learned from their mistakes. I think we can do likewise and get this right the first time. I think the amendment on the table, then, would be that we don't include a hyperlink as something that can be expected to be compensated for. It would be excluded from the scope of bargaining, which then means that, of course, copyrighted material would still be permitted within that framework of bargaining. It would bring us into greater consistency, as I said, with Spain and the EU, but it would also make sure that we're in line with the Supreme Court decision from 2011, which says that links do not have monetary value in and of themselves.

For those reasons, we would wish to move the amendment, which is CPC-2.

The Chair: My question to the committee is this: Shall CPC-2 carry?

Are there those who are opposed?

• (1120)

The Clerk: Yes, there are those who are opposed in the room, Dr. Fry.

The Chair: Can you then do a roll call?

The Clerk: Absolutely.

(Amendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

The Chair: Thank you, Madam Clerk.

This means that because CPC-2 did not carry, we can move to NDP-2.

That is Mr. Julian.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you, Madam Chair, if you're recognizing me.

The Chair: I am. You don't have to speak, Mr. Julian, but if you wish to, you can.

Mr. Peter Julian: Oh, Madam Chair, I never give up an opportunity to speak, but I won't speak for 16 hours, which is what I did to one of the amendments in the softwood lumber sellout. I will keep my remarks brief.

We had a number of witnesses, including APTN and Dadan Sivunivut, who indicated the importance of this measure. This amendment broadens the scope of the definition of news content to recognize that indigenous storytelling is a traditional means by which indigenous news outlets may communicate news stories to indigenous communities. The amendment ensures that the act recognizes the particular cultural approach of indigenous peoples to news and information content, which could encompass storytelling techniques.

Now, Madam Chair, you will recall that last Friday we adopted NDP-1, which provided for a definition in the bill itself. The two amendments, NDP-1 and NDP-2, should really be seen as working together to ensure that indigenous peoples are recognized by Bill C-18, and that there is potential for negotiation for indigenous news outlets.

Hopefully, given that we adopted NDP-1, we will adopt the second part of that tandem, which is NDP-2.

I move that amendment.

The Chair: Thank you.

I ask the committee, shall amendment NDP-2 carry?

The Clerk: Ms. Gladu's hand is up on the floor.

The Chair: Yes, go ahead, Marilyn.

Ms. Marilyn Gladu: Thank you, Madam Chair.

I absolutely support the addition of indigenous content to this bill. I just have two questions.

Is there a definition for “indigenous storytelling”? That is question one.

The second question is, does it include...? Let's say an elder meets the criterion of having one journalist, or meets the definition of who's included in the bill. If they do Facebook Live or broadcasts like that, are these able to be monetized? That would be my question.

Those questions would be for Mr. Julian, because he brought the amendment.

Mr. Peter Julian: Thank you, Madam Chair.

I'll defer to the officials on this. As Ms. Gladu is aware, the scope around traditional indigenous storytelling is something that is very well known. This fits within the framework of the bill, and that's why the amendment works with the definitions we adopted last Friday.

I will defer to the officials, who have been very eloquent, in this regard.

The Chair: I don't know who is going to answer.

Go ahead.

Mr. Thomas Owen Ripley (Associate Assistant Deputy Minister, Cultural Affairs, Department of Canadian Heritage): Thank you, Madam Chair. It's Mr. Ripley.

• (1125)

The Chair: Welcome, Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you. I apologize for being late this morning.

Thank you for the question.

There is no definition for “indigenous storytelling”, which, I understand, is being proposed. It's a recognition that indigenous communities sometimes have a different way of communicating or sharing information. The way this would be understood, presumably, is through discussions between the CRTC and indigenous communities on understanding the scope of how they see storytelling.

With respect to your second question, MP Gladu, to the extent that an eligible news business was making content available through something like Facebook Live, it could be part of the bargaining, yes.

The Chair: Thank you.

Did that answer your question, Ms. Gladu?

Ms. Marilyn Gladu: Yes, thank you, Madam Chair.

The Chair: Is there someone else?

The Clerk: Mrs. Thomas has her hand up.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: Thank you, Madam Chair.

I was hoping for further elaboration on the last point you made, Mr. Ripley, with regard to Facebook or YouTube. I just want to ensure I understand you correctly.

If stories were posted, could they be captured under this legislation?

Mr. Thomas Owen Ripley: Madam Chair, if I may, there is a series of steps you would have to work through.

The first is whether the platform is a digital news intermediary and designated under the act, pursuant to the criteria in clause 6. Then, as per the conversation you had with my colleague earlier, “making available” news content includes what's in the audiovisual format. Yes, it could include that type of activity.

The Chair: Thank you.

Is there anyone else's hand up, Aimée?

The Clerk: Mrs. Thomas has her hand up.

The Chair: I will call the question, then.

The Clerk: Dr. Fry, before the vote, we have Mrs. Thomas with her hand up in the room.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: Thank you.

I understand the need to define the digital news intermediary. I'm also curious how this legislation defines the eligible news business. If this is an individual, let's say an elder who is highly respected or someone within the indigenous community who is sharing a story, whether that was intended for that digital audience or was perhaps intended for a live audience, but then someone captured it and posted it, regardless....

It seems obvious to me that if it's within the framework of a news business, it fits, but if it was an individual who wasn't functioning from within a news business, I'm wondering whether or not that would be held. How would that be treated if it was to be shared within a platform?

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

Right now, on the basis of how the act is crafted, no, it could not be a single individual. The eligibility criteria in clause 27 are derived from the key elements of the definition of a qualified Canadian journalism organization under the Income Tax Act. Right now, it requires two journalists or more. I believe there are a number of amendments on the table that the committee will look at when we get to that point in clause-by-clause, so I understand that's a point of debate.

My understanding of what Mr. Julian is seeking to accomplish is.... The previous amendment that he tabled and that was adopted by the committee created a definition for an indigenous news outlet, and it recognized that the news outlet would have to be controlled and operated by an indigenous person or entity. My understanding of what he's seeking to do with this amendment is simply to recognize in the definition of news content that it includes storytelling.

Right now, the bargaining would still have to be between, say, an indigenous news outlet producing news content, which would include indigenous storytelling, and the platform. Again, as the bill currently stands, it's not a question of one individual being able to bargain in that way.

• (1130)

The Chair: Madam Clerk, is there anyone else with their hand up in the room?

The Clerk: No, Dr. Fry.

The Chair: Shall we then move to the vote?

Shall NDP-2 carry?

(Amendment agreed to [See Minutes of Proceedings])

The Chair: Shall clause 2 carry as amended?

The Clerk: There is a request for a recorded vote on the floor.

The Chair: All right.

We'll go to a recorded vote.

(Clause 2 as amended agreed to: yeas 7; nays 4 [See Minutes of Proceedings])

(On clause 3)

The Chair: We shall now move to clause 3 and CPC-3.

Everyone has CPC-3 in front of them. Does anyone wish to speak to it?

Are there any hands up in the room?

The Clerk: I have Mrs. Thomas and Ms. Gladu.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: Thank you.

What this amendment does is further clarify the idea or the concept of journalistic independence. We've done our best to do that here, with this amendment. We feel that this is important, and we heard from a number of witnesses who also contend that this is really important, because there's a growing distrust from the general public towards the media. Canadians are finding it difficult to know that media sources are not being politically swayed or influenced. Canadians, I believe in the 50% range, are reporting that they're not trusting the media. They feel that it is tainted or that it is not acting independently because of undue influence.

In order to ensure that there is greater credibility with regard to journalism in Canada, especially when there are dollars being infused in this way, journalistic independence would need to be clearly defined.

Before continuing, I would be interested in hearing an opinion from the officials who are here with regard to whether or not there is a current definition of "journalistic independence" as it's used in subclause 3(2) in line 34.

• (1135)

Mr. Thomas Owen Ripley: Through the chair, thank you for your question, Mrs. Thomas.

The clause in question is an interpretive clause. It was put there to clearly signal that the regime should be applied in a manner consistent with journalistic independence. There is no definition of journalistic independence provided for in the act as currently drafted.

My observation on the motion you're moving is that it includes one element of journalistic independence. We did look at how various journalism organizations would define the concept and the idea that it's independence from government, commercial or other interests seeking to subvert content for their own purposes.

My observation on the motion on the floor would be that it obviously includes an element of that, in the independence from government, but journalistic independence I think is broader than just government.

Mrs. Rachael Thomas: Thank you.

I think we would be open to amending that further, because I do think you raise a good point, Mr. Ripley. I do believe it's not only that journalists should be independent of government and be able to make their own decisions there; they should also be independent of undue influence from large entities, such as platforms like Google or Facebook. Again, this causes further concern with regard to this legislation and the way it could potentially impact journalists.

I guess right now, under the current framework of this bill, a great deal within it is left up to the Governor in Council, which ultimately, as you stated in our last meeting, comes down to a cabinet decision. So I am concerned that this, then, interferes with journalistic independence.

Do you think there's potential for those waters to be muddied? Do you feel that government is completely removed from the process by which eligible news businesses are securing the funds from the DNIs?

Mr. Thomas Owen Ripley: The framework as proposed was intended to keep government intervention to a minimum. There were different models that were considered. There was a discussion earlier about the European approach, which has gone the copyright route, but one of the reasons the model on the table was chosen was to leave it to the platforms and news businesses to engage in commercial negotiations with limited government involvement.

Specifically with respect to your question around eligible news outlets, that definition is twofold. If you are a print news business that has QCJO status, you are deemed eligible. Alternatively, the CRTC can look at whether you meet the key elements of that definition, recognizing that, for example, broadcasters are not eligible under the Income Tax Act's labour tax credit framework.

There is no Governor in Council regulatory power with respect to those three criteria. They're in the bill, and then it is to the CRTC to apply them. Specifically on that question of whether there's a GIC power on the eligibility, the answer is no.

Mrs. Rachael Thomas: But the GIC is involved in exemptions under clause 11, and the GIC is involved under clause 2 with regard to the definition of DNIs. If the Governor in Council is cabinet, then they would be involved in those definitions in terms of, as you stated in our last meeting, establishing criteria that would be used with regard to determining DNIs, which then impacts the bargaining framework as well as the exemption framework under clause 11.

Is that not correct?

• (1140)

Mr. Thomas Owen Ripley: There is a role for the Governor in Council as it relates to certain regulatory decisions, yes, so you are right that the Governor in Council would set the criteria at clause 6, which is about what platforms or digital news intermediaries are subject to the act, and then there is a power at clause 11 for the Governor in Council to further elaborate on those exemption criteria.

The question, though, of whether a digital news intermediary has met those criteria falls to the CRTC to make that assessment. It's not the Governor in Council who makes that assessment at the end of the day. There's no power for the Governor in Council in terms

of assessing whether a particular digital news intermediary has met the criteria or not.

I believe your previous question was specifically about eligibility, and there, again, right now in the bill as drafted, there is no GIC power at clause 27. It's really the criteria that are in the bill. Then there is a regulatory power for the CRTC to specify how news businesses should apply for eligibility, etc., so they have a process-oriented regulatory power there.

Mrs. Rachael Thomas: Sorry, I do understand that the Governor in Council would be responsible for setting the criteria and that the CRTC would be responsible for the enactment. Again, though, based on that, it would be the government having an impact with regard to who makes it and who doesn't in terms of definition or eligibility as well as exemption.

My concern is that the public is not going to take the time to understand the nuances you've walked me through here, and perception matters. We already have a general public that is hesitant to trust the media, because they feel that the government has undue influence or that large corporations have undue influence.

Again, it seems that it would then be beneficial to the general public, and I think to this place, to Parliament as well, to create further definition around this idea of journalistic independence. What I'm hearing you say is that this term is not defined in this legislation. It's simply subjective and left up to each eligible news business to determine. Is that correct?

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

The idea behind this interpretive provision was that the concept of journalist independence would be understood as it's understood by the news and journalism industry and sector.

Again, there is no definition of it in the bill. The intention was that it would be understood in relation to how the news sector understands it. I provided you with one definition from our review of various journalism organizations.

Mrs. Rachael Thomas: Mr. Julian can have the floor.

The Clerk: Dr. Fry, we have Ms. Gladu, Mr. Bittle and Mr. Julian.

The Chair: Ms. Gladu, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

I do think there's something to be done here. I think Canadians want to make sure that the content they're getting is not biased either by the far left or the far right. There is a bit of a lack of trust.

Personally, here on the Hill, sometimes I see what happens, and then I see what's reported in various places and it's sometimes skewed. I think it's a problem that there is no definition of journalistic independence. There's no measurement for it, so it's hard to do anything with that.

Is there any role for government in deciding if something is misinformation or disinformation? One of my concerns is really that the government will decide to filter the content that gets to the public. I think what we want is that everybody reports the news and the public decides for themselves what they think about it.

Is there anything in this bill that would allow the government or the CRTC to exclude something based on it being misinformation or disinformation?

• (1145)

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

The question boils down to whether a news business is eligible or able to bargain under the framework. I would draw your attention to the criteria, which include that the news business has to produce content “that is primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions”.

We then have the question of two journalists. In part, that's a proxy for having an editorial function in place. The question came up about a single individual. In part, the two journalists piece recognizes that part of a news business is having that editorial function in place.

Nothing in the bill allows the government to censor or look at questions of misinformation or disinformation or make that determination. The mechanism is whether a news business is in the business of covering matters of general interest and democratic institutions.

The Clerk: Dr. Fry, on the speaking list we still have Mr. Bittle and Mr. Julian.

The Chair: Mr. Bittle, go ahead.

Mr. Chris Bittle (St. Catharines, Lib.): Thank you, Madam Chair.

I'll just be very brief on this.

I understand Mr. Nater's intention with this amendment. He's a very thoughtful individual, but it is redundant, given that the legislation doesn't allow for political interference, as Mr. Ripley has really gone through in detail with all of the questions asked by the opposition.

There is no political interference permitted at any stage of this. It's redundant.

Thank you, Madam Chair.

The Clerk: Dr. Fry, after Mr. Bittle, we have Mr. Julian and Mr. Waugh.

The Chair: Mr. Julian, go ahead.

Mr. Peter Julian: Thank you, Madam Chair.

I just wanted to read out the clause and ask you a very direct question, because I think there has been some attempt to be a bit disingenuous around this. Under “Freedom of expression”, it states, “For greater certainty, this Act is to be interpreted and applied in a

manner that is consistent with freedom of expression.” That's sub-clause 3(1).

Subclause 3(2) is under “Journalistic independence”:

This Act is to be interpreted and applied in a manner that supports the journalistic independence enjoyed by news outlets in relation to news content produced primarily for the Canadian news marketplace, including local, regional and national news content.

Is there anything in those two clauses that minimizes or diminishes freedom of expression or journalistic independence? They strike me as crystal clear.

Mr. Thomas Owen Ripley: Chair, perhaps I may comment.

No. As you've outlined, Mr. Julian, those clauses have been included to provide clarity on how the act should be applied in a way that's consistent with Canadian values and to respect the independence of the news sector.

The Chair: Thank you very much.

Mr. Peter Julian: I'm sorry, Madam Chair, but I just have a brief comment.

The Chair: Yes, go ahead, Peter.

Mr. Peter Julian: There is a wacky far right infrastructure—I won't even call them media—that leads to deliberate disinformation and hate, and we've seen this played out in so many ways. They trigger themselves on things like compliments to the CBC for actually producing outstanding broadcasting. In fact, now that I'm saying this, Madam Chair, I know that the far right wacko infrastructure will start sending social media messages. The reality is that we have very strong media sector journalists who have a great deal of integrity. They have been attacked by the far right, but the reality is that there is nothing in this bill that diminishes that strong journalistic independence that we see in our country and that is one of the hallmarks of democracy.

If a member of this committee suggests that Canadians have lost confidence in the media, when we know that Canadians support the kind of integrity that our journalists show, I would have to completely disagree. There has been an attempt by the far right to make disinformation and hate...news sources. It is simply not true, and our journalists perform with integrity and independence at all times. We may not agree with what they write or say, but that's the hallmark of a democracy.

I'm going to be voting against this amendment and any suggestion that our journalists act with anything less than the complete integrity that we see from them in our press gallery and right across the country.

• (1150)

The Chair: Thank you, Mr. Julian.

Are there any other hands up?

The Clerk: Mr. Waugh had his hand up, Dr. Fry.

The Chair: Kevin, go ahead.

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

I have just an observation here, if you don't mind. Whether it's the wacky right or even the wacky left, I would say, as a former journalist for four decades, I have seen...and it's advertising and editorials. I'll give you some examples of this. Where newspapers never took a position, now they are selling the front page of the newspaper on election day, where it will come out with "We support X." It's actually a party that buys the front page of the newspaper coast to coast, where it never used to be. It was in editorials and advertising where that line was. The line no longer exists. When I was there, advertising could never come into the newsroom. They're in the newsroom every single day now, as we've witnessed in newspapers and editorials.

I want to state my position because I have seen a drastic change, not only in newspapers but in digital and radio and TV, where the editorial now may support one particular party on that day, on the election day, when they're trying to get votes out. Is that where they should go? Well, one paper, let's say the Toronto Star, will support the current government; another paper, the Toronto Sun, will support the opposition.

I just wanted to say that, because we have seen, since 2015, that you can buy the front page of a newspaper, and parties have done that. I can show you examples from 2015 on where the two front pages of the paper are bought by a party.

All I'm saying is that journalistic independence has been eroded, and around this table you should realize it has been eroded, only because, I think, the advertising is now into the editorial departments.

That's all I have to say.

The Chair: Thank you, Kevin.

The Clerk: I have Ms. Gladu and Ms. Hepfner.

The Chair: Ms. Gladu, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

I just felt I needed to correct the record for my NDP colleague. There is a CBC article from March 2021 saying, "Canadian trust in journalism is wavering.... Recent survey found 49% of Canadians think journalists are purposely trying to mislead".

We have all seen examples where things have been skewed either to the far right or to the far left. Neither is good for our democracy, and because we don't have a definition of "journalist independence", I think that is what this amendment is trying to address, to make sure we're not getting those voices that Canadians, frankly, don't want to hear, and that erode the trust that people have in the news.

The Chair: Thank you, Ms. Gladu.

Go ahead, Lisa.

Ms. Lisa Hepfner (Hamilton Mountain, Lib.): Thank you, Chair.

I want to chime in and say that I think there is a lot of misunderstanding of how news works. I think if there is any lack of trust in news today, it's because there are not enough journalists. There are no journalists left.

Back in the day, we always had editorials. We always had opinions in the newspaper, but we'd also have a couple of hundred journalists who were in the courtrooms. They were in city halls. They were out on the streets. They were at the crime scenes. We don't have that anymore, and that's what this bill is trying to address. It's trying to get more journalists into news organizations, so that we have more news and we have more good news, so that there's more variety, more opinions and more different people reporting.

When we see that hundreds of news outlets have closed in this country since 2008, we see the argument that "Well, a couple of hundred other online news organizations have popped up in that time", but what we don't see is that they're not news. They're not gathering news. They're publishing only opinions. We have a proliferation of opinion organizations out there, publishing their opinions without people going out and reporting the news.

I will not be supporting this amendment. I don't think it's necessary. Journalism organizations have codes of conduct that they follow. They have laws that they have to follow. They have to understand what they can do in a courtroom. They have to go before the CRTC if they don't follow all of the proper journalism standards. These are things that are taught in journalism schools and in newsrooms across the country.

I think that's all I have to say.

● (1155)

The Chair: Thank you, Lisa.

The Clerk: Dr. Fry, we have Mrs. Thomas and Mr. Champoux.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: Thank you.

I don't disagree with what my honourable colleague across the way has said. The point of this amendment is simply to say, let's make sure that public perception is.... Let's make sure that there isn't any chance of it. That is to say that to be able to gain the trust of the public is to ensure that there are these guardrails or provisions in place, which ensure that the media will not be politically swayed or influenced through bias in any way.

Again, this report that came out in the spring of 2021 highlights that "52 per cent agree that most news organizations are more concerned with supporting an ideology or political position than with informing the public." That's a CBC report. I think, with all due respect to my colleague Mr. Julian, that's a far cry away from being a crazy wacko news outlet.

I believe it's reasonable for us around this table to consider putting a guardrail in place, which is to say, "Make no mistake, Canadians: We are ensuring that there will be no undue political influence or bias imposed upon you."

It seems pretty reasonable.

The Chair: Thank you.

Go ahead, Mr. Champoux.

[*Translation*]

Mr. Martin Champoux (Drummond, BQ): That's fine, Madam Chair. If everyone is ready to vote on the amendment, I'll drop my intervention.

[*English*]

The Chair: Thank you, Martin.

Is there anybody else with their hand up?

The Clerk: No, Madam Chair.

The Chair: I shall ask the question. Shall CPC-3 carry?

Is anyone opposed?

The Clerk: There seem to be a few voices both ways in the room, Dr. Fry.

The Chair: All right. Can you call the vote, please?

(Amendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

The Chair: CPC-3 does not carry, so I'm going to ask the question. Shall clause 3 carry?

Is anyone opposed?

The Clerk: There are voices on both sides, Dr. Fry.

The Chair: All right.

Can you please call clause 3? Thank you, Madam Clerk.

(Clause 3 agreed to: yeas 7; nays 4)

(On clause 4)

• (1200)

The Chair: The first amendment that is proposed for clause 4 is BQ-1.

Mr. Champoux, do you wish to speak to it?

[*Translation*]

Mr. Martin Champoux: Madam Chair, I've been waiting for this moment all my life.

The purpose of Bill C-18 is obviously to restore balance to the market, regulate digital news intermediaries and increase fairness in the Canadian news market.

However, I think the viability we're looking for in the news sector, particularly local and independent businesses, is also about the viability of Canada's news companies. This amendment seeks to make a simple adjustment to the definition of the purpose of the act so that it includes the obligation to contribute not only to the viability of the Canadian digital news market, but also to the viability of news companies in Canada, including local and independent businesses.

That's what we call adding suspenders to a belt.

[*English*]

The Chair: Thank you.

Is there any discussion on this amendment?

The Clerk: Mrs. Thomas has her hand up.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: Thank you.

I have a clarifying question for the officials—perhaps for the legislative clerk, to be clear—with regard to BQ-1.

Can BQ-1 be passed and the next three amendments still be entertained, if that's the case?

Mr. Philippe Méla (Legislative Clerk): If BQ-1 is adopted, NDP-3, PV-1 and CPC-4 cannot be moved due to line conflicts.

Mrs. Rachael Thomas: Okay. Thank you.

Mr. Michael Coteau (Don Valley East, Lib.): Madam Chair, can I ask for a two-minute recess, please?

The Chair: Yes, certainly. I shall ask the rest of the committee for a two-minute recess.

Is that for you specifically or for the committee to suspend?

Mr. Michael Coteau: It's for the entire committee to suspend for two minutes.

The Chair: All right.

Is everyone in agreement that the committee suspend for two minutes? I think we should do that.

Some hon. members: Agreed.

The Chair: Thank you.

The committee is suspended.

• (1200)

(Pause)

• (1205)

The Chair: Thank you.

Yes, Peter.

[*Translation*]

Mr. Peter Julian: We have a very elegant solution to this situation.

[*English*]

The Chair: Peter, Anthony had his hand up earlier.

I would like to hear him and then you. Thank you.

Anthony, go ahead.

Mr. Anthony Housefather (Mount Royal, Lib.): Thank you, Madam Chair.

Not being in the room, I may be missing out on the fun of discussing how to amend. I think this would be handled by adding in BQ-1 the words “in both the non-profit and for-profit sectors” after the word “Canada” in the second line of the amendment. I think that would resolve adding in what is missing from BQ-1 that is in NDP-3.

If it is okay with Mr. Julian and Mr. Champoux, I would propose to amend BQ-1 by adding, after “Canada”, “in both the non-profit and for-profit sectors”. Then it would continue with “including independent local ones.”

The Chair: Thank you.

Peter, before I go to you, we should discuss Anthony's motion.

Is there any discussion?

The Clerk: I have Mr. Champoux and Ms. Gladu.

The Chair: All right.

Martin, go ahead.

[*Translation*]

Mr. Martin Champoux: Thank you, Madam Chair.

I think that's entirely reasonable. In fact, it's in line with the discussions we had here in the room a few minutes ago. That was the conclusion we came to. So I think all parties support this subamendment.

[*English*]

The Chair: This tells me, Mr. Champoux, that great minds think alike, whether they're in the room or not.

Peter, did you want to say anything?

Mr. Peter Julian: I just wanted to say that it's a little freaky that Mr. Housefather read our minds remotely.

Yes, this is absolutely the way to go, with a subamendment to the BQ amendment.

The Chair: Thank you.

He has the uncanny habit of being able to do that.

The Clerk: There is Ms. Gladu as well, Dr. Fry.

The Chair: I'm sorry.

Go ahead.

Ms. Marilyn Gladu: No problem.

Thank you, Madam Chair.

We very much support adding the not-for-profits in here. We heard clearly from community radio stations across the country and indigenous radio stations that they felt they were going to be excluded otherwise.

I very much support the amendment.

Thanks to the team for working together on that.

● (1210)

The Chair: Thank you.

What we have is an amendment that, after “news businesses in Canada”, is going to read “in both the non-profit and for-profit sectors”, and then continue with “including independent local ones.”

Is there any opposition to this amendment?

Yes, Mr. Méla.

Mr. Philippe Méla: I think Mr. Julian had the same idea.

We should vote on the subamendment first and then the amendment, as amended, after.

The Chair: Yes. That is what I am going to do right now, Mr. Méla.

I'm asking if there is anybody opposed, because we don't need to call a vote if it's unanimous, and we can move to the amended motion.

Is anyone in the room opposed?

The Clerk: I'm not seeing any opposition.

The Chair: All right.

Hearing no opposition, I say the subamendment carries.

(Subamendment agreed to)

The Chair: Now I'm going to ask you to vote on the amendment as amended.

Do you need me to read it again, or do you all know what it says?

Are there any objections?

The Clerk: I'm not seeing any objection.

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

The Chair: The motion passes unanimously. Thank you.

If BQ-1 carries, then NDP-3, PV-1, and CPC-4 cannot be moved. We shall move past those.

Shall clause 4 carry, as amended?

The Clerk: I hear voices on both sides, Dr. Fry.

The Chair: All right, let's call a vote.

(Clause 4 as amended agreed to: yeas 10; nays 0 [*See Minutes of Proceedings*])

Shall clause 5 carry? Is there any opposition?

Clause 5 is carried.

On clause 6—

The Clerk: I'm terribly sorry. I was noting something down, and Mrs. Thomas had her hand up on clause 5.

The Chair: All right. As you know, clause 5 has not been amended, or there have been no amendments proposed.

Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: I'm sorry. With regard to clause 5, my hand was up, and it wasn't acknowledged, concerning whether or not it passes.

We would say no, Chair.

The Chair: I beg your pardon?

Mrs. Rachael Thomas: My hand was up with regard to clause 5, and it wasn't acknowledged.

The Chair: All right. I can't see your hand from here, so I didn't know your hand was up.

You're voting against it. Are all Conservatives voting against?

Mrs. Rachael Thomas: I would suggest that we take a roll call.

The Chair: All right, let's go back to the roll call for clause 5.

(Clause 5 agreed to: yeas 7; nays 4)

• (1215)

The Chair: Now we shall move to clause 6 and amendment CPC-5.

Mrs. Thomas, do you wish to speak to amendment CPC-5? Go ahead.

Mrs. Rachael Thomas: Thank you, Chair.

With regard to CPC-5, essentially what we have observed with this piece of legislation is that the definition of a DNI is not clear and that it is left up to a number of subjective criteria. It therefore creates a lack of clarity. Because DNIs have a responsibility to report themselves or submit themselves to this legislation and allow their names to be put on a list, and if they fail to do so they could face penalties, it seems that it would be best, in order to serve Canadians well, to clearly define what a DNI is and to make those criteria more black and white or clearer. That is the attempt here.

It's an imperfect attempt, but it's an attempt nevertheless, to be very clear in terms of what falls within the jurisdiction of this legislation. We've attempted to do that by offering a monetary amount, by saying that it would apply to an intermediary "that generates at least \$100 million per year in advertising, subscription, usage or membership revenue in Canada". That \$100 million per year in advertising, subscription, usage or membership revenue is important because it ensures that it's going after these large entities. It's my understanding, from the minister speaking to this bill, that that's what he wishes to do.

Let's be clear here. They are foreign players who are acting as these DNIs. The goal is to have them enter into negotiations with eligible news business in order to seek compensation for news. Let's ensure it is in fact those entities that are held accountable, that other, smaller entities and potentially user-generated content are not caught in this bill, and that there is no potential for that to be the case. That's why we've brought this monetary amount forward.

I would note that in some of the testimony we received during our time in earlier meetings it was brought to our attention that the way the legislation is currently worded, the criteria that have been set out, because they are so broad, really could include anyone with a website who posts links to news outlets on it.

Again, we want to prevent that and make sure there's no chance of capturing user-generated content. We're watching that play out in Bill C-11 right now in the Senate, where user-generated content is captured by that bill, and it will be to the demise of many digital-first creators.

We don't want this bill to cause that type of damage. We want to ensure that it hits its target, that it fulfills its stated intent. We believe that one of the best ways to ensure that this is in fact the case is to make sure that definitions are very clear, that there's not this grey area in terms of the definition of a DNI. The feeling is that perhaps a monetary amount is one of the best ways to ensure that this bill really does remain aimed at big tech rather than individuals or smaller entities with websites that post links to news, i.e., blogs.

• (1220)

The Chair: Thank you, Mrs. Thomas.

The Clerk: I have a speaking list, Dr. Fry, of Ms. Gladu, Mr. Bittle, and Mr. Housefather.

The Chair: Michael, is your hand up? There's a little white hand there.

Mr. Michael Coteau: No. The only thing here is two black hands, Chair.

Voices: Oh, oh!

The Chair: Okay. I'm sorry.

Marilyn, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

I like this amendment, because I think it's true that the minister really... We're trying to make sure there's funding for local and small media organizations across the country, and I think it's clear that they want Facebook/Meta and Google to do that.

As I've said on multiple occasions, they're willing to give the money. We should just have them put it into a fund and have a council of small media organizations figure out how to divide that up to keep the best outcome. Then there's not the bureaucracy of this whole bill.

However, that said, I think if we put some kind of a definition in place so that it's clear that it's not like a bazillion digital news intermediaries that we want to be involved in all these negotiations for the CRTC to be managing, having a threshold will narrow it down to the ones we really want.

The Chair: Thank you, Ms. Gladu.

Before I go to Mr. Bittle, I would like to let the committee know that if CPC-5 is adopted, then CPC-6, CPC-7, CPC-8 and CPC-9 cannot be moved.

Carry on, Chris.

Mr. Chris Bittle: Thank you so much, Madam Chair.

Very briefly, it's really disappointing to see the misinformation back on Bill C-11 with respect to user-generated content. It is not part of Bill C-11. I don't know why we're returning to this, but it needs to be stated. It's ridiculous, and it continues to play out.

That being said, I'll speak to CPC-5, but my comments will apply to CPC-6, CPC-7, CPC-8 and CPC-9 so that I'll just say this once.

I guess it's not surprising; it seems like a reasonable amendment, but it is creating a loophole big enough for Facebook and Google to drive a truck through. Again, that is unsurprising, given what the Conservatives have been doing throughout this entire process, which is to be the PR reps for big foreign tech companies. These companies have been very good internationally in exploiting loopholes and avoiding regulation. Adding specific revenue thresholds would prevent the bill from adapting to an evolving technological landscape and changing markets.

The current approach in the act provides the government with the most flexibility to evolve with the changes. A flexible approach is better for the online news act, as we've seen foreign tech giants in other jurisdictions try to avoid responsibility under those countries' legislation. Thresholds will create loopholes for platforms that they can exploit. We're starting at \$100 million. As the numbers get lower, we're scoping in so many organizations. This is about dealing with a specific imbalance. We've heard from organizations. We've heard from small organizations in Alberta and Saskatchewan about this imbalance and about the loss of ad revenue from certain organizations.

I don't know why the Conservatives want to scope in so many different organizations and so many other platforms. I thought they wanted to limit the scope of the bill, but the lower we get, in CPC-9, the number of... I hear concerns from the opposition about blogs and other items. The more we get down, the more likely you are to scope that in.

If we want to ensure that Bill C-18 benefits news organizations, we can't create loopholes that will allow the tech giants to avoid the law, which is what they are going to try to do. Even with these numbers that the Conservatives created, there's no basis for them. They picked numbers out of the air. It's not contributing to this debate. It's just serving the interests of some of the largest companies in the world.

Once again, through Bill C-11 and Bill C-18, the Conservatives are lining up side by side with foreign tech giants.

Thank you.

• (1225)

The Chair: Thank you, Chris.

Next is Mr. Housefather.

Go ahead, Anthony.

Mr. Anthony Housefather: Thank you so much, Madam Chair.

I just want to make two brief points.

Number one, I agree with Mr. Bittle's comments about getting around any revenue threshold. For example, many advertisers that work with these platforms are also multinational companies. In a private deal, they can easily say, "Instead of paying me \$25 million for your ads in Canada, pay me \$1 million for ads in Canada and add that \$24 million to the U.S. ads." They will pay the same amount of money. They will have the same number of ads in both Canada and the United States, but they would shift the numbers around so that it's no longer revenue generated in Canada.

That is a simple solution that anybody could use to get around a provision that puts in a revenue threshold, simply moving the monies to another jurisdiction and raising the price of ads in that jurisdiction and lowering them in Canada. As somebody who practised in a multinational technology company, I give you one example of many, many contractual ways that companies can use to get around the revenue threshold.

The second thing I want to raise is that I find it to be really disappointing when highly intelligent people claim something could exist that is so far from the truth and so much of a stretch of the imagination: that is, that user-generated content is somehow going to be part of this bill. The bill says that, in order for there to have to be a trigger of negotiations, there must be "a significant bargaining power imbalance between an operator and news businesses".

Let's take, for example, Postmedia, a large news business with outlets around the world and hundreds of millions of dollars, if not billions of dollars, in revenue. You're going to have the criteria as follows: "the size of the intermediary or the operator; whether the market for the intermediary gives the operator a strategic advantage over news businesses; and whether the intermediary occupies a prominent market position".

To make the claim that somehow some individual blogger is going to be covered by having a strategic advantage over Postmedia or any news business is so far from the truth and such an incredible stretch by any measure of the imagination that it can only amount to misinformation to make the claim that user-generated content is covered by this bill. I hope I don't hear that argument again at this committee, because it is beneath the intelligence of all of us, I think, to make that claim.

Thank you.

The Chair: Thank you, Mr. Housefather.

Madam Clerk, is there anybody else on the floor who wants to speak?

The Clerk: Thank you, Dr. Fry.

Yes, I have Mrs. Thomas, Mr. Julian and Ms. Gladu.

The Chair: Go ahead, Mrs. Thomas.

Mrs. Rachael Thomas: Thank you.

I have a quick question for the officials here.

With regard to paragraph 6(a)... Let me just back up here for two seconds. There are three criteria that are laid out here. Various witnesses who came to the committee talked about the vague nature of these three and the fact that they are highly subject to context. With regard to paragraph 6(a), I'm wondering about the "size of the intermediary", because that will be one factor considered in terms of whether or not this legislation will apply to an entity.

How will the size of the intermediary or the operator be measured? What size would be in, and what size would be out? It's the size of what?

Mr. Thomas Owen Ripley: Paragraph 6(a) is indeed intended to speak to something like a revenue threshold. That could be either in relation to global revenues or Canadian-earned revenues, the details of which would be worked out through a regulatory process where the Governor in Council would come forward with a proposed threshold. It would be published in the Canada Gazette, part I for the opportunity for folks to comment and provide feedback, and then finalized in Canada Gazette, part II.

• (1230)

The Chair: Thank you.

Mrs. Thomas, have you finished with your questions?

Mrs. Rachael Thomas: I do have a couple of follow-ups.

Thank you, Mr. Ripley.

I'd like quick clarification on paragraph 6(a). Who is going to determine that? Is that going to be determined by the Governor in Council? Okay, thank you.

With regard to 6(b), it says, "whether the market for the intermediary gives the operator a strategic advantage over news businesses". I'm curious about this phrase "strategic advantage". That's one term I would like some clarification on. What does that mean?

Really, the first term would be "market". How would "market" be defined under this?

Mr. Thomas Owen Ripley: Paragraph 6(b) is intended to speak to something like the advertising market in search or the advertising market in social media.

The question of a strategic advantage is whether an intermediary has a particular advantage, given its business model. One of the issues in this space is that these intermediaries often act as a distribution platform for news businesses, but they compete against those news businesses in the advertising market at the same time. It's intended to speak to that kind of concept.

Mrs. Rachael Thomas: On the term "strategic advantage", I know that you're touching on it within that definition, but what's the threshold to determine if it's a strategic advantage?

Mr. Thomas Owen Ripley: The idea behind paragraph 6(b) is to articulate the particular market in which the intermediary operates. Again, the example I would give you, acknowledging that the specifics will have to be worked out through regulatory processes, would be the advertising market in both search and social media. In the Canadian context, we know that there are two companies that accrue approximately 80% of the advertising market in the digital space. That's the idea behind the notion of a strategic advantage.

Again, as I mentioned, there are particular dynamics at play in this space, where some of these intermediaries both offer a distribution platform and at the same time are competing for those advertising dollars against those who are distributing their content on their platforms.

Mrs. Rachael Thomas: Okay.

Then, paragraph 6(c) says, "whether the intermediary occupies a prominent market position." On this phrase "prominent market position", again, I'm not able to find a definition within the bill. I'm wondering if you can expand on that or help me understand what is meant by that phrase.

Mr. Thomas Owen Ripley: On paragraph 6(c), what we had in mind was the number of Canadian users, or something along those lines. The combination of paragraphs 6(a), 6(b) and 6(c) is all under the hat of, as has been pointed out.... We're talking about where a significant bargaining power exists. You're looking at something like a revenue threshold, looking at the articulation of the particular market in which you may have that strategic advantage, and looking at something like a Canadian user threshold.

Mrs. Rachael Thomas: In terms of the number of Canadian users, is that for the sake of being accessed through marketing, like advertising?

Mr. Thomas Owen Ripley: It speaks to there being a market presence here in the Canadian context. Otherwise, again hypothetically, if you're looking at a global revenue threshold under paragraph 6(a), you can have a strategic market advantage, but that could theoretically exist outside of being grounded in the Canadian context. Paragraph 6(c) is talking about a market presence here in Canada that would need to be met.

• (1235)

Mrs. Rachael Thomas: Okay.

Essentially, to be scoped in or out of this legislation, criteria will be created around each of these points (a), (b) and (c): paragraph 6(a) having to do with a revenue threshold, paragraph 6(b) having to do with advertising market and dollars that are brought in there that might give a strategic advantage, and paragraph 6(c) having to do with audience, the number of Canadians whom the platform would be able to reach.

Mr. Thomas Owen Ripley: It is users, or active users—again, acknowledging that the business model of digital intermediaries who may be subject to it could look different.

Mrs. Rachael Thomas: Okay.

This is my last question for you, Mr. Ripley. I've noted that clause 6, of course, as it appears here, is in addition to clause 2, where a DNI is defined. Why not just have one clause? Why have clause 2 with part of a definition of a DNI, and then clause 6 with further criteria that have to be met in order to be scoped in? Can you help me understand that mechanism? Why are there two clauses, instead of just making it one concrete, streamlined definition with regard to what a DNI is and whether or not it's scoped in or out?

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

I would say that clause 6 is not actually about the definition of a DNI. Clause 2 sets out the definition, as we discussed the other day. Clause 6 is really a question of threshold. It recognizes that there will be entities that meet the definition of digital news intermediary that will not be subject to that bargaining obligation. Clause 6 is really about establishing those thresholds after which a platform is designated, or whatever the term is that you want to use, and subject to that bargaining framework. It sets out the process to arrive at those thresholds, which, as we talked about, is a Governor in Council regulatory process.

The Chair: Thank you, Mrs. Thomas.

Mr. Julian, go ahead.

Mr. Peter Julian: Thanks very much, Madam Chair.

I'm opposed to creating more loopholes. It doesn't make sense to me. We put into place legislation that community newspapers in places like Alberta and Saskatchewan have asked us to. Improving the bill doesn't mean creating more loopholes and creating more escape clauses for the web giants, so I'll be voting against this amendment.

However, Madam Chair, I know that the Conservatives have put forward five identical amendments. The only thing that has changed is the dollar figure. That, to me, is a real attempt to filibuster and stall the legislation.

I just come back to the witnesses who came back to us: the Alberta Weekly Newspapers Association and the Saskatchewan Weekly Newspapers Association. These are newspapers that basically provide important journalism for communities and that represent nearly half of the Conservative caucus. I don't understand how any member of Parliament, when the community newspapers come forward and say this legislation needs to be improved and this legislation is needed, would then put forward amendments that are clearly designed just to stall the legislation from being adopted. It doesn't make sense to me. I think it's disrespectful to Alberta community newspapers and Saskatchewan community newspapers, which do such an important job in providing communities across Alberta and Saskatchewan with the kind of journalism that is so important to bringing together a community.

I would hope that my Conservative colleagues would withdraw the other amendments, which are basically just carbon copies with just one dollar figure changed, rather than stalling the bill. We have important work to do to move forward on this bill, to improve it for sure, but in this case we have five amendments that are identical, in which only the dollar figure changes, in what is clearly an attempt to stall, clearly an attempt to block the legislation. That's not what Alberta community newspapers and Saskatchewan community newspapers want, and I think we should abide by their testimony.

• (1240)

The Chair: Thank you, Mr. Julian.

Ms. Gladu, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

First of all, I want to clearly say that I am not trying to stall the bill, and I think it's unhelpful for Mr. Julian to malign the intentions of the Conservatives here. We're trying to improve the bill. We've

expressed our concerns numerous times, and that's what we're trying to do.

Now, case in point, Mr. Ripley has actually said that in order to apply clause 6, they will have to do some kind of revenue level, and that will be done in regulations. So this concept is going to happen. It's just a question of....

First of all, I don't like it when the Governor in Council determines in regulations with no parliamentary oversight what the thing is, so I'd rather have it in the legislation. I believe that in Australia they had the same thought pattern and they did define something and created a list of who those people are, which they've made public. This has merit, but I do respect what Mr. Housefather said. He always brings his law experience to the table. I do see the point in making sure it's not a loophole that people can crawl out of.

I would be open to the concept of amending this amendment with a subamendment saying that the revenue was generated in Canada, so then people couldn't move it around the world. I don't know whether that would be palatable to the members opposite.

Thank you.

The Chair: If you're moving that subamendment, Ms. Gladu, where exactly in that amendment would you move it?

Ms. Marilyn Gladu: I would put it right after "that generates at least \$100 million per year in advertising, subscription, usage or membership revenue", and then insert "generated in Canada", so it's clear that we're trying to set a target based on what they're doing, their activity, here and we don't want people playing any games with moving money around the world in order to avoid having to pay up.

Thank you.

The Chair: Thank you.

Now we have a subamendment. As you see, it's pretty simple. After "subscription, usage or membership revenue", it adds the word "generated" before "in Canada", etc.

Is there any discussion on that subamendment?

The Clerk: Mr. Bittle has his hand up, Dr. Fry.

The Chair: Chris, go ahead.

Mr. Chris Bittle: Thank you, Madam Chair.

I really think it's ironic that after protesting that they're not filibustering, they're filibustering their own amendment by adding something that really won't do anything and still allows this massive loophole to exist.

The Chair: Thank you, Mr. Bittle.

I wonder, once again, Mr. Coteau, if everyone is seeing that hand in front of your chin. Or is it just me?

Mr. Michael Coteau: I think what you are seeing is that when I go to touch my chin, there is a hand. It's just my regular hand.

The Chair: No, I'm sorry. I'm just seeing this silly little hand. It's okay.

Mr. Housefather, go ahead.

Mr. Anthony Housefather: Thank you so much, Madam Chair.

First of all, I want to thank Ms. Gladu for saying that. I always appreciate working with her.

I don't think the amendment that she proposes would change anything—adding “generated” before “in Canada”. Again, if I say, in a contract, that I sell x number of ads in Canada, and I take a small amount of money for that and put that money into my U.S. revenues by saying that in the U.S. I'm charging you more for ads, knowing it's a global deal, we would never be able to know that or understand it. Adding the word “generated” there wouldn't change anything.

I think the issue is, again, as Mr. Bittle said, that if you're going to use revenues, and I'm not 100% sure that's the ideal way of measuring this.... I understand Ms. Gladu's comments about accountability to Parliament and not just having orders in council come up with numbers without parliamentary supervision. I'm not sure that numbers are the most effective way of measuring this at all. I don't know that Mr. Ripley said they would have to go that route. I think it was an option, but I think you'd need to look at worldwide revenues as well as Canadian in order to have the ability to ascertain it and to avoid revenues being disguised by being put internationally.

I don't think anybody here right now has thought this through in a manner that would be comprehensive enough to look at how best to create that kind of revenue dynamic or threshold so that we can just, on the spur of the moment, throw out a number at the committee. I just don't think any of us have done that analysis in depth to know what the right numbers would be and what the best way would be to avoid the ability to use subterfuge by the large multinationals to avoid getting caught by the bill. I just note the way it's being suggested here. I can see lots of ways around that.

That's what my comments are, but I thank my friend Marilyn, again and always.

● (1245)

The Chair: Thank you, Anthony.

If no one else has their hand up, I would like to call the question on the subamendment, which is “all membership revenue generated in Canada”.

(Subamendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

The Chair: Now I'm going to call the question on the original amendment, which is CPC-5.

(Amendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

The Chair: Because CPC-5 does not carry, as Mr. Housefather so kindly reminded us, we now have CPC-6, CPC-7, CPC-8 and CPC-9, all of which are the identical motion, but with different monetary levels.

We're going to have to go through each one of those. Given that it's the same motion and it's just a different—

The Clerk: Dr. Fry, there's a point of order on the floor from Mr. Julian.

The Chair: Yes, Mr. Julian.

Mr. Peter Julian: Thank you very much, Madam Chair.

It's customary in a case like this for the party that put forward the amendments to withdraw the other ones. We've had the substantive debate around the approach. The fact that they put in different figures is fine in terms of proposing the amendment originally, but now that we've had the discussion, I hope my colleagues would simply withdraw CPC-6, CPC-7, CPC-8 and CPC-9.

Otherwise, it would very clearly be a filibuster.

The Chair: Thank you, Mr. Julian.

The Clerk: Dr. Fry, Ms. Gladu has her hand up.

The Chair: Marilyn, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

On the same point of order, absolutely, Mr. Julian is quite correct. We just put different dollar values in to look at different thresholds.

We agree to withdraw CPC-6, CPC-7, CPC-8 and CPC-9.

The Chair: Thank you very much, Ms. Gladu.

I just wanted to point out that we have until seven minutes after the hour to deal with that, if you wish. We have, therefore, 16 minutes left.

We have a substitute. Mario Simard is subbing for Mr. Champoux for the rest of the meeting.

● (1250)

The Clerk: Dr. Fry, the substitution has not yet taken effect because Mr. Champoux is still in the room, so we are faced with the presence of two Bloc members.

The Chair: Thank you.

Now that we have the removal of those amendments, the next thing we're moving to is clause 6.

Shall clause 6 carry?

(Clause 6 agreed to: yeas 7; nays 4)

The Chair: All right, clause 6 is carried.

Now we're going to move on to proposed clause 6.1, which would be CPC-10.

Anthony, go ahead.

Mr. Anthony Housefather: On a point of order, Madam Chair, in my view, CPC-10 would now not be in order, given that sub-clause 6.1(4) refers to an amount provided for in clause 6 and there's no amount now provided for in clause 6.

This was dependent on one of the previous CPC amendments actually carrying. With it not having carried, in my view, this is out of order.

The Chair: Shall we ask Mr. Méla to comment?

Mr. Anthony Housefather: Sure, Madam Chair.

The Chair: Mr. Méla, go ahead.

Mr. Philippe Méla: Thank you, Madam Chair.

It's a good remark from Mr. Housefather. Indeed, the amounts were not adopted, so maybe a subamendment could be brought forward to rectify the situation if that's at all possible.

Mr. Anthony Housefather: Madam Chair, I'm so sorry to elaborate, but this entire proposed clause, as you read it, is a review regarding the amount provided for in the section. The whole substance of this amendment relates to a review of a number that doesn't exist, a report to be tabled about a number that doesn't exist, and then regulations related to a number that doesn't exist.

Mr. Méla, with due respect, I believe this should not be receivable based on the rejection of the previous amendments, as it's completely corollary to one of those being approved.

The Chair: Order. Someone else is speaking. Mr. Housefather has the floor. Thank you.

Anthony, go ahead.

Mr. Anthony Housefather: I'm done.

Thank you, Madam Chair.

Mr. Philippe Méla: Madam Chair, if I may, I would agree with Mr. Housefather.

The Chair: So we shall not ask the question on CPC-10. It is negated.

(On clause 7)

The Chair: We will now move to clause 7, CPC-11.

Is there someone from the Conservatives who wishes to move it?

The Clerk: Ms. Gladu has her hand up, Dr. Fry.

The Chair: Marilyn, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

Basically, this amends the language that's in the bill that provides the commission with the information it requires for the purpose of verifying compliance, which could be very broad. It could ask for anything.

The amendment says “reasonably requires”. I think it's just trying to focus in, so that if the commission needs information to verify compliance, it needs to be reasonable. It has to be related to the matter.

• (1255)

The Clerk: Dr. Fry, Mr. Bittle has his hand up.

The Chair: Chris, go ahead.

Mr. Chris Bittle: Thank you very much, Madam Chair.

I don't think it really changes the bar—the concept of reasonableness—from “requires” to “reasonably requires”. I think it's redundant and unnecessary.

Very quickly to Mr. Ripley, can you explain how this would work in practice?

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

The intention here is that the CRTC has the ability to request information it needs for the purposes of administering the act, so it is bound by that. The idea is not that the CRTC should be able to request any kind of information it wants. “Reasonably” further specifies that degree of connection or nexus with that, from my perspective.

The Chair: Thank you.

Mr. Bittle, did you get the answer you wanted?

Mr. Chris Bittle: Yes. Thank you.

The Clerk: Dr. Fry, I have Mrs. Thomas and then Mr. Housefather.

The Chair: Thank you.

Mrs. Thomas, go ahead.

Mrs. Rachael Thomas: Thank you.

This clause has to do with duty to notify, so the operator has to notify the commission—the CRTC—if it falls within this subjective and very vague definition that has been outlined in clause 6. I guess I'm just curious then. My question for the officials is this: If DNIs are expected to self-declare, then, under this legislation, if they fail to do so, what happens?

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

Madam Chair, if I may, the mechanism provides that since digital news intermediaries are best placed to assess whether they meet the threshold set out in clause 6, it is incumbent on them to come forward. The alternative would be to empower and require the CRTC to survey everybody who they think could potentially be subject and then ask for information, which is a much heavier process.

The information-gathering powers, though, are there to ensure compliance at the end of the day. So if the CRTC suspects that a digital news intermediary may be subject and hasn't come forward, they have the tools to verify compliance.

Once they've had an opportunity to review that information, if they are of the opinion that it does meet the thresholds at clause 6, I expect the first step, in terms of what that would look like, would be for the CRTC to indicate to the digital news intermediary that it is subject to the legislation and would be expected to comply. Failure to comply, at that point, could result in the imposition of administrative monetary penalties.

Mrs. Rachael Thomas: Thank you, Mr. Ripley.

Just to be clear, though, you're saying it's likely that the commission would notify these entities that they fall within this scope, but it's not an essential requirement within this legislation. It's not stated in this legislation that DNIs will be notified that they are in fact scoped in. It states that the CRTC will be responsible for creating a list, but my understanding of this legislation is that this list will be based on self-declarations. Am I missing something?

Mr. Thomas Owen Ripley: No. That is correct.

Again, the expectation is that digital news intermediaries will identify themselves when they meet those thresholds. Again, they are best placed to assess whether they meet the threshold and are to come forward and indicate such to the CRTC, at which point they would be added to the list you referred to. But, again, the CRTC is being provided with information-gathering tools so they can ensure compliance if need be.

Mrs. Rachael Thomas: Again, just coming back to my question, because I don't know that it was answered, what would happen to an entity that didn't declare itself to be a DNI? What would those repercussions look like?

Mr. Thomas Owen Ripley: The CRTC would have a variety of tools at its disposal. At the end of the day, failure to comply with the act could result in the imposition of an administrative monetary penalty. However, I think the goal at the end of the day is to ensure compliance with the act. From my perspective, the first step would be to have discussions with the digital news intermediary to make sure it understands that, based on the information it has provided, it is subject to the act and would be expected to comply. Failing to do so after that point could result in the imposition of administrative monetary penalties.

• (1300)

Mrs. Rachael Thomas: Thank you.

The Chair: Mr. Housefather, go ahead.

Mr. Anthony Housefather: Thank you, Madam Chair.

My question was already answered, so I don't need the floor.

The Chair: Thank you.

The Clerk: I have Ms. Gladu.

The Chair: Yes, Marilyn.

Ms. Marilyn Gladu: I have just one more thing I want to say about this. I don't know what Mr. Nater was thinking when he put it forward, but the problem I have with this section is that it says that these individuals or entities have to provide the commission with "any information that it requires for the purpose of verifying".

We've all seen overly burdensome requests from government. If you haven't experienced them, I'll tell you that they're not great. We have these small entities. We don't want to be overly burdensome, so the amendment that's been made takes out the word "any" and puts in the constraint of "reasonably". I think that would improve the bill.

Thank you.

The Chair: Thank you, Ms. Gladu.

Is there any further discussion? Shall I call the question?

The Clerk: Dr. Fry, Mr. Waugh had his hand up as well.

The Chair: Go ahead, Kevin.

Mr. Kevin Waugh: I'll be very quick, Madam Chair.

Mr. Ripley, I don't recall the CRTC levelling too many fines over the years. You would probably agree with me. This is loosely interpreted. It's not that I don't trust the CRTC, but I have several questions surrounding them. I have an issue with how this is loosely written, if you don't mind my saying so.

The CRTC is the regulator. However, at the same time, we never hear of massive fines going out to anybody, so I have an issue with certain regulations in here. I wanted to put it on the record.

The Chair: Thank you, Kevin.

Now I'm going to call the question on CPC-11.

Shall CPC-11 carry? Is there disagreement on the floor?

The Clerk: There's a discrepancy of opinion.

The Chair: Call the vote, please.

(Amendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

The Chair: CPC-11 does not carry.

We're now going to move to CPC-12.

I think we may be coming to the end of our rope here. We have one more minute to go. Do you think we can vote on CPC-12 in that one minute?

Some hon. members: No.

The Chair: I think we should adjourn this meeting.

The meeting is now adjourned.

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