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# Standing Committee on Finance

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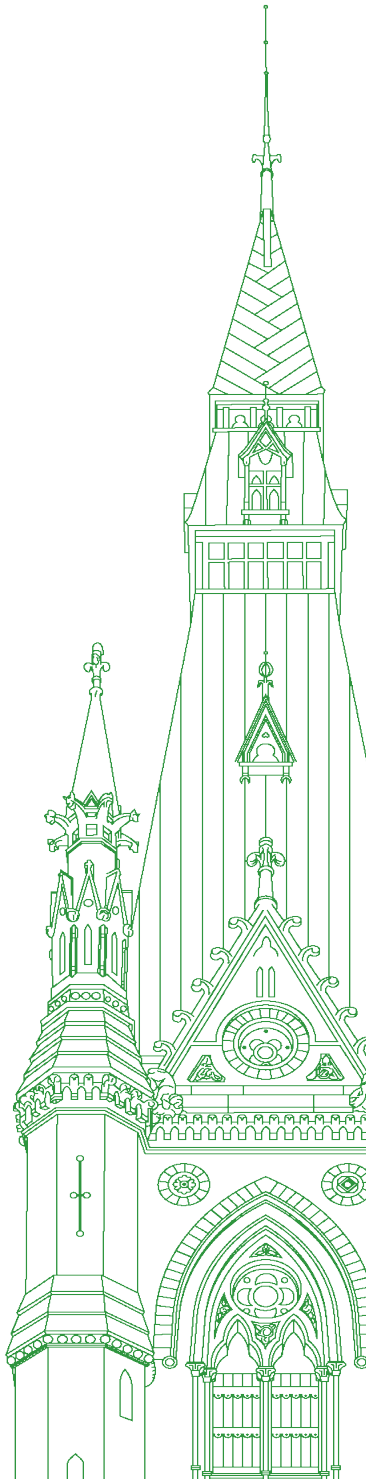

Chair: Mr. Peter Fonseca

# Standing Committee on Finance

**Tuesday, April 30, 2024**

● (1105)

[*English*]

**The Chair (Mr. Peter Fonseca (Mississauga East—Cooksville, Lib.)):** I call this meeting to order.

Members, witnesses, it's good to see everybody here. I hope you had a fruitful constituency week this past week.

Welcome to meeting number 140 of the House of Commons Standing Committee on Finance.

Pursuant to the order of reference of Monday, March 18, 2024, and the motion adopted on Monday, December 11, 2023, the committee is meeting to discuss Bill C-59, an act to implement certain provisions of the fall economic statement tabled in Parliament on November 21, 2023 and certain provisions of the budget tabled in Parliament on March 28, 2023.

Today's meeting is taking place in a hybrid format pursuant to Standing Order 15.1.

Before we begin, I'd like to remind all members and other meeting participants in the room of the following important preventative measures, which have changed.

To prevent disruptive and potentially harmful audio feedback incidents that can cause injuries, all in-person participants are reminded to keep their earpieces away from all microphones at all times.

As indicated in the communiqué from the Speaker to all members on Monday, April 29, the following measures have been taken to help prevent audio feedback incidents.

All earpieces have been replaced by a model that greatly reduces the probability of audio feedback. The new earpieces are black in colour, whereas the former earpieces were grey. Please only use the black approved earpiece.

By default, all unused earpieces will be unplugged at the start of a meeting.

When you are not using your earpiece, please place it face down in the middle of the sticker for this purpose, which you will find on the table as indicated.

Please consult the cards on the table for guidelines to prevent audio feedback incidents.

The room layout has been adjusted to increase the distance between microphones and reduce the chance of feedback from an ambient earpiece.

These measures are in place so that we can conduct our business without interruption and to protect the health and safety of all participants, including the interpreters.

Thank you all for your co-operation.

In accordance with the committee's routine motion concerning connection tests for witnesses, I inform the committee that all witnesses have completed the required connection tests in advance of the meeting.

Those are the witnesses here, members. There are many officials and witnesses who are outside, and they may not have had that testing done. If they are called upon, we will suspend so that we can make sure their recording devices and interpretation devices are working well.

I'd like to make a few comments for the benefit of the members and witnesses.

Please wait until I recognize you by name before speaking. For members in the room, please raise your hand if you wish to speak. For members on Zoom, please use the “raise hand” function. The clerk and I will manage the speaking order as best we can. We appreciate your understanding in this regard. As a reminder, all comments should be addressed through the chair. Officials are at the meeting to answer technical questions on the bill.

Now we are moving to the annotated agenda.

Members, as we start clause-by-clause consideration, pursuant to Standing Order 75(1), consideration of clause 1, the short title, is postponed.

(Clause 1 allowed to stand)

**The Chair:** There are no amendments to clauses 2 to 6, so I would seek unanimous consent to group those, members.

● (1110)

**Mr. Philip Lawrence (Northumberland—Peterborough South, CPC):** Which ones are we grouping?

**The Chair:** We are grouping clauses 2 to 6. There are no amendments.

**Mr. Philip Lawrence:** No. We would ask for an individual vote on each one.

**The Chair:** Okay. We'll go to a vote on each one.

Shall clause 2 carry?

(Clause 2 agreed to on division [*See Minutes of Proceedings*])

**The Chair:** MP Hallan.

**Mr. Jasraj Singh Hallan (Calgary Forest Lawn, CPC):** I wanted to move a motion, Chair:

> That the committee invite Mark Carney to appear on economic, fiscal, monetary and tax policy for four hours no later than May 17, 2024.

It has been circulated and translated, as far as we know.

May I speak to that, Chair?

**The Chair:** The floor is yours.

**Mr. Jasraj Singh Hallan:** Liberal leadership 2024 has kicked off, and "carbon tax Carney" has come blazing out of the gates first. He's jet-setting around on his celebrity tour, going from outlet to outlet promoting the carbon tax scam, talking about fiscal and monetary policy, trying to get ahead of all the other candidates. He's supported every single decision that this Liberal government has made over the last nine years, which gave Canadians 40-year highs in inflation and the most rapid interest hikes seen in Canadian history, which put Canadians most at risk in the G-7 for mortgage default crisis. He is jet-setting around, making all sorts of monetary and fiscal comments in support of the carbon tax scam. He is one of those people who will do everything they can to follow the radical woke agenda of the Prime Minister to kill the energy sector, putting more dollars for dictators instead of powerful paycheques for Canadians.

As Mark Carney, Justin Trudeau and Chrystia Freeland look down upon Canadians from their ivory tower, they look at the mom who can't feed her kid and who has to skip meals herself. They're looking at the two million people waiting in a food bank line, and a million more projected too this year, because they can't afford food. They're looking at the international student who was promised the Canadian dream and who, like many others did, came to this country like my family but now have to live under bridges. They're looking at the nurse who has to make a decision on whether she should live in her car now because she can't afford gas, groceries and home heating: She can't afford to eat, heat and house herself, because after nine years of Justin Trudeau they've doubled housing costs. They've doubled rents, mortgages, the down payment that's needed for a house now. They're looking down from their ivory tower at all those people, unmoved by the fact that they increased the carbon tax scam 23% on April 1—as 70% of Canadians told them to spike the hike and not to—on their path to quadruple the carbon tax, to make everything even more expensive for all those people they caused so much pain, all to follow with their woke, radical climate ideology, which does absolutely nothing to help fix the environment and just causes more economic pain for Canadians.

Now we have Mark Carney trying to get ahead of all the other candidates, going around, jet-setting, talking about all the ways he supported the government in leading to all the pain Canadians see today, but at the same time promising to continue down that path and not take another path. He was asked to come to this committee for the fall economic statement, and he declined. He refused to answer for all the radical comments he was making outside. He refused the ask to come here and tell us what he will do once he is coronated, as "carbon tax Carney", for the Liberal leadership. We need to hear from him on why he supports the doubling of housing that happened under this government and the same old same old, building more bureaucracy and not more homes; why he supported the reason that more Canadians are going to food banks because they can't afford to eat, house themselves and heat their homes; and why he wants to make all of that even more expensive. We need him to answer why he supports pipelines in places like the UAE and Brazil but not places like Canada, and why the ideology of this Liberal government is that Canada is the problem and not the solution to help out with the energy crisis that's happening.

Common-sense Conservatives have a simple ask, that Mark Carney come to this committee, show some courage, come here and stand behind some of the comments he's making out in the public on why he supports the disastrous policies of the Liberal government over the last nine years and what he's going to do once he's coronated as the next Liberal leader.

● (1115)

Thank you, Chair.

**The Chair:** Thank you, MP Hallan.

I have MP Scheer on the list.

**Hon. Andrew Scheer (Regina—Qu'Appelle, CPC):** Thank you very much, Mr. Chair.

I hope all members of this committee will support this common-sense motion.

All this motion does is express the will of the committee to hear from Mark Carney. He was invited to come after the fall economic update was tabled, and he refused that invitation. We know it's not because he's shy. He's not a bashful man. He has no problem speaking to Liberal insiders at invitation-only events, where he gives them glimpses into his extreme policy agenda. All this motion is about is accountability. If Mark Carney wants to replace Justin Trudeau as Prime Minister and leader of the Liberal Party, he should have the courage to be held accountable.

We know he has a lot to answer for, Mr. Chair. Look at a few of his greatest hits.

He's an enthusiastic supporter of the carbon tax. I think the committee should hear his explanation as to why he supports a policy that drives up prices, that increases the cost of home heating and that forces vulnerable Canadians and seniors to choose between eating and heating. We'd like to know how high he would hike the carbon tax. We know the current Liberal plan is to quadruple it. Will that be enough for carbon tax Carney? Will he want to push that carbon tax and those prices up even higher?

We know he has defended international organizations that put forward policies about having more and more government control over people's lives and more and more central planning over the economy.

In an unbelievable display of hypocrisy, he cheered on this government's cancellation of Canadian energy projects—Canadian pipelines that would have brought Canadian jobs home to Canada and given powerful paycheques to Canadian workers. He cheered on the government's cancellation of those job-creating and prosperity-creating projects, yet, at the very same time, he's the chair of asset management at Brookfield. Where does Brookfield invest some of those assets? It invests them in a massive energy project in Abu Dhabi, on the other side of the world, that is creating jobs and paycheques for Canada's competitors. He cheers on and advises his Liberal friends to cancel Canadian projects that would compete with the energy projects his companies are invested in.

He himself was personally found to have misled the public on Brookfield, the company he's a part of, over its claim to be net zero. I would hope all members would like to hear his explanation for why Brookfield was accused of massively under-reporting its emissions in a scandal that hit all the papers around the world that cover business. Brookfield, as well, was accused of using favourable tax policies in countries like Bermuda to avoid paying taxes here at home in Canada. We'd like to hear what he has to say about that. I would think that members of all parties would want to hear the explanation for why Brookfield views it as acceptable to avoid paying taxes here at home, especially when we hold that up to the light of the job-killing policies Mark Carney himself personally cheerleads for.

That's all this is about, Mr. Chair. It's just about accountability. Mark Carney clearly wants to replace Justin Trudeau, so he should have the courage to be held accountable for it. Canadians have a right to know what direction he would take this country in. I would hope my NDP colleagues would like to know who their replacement coalition partner will be and what their replacement coalition partner will do with policy in this country.

This motion is very common sense. It's about accountability. It's about transparency. It's about giving Mark Carney the opportunity to explain why he loves the carbon tax so much, how high he would drive it up and how many more energy projects he would kill. When we look around the world, we see countries coming to Canada, begging for our clean and ethical LNG to displace dirty coal, but Mark Carney clearly likes to advocate for cancelling those projects here in Canada. We'd like to know why.

● (1120)

Mark Carney has bragged about having access to Liberal cabinet ministers. He clearly has no problem giving his advice to them in secret, behind closed doors, or over the phone, so we'd like to have him before the committee, and he can tell Canadians and all parliamentarians what kind of advice he's given his Liberal friends to pursue their anti-energy and job-killing projects.

This is about asking Mark Carney to come and show the courage of his conviction and see if he can withstand the scrutiny and accountability that we ask of all senior officials. We've given many witnesses the opportunity to come and explain why they hold the views they hold, and what advice they give this Liberal government.

There's nothing more and nothing less. It's just an accountability session for someone who aspires to take over the leadership of the Liberal Party and become the replacement coalition partner of the NDP-Liberal government.

I strongly urge my colleagues from all sides of the House and from all political parties to vote in favour of accountability and transparency and invite Mark Carney to come and defend his positions.

**The Chair:** Thank you, Mr. Scheer.

I have Mr. Morantz, Mr. Turnbull and then Ms. Dzerowicz.

**Mr. Marty Morantz (Charleswood—St. James—Assiniboia—Headingley, CPC):** Thank you, Mr. Chair.

I, of course, agree with all the comments of my colleagues. It's very clear that Mr. Carney wants to be the leader of the Liberal Party. He's been going around the country and making speeches. He's been very clear about his intentions. Though it's clear that he doesn't want to axe the tax, he's made it very clear that he wants to axe the Prime Minister.

In his speeches on economic and fiscal policy, most recently, he attacked the common-sense Conservative plan to axe the tax, and he attacked Conservatives on a number of other levels. This includes using—it seems very odd to me—Brexit as a proxy somehow, and the rhetoric that was used around Brexit, to attack Canadian Conservatives.

It's very clear that he's posturing for the position of the Liberal leadership. He supports increasing the carbon tax. We need to know by how much. He has supported this government's inflationary spending. We saw just today that the PBO reported the actual increase in inflationary spending is $61.2 billion, not $57 billion, so it's even higher than we thought.

Canadians deserve to know what his position is on these types of things.

If he wants the top job, he owes it to Canadians to testify before this committee on his plans for spending, inflation and fiscal and monetary policy. I'm sure we'd have some very pertinent questions for him on monetary policy, given the fact that he was the governor of the Bank of Canada and the governor in the U.K.

On energy, my colleagues make a very good point. The Prime Minister keeps saying, “Well, you know, LNG is off the table. There's no economic case for exporting Canadian liquefied natural gas,” but we just had the President of Poland ask for Canadian liquefied natural gas to be exported to Poland. About a year and a half ago, the Chancellor of Germany asked for that as well.

It's very important that Canadians are made aware of his position on the sale of liquefied natural gas. This is just one issue. There are so many others.

As my colleagues mentioned, the door was open for him to come and testify on the fall economic statement, but he dodged the committee. I think it's important that he not be allowed to dodge this committee if he wants to be the Prime Minister of this country, so it's incumbent upon all members of this committee—Liberal, Bloc and NDP—to support this common-sense motion that would call on Mr. Carney to come here and answer some very important questions.

Another one I'll just touch on is that we don't know, for example, what his fiscal anchors might be. Would he actually bring forward a plan to balance the budget—something that hasn't been done by this government in nine years—or does he support the current plan of the minuscule reductions in the debt-to-GDP ratios that this government tabled in the most recent budget?

What will his fiscal anchors be? We just don't know. We're in the dark.

For all those reasons and the reasons of my colleagues, I will certainly be supporting this motion.

Thank you, Mr. Chair.

● (1125)

**The Chair:** Thank you, Mr. Morantz.

I now have Mr. Turnbull and then Ms. Dzerowicz, Mr. Davies, Mr. Hallan and Mr. Lawrence.

**Mr. Ryan Turnbull (Whitby, Lib.):** Thank you, Mr. Chair.

It's great to be here with all the committee members. This is my first finance committee meeting.

I just want to make a few points about this. It sure seems to me like Bill C-59 and the amendments to the Competition Act, the investment tax credit regime that I know industry has been asking for, and the many other components of this bill make up the reason that we all came here today. It was to do clause-by-clause analysis of a very important piece of legislation. I note that there have been about 20 hours of witness testimony. It's actually been many months to get to this point.

It's just interesting to me that the Conservatives bring this motion now, at this time, right before we're moving into clause-by-clause analysis. It seems to me that this is a delay tactic. We've seen these many times before. Conservatives use obstructionist tactics to delay committee proceedings, to delay House proceedings and to delay such important pieces of legislation as the sustainable jobs act and the amendments to the Atlantic accord. There are many, many examples of Conservatives obstructing our parliamentary proceedings.

Stakeholders in industry want us to pass Bill C-59. They are calling for the doubling of the rural top-up and the amendments to the Competition Act. There is a lot of will behind the passage of Bill C-59.

If the Conservatives really want to hear about monetary policy, the Bank of Canada governor is scheduled to appear this Thursday. Tiff Macklem, as you know, would be probably the most appropriate witness to answer your questions about monetary policy. I think the Conservatives have an opportunity to do that. This is obviously a political play and tactic to get clips and clicks. Let's move on here and move back into clause-by-clause.

**Hon. Andrew Scheer:** I have a point of order, Mr. Chair.

Given Mr. Turnbull's comments about the use of time, I just wonder if there's unanimous consent to adopt the motion. Then we can move right into—

**An hon. member:** That's not a point of order.

**The Chair:** That's not a point of order.

Mr. Turnbull.

**Hon. Andrew Scheer:** Well, can I move—

**An hon. member:** You don't have the floor.

**Hon. Andrew Scheer:** Do I have unanimous consent to move unanimous consent?

**Mr. Ryan Turnbull:** No.

Thank you, Chair. I was just wrapping up. What I was getting at, and what it was very clear Mr. Scheer didn't want to hear, was really that we just move back into clause-by-clause and dispense with this motion, which is obviously just a political tactic.

Thank you.

**The Chair:** Thank you, Mr. Turnbull, and welcome to the committee.

MP Dzerowicz, you have the floor.

**Ms. Julie Dzerowicz (Davenport, Lib.):** Thank you so much, Mr. Chair.

I want to concur and agree wholeheartedly with my colleague, Mr. Turnbull. I am glad he's here with us today. I too am very disappointed that the Conservatives continue to try to delay the passing of Bill C-59, the fall economic statement, by proposing this time-wasting motion. We have heard from stakeholder after stakeholder after stakeholder. They have asked to move as quickly as possible to get going on passing this legislation, particularly on things like the clean economy investment tax credits. They're not able to do the work until we actually pass this legislation.

I will tell you that in proposing this motion today, the federal Conservatives are disingenuous. It is not the job of the finance committee to interview possible future politicians. They have to stop using the finance committee for their fishing expeditions and honour our important role to review, improve and pass critical legislation that comes to committee, which is what we're doing today.

Mr. Chair, I would ask our colleagues to stop the games and stop the gimmicks that slow down our important work. Let's get back to clause-by-clause. Canadians are looking for serious leadership from their government—not games, not slogans, not gimmicks.

Thank you.

● (1130)

**The Chair:** Thank you, Ms. Dzerowicz.

Mr. Davies, go ahead, please.

**Mr. Don Davies (Vancouver Kingsway, NDP):** Thank you, Mr. Chair.

I don't intend to speak for long, but since I and my party were referenced in the Conservatives' comments, I want to set the record straight.

First of all, I endorse all the comments of Ms. Dzerowicz. I've only been on this committee two weeks, and if there is one thing I've heard consistently through 20 hours of finance committee hearings on the fall economic statement in the last two weeks alone, it's that there is unanimity that they want this bill passed as soon as possible.

This is clearly a delay tactic by the Conservatives. Anybody watching this could tell easily, because they had three Conservatives speaking to a simple motion to call a witness. That's not necessary if they truly are sincere about just calling this witness.

The repeated references to Mr. Carney's putative political ambitions, I think, also starkly reveal where the Conservatives are really coming from on this. They're being partisan, and they're trying to politicize this committee for their own electoral purposes, which I find a misuse of this committee's time.

I've never heard the name Mark Carney and central planning ever mentioned in the same breath. He doesn't strike me as a central-planning type of person, but maybe I have a different view of central planning than the Conservatives do.

I've had multiple conversations with my colleagues on the other side about calling Mr. Carney. Mr. Carney does have a storied history. He was Governor of the Bank of Canada as well as Governor of the Bank of England, but right now he's a private citizen. He made some remarks as a private citizen. If this committee is going to function so that any one of the 12 members of this committee at any time can call to this committee a citizen of this country who says something interesting, we will grind this committee to a halt. I could list 12 people who have said interesting things about monetary policy and fiscal policy in the last week. I was talking to Jim Stanford a few days ago. I'd like to call Jim Stanford to the committee by May 9 to hear what he has to say. If we do that....

The Conservatives are saying yes. We'll see how they react, if and when they are government again, when important things like budget implementation bills—upon which 40 million Canadians depend and for which businesses in this country are yearning—are held up while we have a debating salon in the finance committee as opposed to dealing in an orderly fashion with the business that should come before the finance committee, which is the fall economic statement.

For Canadians watching, right now on the docket of this committee we have the fall economic statement, Bill C-59, which we're trying to pass today. We have an upcoming budget. We have a housing study, which is currently under way and unfinished. These will be delayed by these kinds of political shenanigans.

I will tell you that my constituents are much more interested in getting affordable housing than they are in hearing about Mr. Carney's potential political ambitions.

We have an inflation study. I think a lot of Canadians in the last two years have really struggled with the high cost of food. The Conservatives claim to care about it. We have a study before this committee, and they want to delay that study to engage in a partisan attack on someone they view to be a potential Liberal leader.

What's funny about this is how brazen and stark the Conservatives are about their ambitions. I thought they would at least have enough respect for this committee to try to hide it, but they haven't. I mean, they lay it right out there. They want to call Mr. Carney because he's a possible Liberal leader. That's not a proper use of the finance committee.

By the way, as I've communicated to the Conservatives, absolutely, Mr. Carney could be invited to this committee, and I'd be interested in hearing what he has to say. Do it in the proper way. Do it in the context of a study.

For any Canadians watching this, when there is a study here, every party is entitled to nominate the witnesses they want to hear. They don't need a motion passed for that. I've already indicated to the Conservatives that we should have a couple of days on the inflation study in the next 60 days. I'd support their calling Mr. Carney as a witness on inflation if they think he has something interesting to say. They know that, yet they come in public here and move a motion in order to politicize something that is simply a waste of time.

If Mr. Carney has been invited before and he didn't come, as the Conservatives have said, issue a summons. Move a motion to issue a summons. That's a tool they have. They haven't done that.

● (1135)

For all of those reasons, I'm going to vote against this motion.

I want to be clear on the record: I look forward to Mr. Carney's coming to this committee at the appropriate time in the appropriate study, which can happen in the next two months. I'm not prepared to hold up the important work of this committee to get Canadians and Canadian businesses the important relief they need just so the Conservatives can use this committee as a political attack tool as opposed to an important parliamentary committee that is here to move forward important legislation like the budget.

Thank you.

**The Chair:** Thank you, Mr. Davies.

I have Mr. Lawrence, Mr. Hallan, Mr. Chambers and Mr. Baker.

**Mr. Philip Lawrence:** Thank you very much.

I'd like to welcome Mr. Turnbull and congratulate him on his new role.

I would like to move to amend the motion, changing it from “invite” to “summon”.

**The Chair:** You moved to amend the motion. Okay.

**Mr. Philip Lawrence:** Thank you.

That amendment has been moved. Am I correct?

Terrific. Now I'll be speaking about the amendment, if that's correct.

With respect to Bill C-59, I want to clarify that there is no conspiracy afoot to delay this legislation. The fall economic statement was introduced almost six months ago. It's actually unprecedented. It's running parallel to the budget. That's not because of Conservatives. That's because of the Liberal Party's mismanagement of their calendar. Those are just the facts.

As part of the discussion on Bill C-59, yes, we think it would be informative and illustrative to have Mr. Carney appear. He is the former governor of the Bank of Canada. He's the former governor of the Bank of England. We believe he's not just a random Liberal and not just any private citizen. I think it's been well reported out there that he will be the next leader of the Liberal Party. His input on Bill C-59 is not only important but also critical.

We followed the legislative process. We invited him as part of the process. He refused to appear. It is not the first resource of Conservatives or, I would think, of any MP to summon someone. We give them, first, a chance to respond. He failed to respond. Now we're bringing in the next part. Bill C-59 is, of course, about ready to conclude. We have the budget going forward, so it is not out of order. In fact, it's completely within order. We followed the process. We put him on the witness list. He refused to attend. Now we're coming back.

We weren't going to summon him, but the NDP seem to think it's required. We will agree somewhat reluctantly with their request to summon Mr. Carney, because we think it's a bit of overkill. We would expect and hope that all members would utilize, in a common-sense manner, the powers that are bestowed on us to get important witness testimony from Mr. Carney.

Thank you very much.

**The Chair:** Thank you, Mr. Lawrence.

I have Mr. Hallan on next, then Mr. Baker and Mr. Ste-Marie.

**Mr. Jasraj Singh Hallan:** Thank you, Chair.

Canadians are terrified, because if they know that Mark Carney is going to be the next Liberal leader, there's no hope at the end of this tunnel right now. There's no hope at all that their mortgage, their rent, the grocery prices will come down. It's going to be more of the same—the carbon tax, high prices. People who came here for the Canadian dream will never see it. Young people will never see home ownership. It will just be a continuation of the same elitist Liberal Party doing what they always do, rewarding their friends and leaving everyday Canadians more and more behind.

That's what Canadians are terrified of. That's what Mark Carney needs to come here to answer for. Will it be the exact same, this pathway to the reality that Canadians, who are going into food banks and living in their cars, are facing?

I would hope that Mr. Turnbull, who recently shared a Mark Carney video, would also want him here to answer about the video he was sharing. Maybe he wanted to be the first one out of the gate to endorse Mark Carney. Maybe Mr. Turnbull could be one of the first to join us and say, yes, let's have him come here and answer, because he was recently promoting him.

I would also hope the NDP would want him to come here and change their stance on this motion. When the IMF is saying that Canada is most at risk in the G7 for a mortgage default crisis, Mark Carney is calling anyone who agrees with that an alarmist and saying it's not happening. Of course, he doesn't understand that. He doesn't understand how out of touch he is. Mark Carney doesn't understand the pain that Canadians are going through as he sits in his ivory tower along with Justin Trudeau and Chrystia Freeland. I would hope the NDP would support this, so he could come here and explain himself as to why a report done by the IMF is saying Canadians are most at risk in the G7 for a mortgage default crisis, why those are the facts. It's not being alarmist at all; that's the pain Canadians are facing.

I'm going to ask both the Liberals and the NDP, and this coalition, to think once again. Canadians are terrified about the future of Canada. They're even more worried there's a pathway to a quadrupling of the carbon tax under Mark Carney and Justin Trudeau. He needs to come here and answer for that, as he'll most likely be coronated as the next Liberal leader.

Thank you, Chair.

● (1140)

**The Chair:** Thank you, Mr. Hallan.

I have Mr. Baker, and then Mr. Ste-Marie.

**Mr. Yvan Baker (Etobicoke Centre, Lib.):** Thanks very much, Chair.

I give a big thanks to the Conservatives for wasting a bunch of people's time and taxpayer dollars here.

We should be focused here on issues that matter to Canadians. I think most of the members around this table are trying to do work that helps Canadians with affordability, with the cost of housing and with the economy. This is another delay tactic.

I have sat on this committee for a few years now, and I watched last year as the Conservatives used delay tactics over and over again to delay clause-by-clause on the budget. I was hopeful that this year would be different, but it's not. Despite the fact that Canadians need our help, Conservatives would rather politic at this committee rather than pass legislation that actually helps them. They could improve the legislation. They can amend it if they'd like, but let's get the legislation that helps Canadians done.

The Conservatives don't want to do that. They want to sit here and politic.

For Canadians watching at home, I would ask you to think about how this is what they do when they are in opposition and when they don't have the majority of the votes. Imagine what these guys would do if they were in government. Imagine how they would spend taxpayer dollars, committee time, government time and House time. When they rage about challenges that Canadians are facing and then get in the way of MPs doing their work and getting stuff that matters to Canadians done, that's who these folks are.

The second thing I would say is that I am really surprised that the Conservatives seem to know so much about the Liberal Party leadership race and who's running. I'm a Liberal. I feel like I'm pretty plugged in, and I haven't heard Mark Carney announce anything about a leadership race.

I will be honest with you. I will worry about who's running for the leadership of any party when the party calls a leadership race. Right now, we have work to do at this committee to help Canadians. That's what we should be doing.

This committee isn't a platform to invite media, invite guests and waste the time of our hard-working civil servants and taxpayers so you can politic about another party's leadership that you know absolutely nothing about.

Sure, we could sit here and talk about the leadership aspirations of the Conservatives at this table. Why is Mr. Hallan auditioning for Mr. Scheer? Why has Mr. Scheer come to this committee? Mr. Scheer doesn't come to this committee to talk about affordability and housing. He comes only when it's time for politicking. Why isn't he here when he should be working on behalf of Canadians?

What does Mr. Morantz know about the leadership race that I don't? I don't really care. Let's talk about it off-line, and let's focus on affordability, housing and the other issues that matter to Canadians. That's what's in this bill. It's going to help Canadians. Let's focus on that.

The last thing I will say is about something that I can't let go. Mr. Hallan used the words “dollars for dictators”. If these guys actually cared.... Do you know who the most dangerous dictator in the world is right now?

**Some hon. members:** [*Inaudible—Editor*]

**Mr. Yvan Baker:** It's actually Vladimir Putin, because not only has Vladimir Putin invaded Ukraine, but he will invade other countries if the Ukrainians don't win. We will be the next ones. It will be our soldiers fighting next, defending us against Russian aggression along with the Europeans and the Americans. Every dollar we spend now to help Ukraine is millions of dollars less that we spend in the future. Every Ukrainian fighting on the front line right now is one less Canadian who will have to fight in the future.

But do you know what the Conservatives opposite, who talk about dictators, do? They play into their hands. They vote against every single thing that we have tried to do to support Ukraine. By the way, one of the things that Mr. Davies mentioned is how this ridiculous waste of time that the Conservatives have perpetrated in this committee is delaying the process of this committee in getting to the budget, which actually has $2.4 billion in support for the Ukrainians.

Maybe the Conservatives—instead of playing into Vladimir Putin's hands all the time by voting against weapons, voting against Operation Unifier, voting against free trade with Ukraine, voting against financial support for people who are fleeing the war and have come here to Canada, and calling Ukraine a “faraway foreign land” but then claiming they care about dictators—should actually vote in support of Ukraine to help them win the war. Ukrainians are on the front line, not only fighting for themselves but also fighting for us.

We've had enough hypocrisy, enough talk and enough nonsense at this committee. Let's get back to work and pass this legislation, because that's what Canadians need.

Thank you.

● (1145)

**The Chair:** Thank you, Mr. Baker.

I have now Mr. Ste-Marie, and then after that it will be Ms. Dzerowicz and Mr. Hallan.

[*Translation*]

**Mr. Gabriel Ste-Marie (Joliette, BQ):** Thank you, Mr. Chair.

Good morning, everyone. It's difficult for me to speak after Mr. Baker's very strong and heartfelt speech.

I first want to greet Mr. Turnbull and congratulate him on his new position, which brings him to join our committee.

As several colleagues have said, I hope we can get back to clause-by-clause consideration of Bill C-59. I'm thinking in particular of all the senior public servants who are here today. We shouldn't hold them up too long unnecessarily.

I have great respect for Mr. Carney, who was Governor of the Bank of Canada and then Governor of the Bank of England. I always wish we could hear from him in committee, so I support the proposal to invite him to testify.

On the other hand, I'd like to say to my NDP colleague that he'd have my agreement if he ever suggested that the committee invite Jim Stanford. He's been here a few times too. It's always interesting to hear him talk about all the economic issues.

So I'm in favour of the motion for the reason I've just mentioned, not for the reasons raised by the Conservatives. However, I will be against the amendment, because I don't think it's useful at this time to send a subpoena to Mr. Carney to force him to come and testify for four hours.

That's my position.

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

MP Dzerowicz.

**Ms. Julie Dzerowicz:** Thank you so much, Mr. Chair. I very much agree with the comments of Mr. Baker and Mr. Ste-Marie.

The Conservatives are showing, Mr. Chair, that they actually don't care about industry. I'm going to reiterate a bit of what I've said before. It's been said by a few other people, but I want to put on the record that they're going against industry interests and, indeed, against the very interests of the oil and gas industry and renewable companies in the very ridings of some of the Conservative members who are here.

They want the clean economy investment tax credits passed right now in order for them to put a plan in place and to start decarbonizing and meeting emissions reductions targets. They've been very clear. I don't know why it is that Conservatives are going against their own stakeholders and against what industry is actually asking us to do.

There is another thing that is important to put on record, and it's ridiculous that we have to do this, but nonetheless, let's do it. They obviously did not get the memo, Mr. Chair. Carbon pricing—or the carbon tax, as the Conservatives like to sort of brand or label it—has not caused food prices or home pricing to go up. Inflation has been a global issue.

After the pandemic, globally, we've had a huge inflation issue. What's happening is that prices have gone up, not only on food but also on housing, and that's been exacerbated because we've had a housing crisis, because three levels of government for over 30 years have stopped investing in housing.

They have to stop lying and misleading Canadians. The carbon pricing or carbon tax does not cause inflation. I will also say to you—

● (1150)

**Mr. Marty Morantz:** I have a point of order, Mr. Chair. I think Ms. Dzerowicz said that we have to stop lying. I'm pretty sure that's unparliamentary language, and I would ask her to withdraw and apologize for that comment.

**The Chair:** I didn't hear that.

**Mr. Marty Morantz:** Thankfully it's recorded.

**Ms. Julie Dzerowicz:** I did say lying, but that's what's happening. It's the truth.

**Mr. Marty Morantz:** With the greatest respect, Mr. Chair—

**Ms. Julie Dzerowicz:** I will then withdraw and say, the massive misleading that the Conservatives are doing is awful.

**Mr. Marty Morantz:** On the same point, she has to apologize, Mr. Chair. In the House, the Speaker has made it very clear. When another member accuses members of lying, they have to withdraw and apologize. I would ask you to be consistent with the ruling of the Speaker and insist that Ms. Dzerowicz also apologize.

**Ms. Julie Dzerowicz:** No, I refuse to.

**The Chair:** Mr. Morantz, I heard Ms. Dzerowicz change the wording, and I'll go with that.

Ms. Dzerowicz, continue.

**Ms. Julie Dzerowicz:** I've withdrawn my comment.

Witnesses we invite to this committee can say no for any reason. I'll also say to you that a number of witnesses have told me that they don't want to come before this committee.

I want to be very clear. I've never spoken to Mr. Carney about this. I'm talking about other witnesses.

They refuse to come before this committee. They see the Conservatives as gimmicky. They see it as a waste of their time. They see that the Conservatives are not really looking for answers; they're looking for social media clips. They see that they are badgered and bullied, and they don't see a lot of the questions that are posed by the Conservatives as serious, so they refuse to come.

What I would also say to you is that we have had witnesses come before this committee whom the Conservatives have requested, and the Conservatives will ask questions but provide zero seconds for witnesses to actually respond. Why would any witness want to come before this committee if that is the way they are going to be treated?

**The Chair:** Thank you, MP Dzerowicz.

We have Mr. Hallan and then Mr. Davies.

**Mr. Jasraj Singh Hallan:** Thanks, Chair.

Before I make my last plea, I just want to clear up some misinformation by Ms. Dzerowicz. In fact, the Bank of Canada's governor sat there and said that the carbon tax scam does contribute to inflation. In fact, 0.6% of the overall inflation number is because of the carbon tax, which also impacts housing, because the inflation—

**Ms. Julie Dzerowicz:** As a point of information, that is incorrect. It's 0.015%.

**The Chair:** MP Dzerowicz, we can't have that.

**Mr. Philip Lawrence:** No, Ryan, it's in the letter.

**The Chair:** Members, MP Hallan has the floor.

MP Hallan, continue.

**Mr. Jasraj Singh Hallan:** Thank you, Chair.

I just wanted to make that clarification. If Ms. Dzerowicz thinks the carbon tax doesn't impact the trucker who's shipping the material to build those houses, and consequently the farmers who are growing the food, and the trucker who's shipping the food, and the people who are retailing the food, then I think it just goes to show how out of touch and out of reality the Liberal government is. It just proves how out of touch they are about this carbon tax scam. That's what we're concerned about—that Mark Carney is just as out of touch and doesn't understand the pain of Canadians.

The carbon tax has a huge impact on people's lives, whether it's housing or groceries. It's also a factor in why people are going into food banks. It's now two million, in fact, and a million more this year. This fact flies over Liberals' heads, because they're so ideologically obsessed with their woke, extremist view on this carbon tax scam.

In closing, I just want to throw it out there that if the Liberals and the NDP want to pass Bill C-59, we're willing to do it right now. We could get it done with a vote right now. If this coalition agrees to pass our motion right now, as amended by Mr. Lawrence, we can get both things cleared up right now, within the next minute. That's all we ask for. Let's get both things passed right now. We don't have to waste any more time.

Thank you.

● (1155)

**The Chair:** Thank you, MP Hallan.

I have MP Davies on next.

**Mr. Don Davies:** Well, I'm glad there's an acknowledgement that they're wasting time.

Of course we can't do that, because there are amendments before the committee on Bill C-59. I think there are about 15 of them, and some of them are extremely important. A lot of them come from the witnesses themselves. I think all parties in the House have actually put forth amendments to Bill C-59. We can't actually pass Bill C-59 right now without dealing with the amendments. However, I will hold the Conservatives to their word, that as soon as this motion before us is dispensed with, we can move swiftly through Bill C-59 so that we can actually pass this legislation, get it back in the House and give Canadians and businesses the economic relief that they need and deserve.

It's funny; I always hear that the number one thing the business community needs is certainty. They can deal with all sorts of different policies, but what they really want is certainty. Here the Conservatives are, holding up Bill C-59, when business after business came to this committee and said they wanted these rules in place so they can plan their economic activity. Businesses are waiting to invest in environmental technology and in all sorts of investment decisions based on the provisions in this bill. The Conservatives are holding this up, leading to great uncertainty among businesses.

You know, in business, especially in this global world, time is money and things are moving quickly. While Canadian businesses have to hold off, other countries and businesses do not. In terms of what the Conservatives are doing here, they think they're being kind of cute in this room. That would be one thing, and that would be tolerable, but what they're really doing is hampering Canadian businesses and harming our interests on a global scale.

I move to adjourn the debate so that we can get to Bill C-59.

**The Chair:** There's no debate on this.

Is everybody in agreement that we adjourn the debate?

**Hon. Andrew Scheer:** I have a point of order.

**The Chair:** No. There's no discussion.

**An hon. member:** I'd like a recorded vote.

**The Chair:** Okay. We will have a recorded vote on adjourning the debate.

(Motion agreed to: yeas 6; nays 5)

**The Chair:** Debate is adjourned, so that's it.

We are now moving back to clause-by-clause, beginning with clause 3.

(Clause 3 agreed to on division)

(On clause 4)

**The Chair:** I have Mr. Chambers, on clause 4.

**Mr. Adam Chambers (Simcoe North, CPC):** Since we have officials here and we asked the question during the review of the bill.... I'll note that when we did this first part of the bill, we actually had only one round of questions with officials. I want to clarify whether we have the answer to two questions.

One, who is auditing the investment tax credits? Is that the CRA? Two, how many people are going to be hired as part of this bill?

● (1200)

**The Chair:** Is it with respect to clause 4?

**Mr. Adam Chambers:** Yes. It's about the investment tax credits.

**The Chair:** Officials, who is best placed to answer that?

Ms. Gwyer.

**Ms. Lindsay Gwyer (Director General, Legislation, Tax Legislation Division, Tax Policy Branch, Department of Finance):** If the question is whether clause 4 relates to the investment tax credits, it does have some relationship with the investment tax credits. It's consequential amendments related to the investment tax credits.

In terms of the other question, I don't know if Max has an answer for that. There's no one from the CRA here. The CRA would be the one auditing it and responsible for it.

I don't know if Max has anything to add.

**Mr. Maximilian Baylor (Director General, Business Income Tax Division, Department of Finance):** As they're investment tax credits, the Canada Revenue Agency is responsible for administering them and, therefore, will be responsible for the audit activities.

**Mr. Adam Chambers:** Thank you very much.

As a follow-up question or comment, with every piece of legislation that's come to this committee, the same question gets asked every single time: How many people will be hired as part of the bill?

The CRA did not appear before this committee, despite being requested a couple of times. It's implicated in the bill. We had 20 hours' worth of witness testimony. CRA officials were unable or unwilling to appear to discuss the fact that they're going to be carrying out substantial activities, as described in the bill.

For all these reasons, I'm voting against them.

This may be my final question on the investment tax credits. I was under the impression that there were some other amendments potentially coming to the investment tax credits. Are there potential amendments that we may see in future legislation?

**Ms. Lindsay Gwyer:** First, Bill C-59 includes two investment tax credits. These are the investment tax credit for carbon capture and the investment tax credit for clean technology. There have been subsequent enhancements announced—not on the carbon capture tax credit, but on the clean technology tax credit—that are not in the bill. Those will be in a future bill.

There are also additional tax credits that will require some coordination between the multiple sets of tax credits. Those are also amendments that will be in a future bill.

**Mr. Adam Chambers:** Okay, that's wonderful.

Thank you, Mr. Chair.

**The Chair:** You're welcome, MP Chambers.

Shall clause 4 carry? We'll have a recorded vote.

(Clause 4 agreed to: yeas 6; nays 5)

(On clause 5)

**The Chair:** Shall clause 5 carry?

There's a question on clause 5.

MP Lawrence.

**Mr. Philip Lawrence:** Thank you.

Of course, clause 5 is about employee ownership trusts. My question is whether the department has done any type of analysis—I guess that's the proper word—on how many transactions or how many businesses it hopes will utilize the employee ownership trust structure as it's laid out.

**Ms. Lindsay Gwyer:** Yes, the department has been consulting with stakeholders. This is a request that has come from stakeholders. It's difficult to estimate how many businesses will be able to sell to an employee ownership trust and take advantage of these rules. If you just give me a second, I think I may have an estimate in my notes—I just need to find it. We anticipate there could be about 125 employee ownership trusts created by 2028-29, but that's obviously an estimate. These rules are new, so we don't necessarily know how businesses will react to them.

As I said, we've been consulting with stakeholder, and this is something that's been requested by stakeholders, so we know there's obviously an interest in it, but the take-up is still a rough estimate.

● (1205)

**Mr. Philip Lawrence:** The initial proposal with respect to employee ownership trusts didn't have much in the way of tax relief. The new one in Bill C-59 does have substantial tax relief.

Thank you for sharing that answer, by the way. I appreciate that.

What is the amount of tax revenue that will be lost as a result of the employee house trust? Ms. Gwyer, you can just send it to me afterwards. I'm sure it's in the list, if you don't have it there. I'm not going to make you sweat it there.

**Ms. Lindsay Gwyer:** I can find the numbers that were in the budget, which would be the number in the 2023 budget that reflects the amendments in Bill C-59, and then there was the subsequent exemption on gains realized on the sale of an employee ownership trust, which was announced in budget 2024, so that has a separate costing. That's not in this bill, though. It's something that I believe is in the notice of ways and means motion that was tabled today.

**The Chair:** Thank you, MP Lawrence.

Could we have a recorded vote, Clerk?

(Clause 5 agreed to: yeas 7; nays 3)

(On clause 6)

**The Chair:** MP Morantz, go ahead on clause 6.

**Mr. Marty Morantz:** I just want to get some clarity on this. I think this is the case, but limiting interest deductibility is a big thing in the business community. I just want to make sure that, if you're a Canadian-controlled private corporation that does business only in Canada, these rules do not apply to you. Is that correct?

**Ms. Lindsay Gwyer:** Yes, that's generally right. There are a few exceptions to the EIFEL rule. There is one for a Canadian-controlled private company that has less than $50 million of taxable capital employed in Canada, so that would exempt most small and medium-sized Canadian controlled private corporations.

There's also a separate exemption that could apply to larger corporations that have activities only in Canada. It looks at who the shareholders are, who are the related people receiving interest payments and where the business is. If that company has no material foreign investments and no significant foreign shareholders or non-arm's length people who they're paying interest to, then that exemption could apply to a larger CCPC that can't meet the $50-million threshold.

**The Chair:** Go ahead, MP Lawrence.

**Mr. Philip Lawrence:** Thank you. I might be getting ahead of myself, but, of course, there is an amendment coming.

I believe that the last time you were here, Ms. Gwyer, I asked you about the economic impact on the EIFEL regulations, and I don't believe we received a response. Has your department done any type of calculation or analysis with respect to the economic impact of EIFEL in terms of additional costs for consumers, particularly with respect to utilities, but in any other sector as well?

**Ms. Lindsay Gwyer:** We don't expect there to be any material impact on costs, and that's not based on economic analysis per se. It's based on the scope of the rules and the exemptions that are available under the rules.

**Mr. Philip Lawrence:** Ms. Gwyer, have you followed at all some of the press and news coverage with respect to EIFEL? There are a number of private sector organizations that would take issue with that claim, most notably the Nova Scotia utility, which said it was $50 million. That would have a material impact on every one of their clients and customers, who are already, of course, struggling with the high cost of energy.

● (1210)

**Ms. Lindsay Gwyer:** Yes, I am aware of that. I'm not sure if we've met with that specific stakeholder, but we have met with stakeholders on that issue.

We obviously can't say what a company will choose to do if they do have increased taxes as a result of this measure or any measure. They can pass that along. They can do what they choose with it. We can't say definitively what they will do with it.

Broadly speaking, there are a number of exemptions, including rules that relate to what's called the “group ratio rule”, which is a rule that said that if you do have a multinational company that is not able to benefit from one of the Canadian exemptions that I just discussed, you can look at the leverage ratios across that company's operations and look to what the leverage ratio is in other countries. If their Canadian leverage ratio is not materially higher than their leverage ratio in other countries, then they are able to have a higher leverage ratio in the 30% range.

Effectively, a company in an industry that is highly leveraged can be above the 30% ratio as long as it's not doing it in such a way that it is effectively eroding the Canadian tax base by having a significant leverage in Canada relative to its foreign operations. In those cases, including in the regulated energy sector, we would expect that exemption to allow those companies that are highly leveraged to have a higher leverage ratio, as long as they're not doing it effectively to fund their foreign operations at the expense of the Canadian tax base.

**Mr. Philip Lawrence:** Thank you for that, Ms. Gwyer.

It's more of a political discussion, so I won't carry on too far, but in my review of it in Nova Scotia, they have publicized everything. They've got the numbers out there and it's clearly adding $50 million in additional costs and will cost consumers more at the end of the day, regardless of the intricacies of it, which we can debate in terms of leverage ratios and everything like that.

It's not just me saying that. It's actually the Liberal member from Kings—Hants who fully supports that as well, the opinion that it will increase the cost. This isn't a partisan thing. Liberal members as well, quite frankly, don't agree, and at the end of the day, regardless of whether it's because of leverage issues or how it's funded, the people of Nova Scotia will end up paying more because of Bill C-59.

That's not really a question; it's a statement, but thank you very much for your hard work.

**The Chair:** Thank you, MP Lawrence.

Shall clause 6 carry?

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

(On clause 7)

**The Chair:** Now we are at clause 7 and CPC-1.

MP Lawrence, would you like to move that?

**Mr. Philip Lawrence:** Yes, please. Thank you.

I believe it has all been included in your packages, and you have it in both English and French.

This is an exemption to the EIFEL legislation for publicly regulated utilities.

As we just heard from the exchange between Ms. Gwyer and me, it's my belief, and one also shared by Liberal member Kody Blois—and you can confirm, guys, that both he and I agree—that this will have a negative impact on the people of Nova Scotia. This is of particular importance because the impact of the carbon tax has already been driving Canadians into energy poverty, as this government continues to tax the farmers who grow the food and the truckers who move the food. In reality, they tax everyone, because everyone consumes food. In the same way here, when you're taxing the utility companies that provide the energy, you are increasing the cost for Canadians at a time when they are already in energy poverty. We see food bank usage going through the roof. We see unemployment steadily, but continuously, creeping up. GDP per capita hasn't grown in 10 years. We're facing a lost decade. A large portion of this can be ascribed to the cost of energy.

I'm not in a unique position. It's actually the position of most countries that have imposed these EIFEL restrictions, which can be helpful in reducing the tax base—I agree with Ms. Gwyer on that. Countries like the U.K., the United States and many of our other peer countries have exempted publicly regulated utilities.

The reason, specifically, is that the pricing and even the structure of these utilities are often regulated, meaning they have no control. That cost will immediately go downhill to the customer.

In addition to that, of course we have the real and present issue of climate change.

One of the goals of this government has been the electrification of the country, so just at this time we're going to increase the cost on electrical utilities. They need to engage, in accordance with their own government, in billions of dollars of investment to electrify our country, and we're going to put an additional cost on them at this time.

One, we are hindering our ability to fight climate change, and two, we are worsening the affordability crisis. This is something that internationally has been recognized as a good thing in the U.K., in the U.S.A. and by Liberal members such as the member for Kings—Hants.

This is a bipartisan plea to help the affordability crisis and to fight climate change.

● (1215)

**The Chair:** Thank you, Mr. Lawrence.

I have a speaking order here.

I have Ms. Thompson, then Mr. Ste-Marie, Mr. Chambers and Mr. Turnbull.

**Ms. Joanne Thompson (St. John's East, Lib.):** Thank you, Mr. Chair.

I think for clarity I would ask if the financial officials could speak to this, particularly in light of the comments we've just heard and the allegations of taxpayers and consumers being impacted. If officials could provide clarity, that would be very helpful.

**Ms. Lindsay Gwyer:** I can speak to the amendment.

Following up on what I said earlier, the approach that's taken in this bill is to provide broad exemptions that are not sector-specific. As I mentioned earlier, our analysis is that the group ratio rule I discussed should in most cases provide the appropriate relief.

Beyond that, in terms of the technical aspects of the amendment, it would amend the bill, specifically the exemption that applies right now for P3 projects, so for public-private partnerships. Right now that's an exemption that requires four conditions to be met. As drafted, this amendment would add four additional conditions to that exemption.

Our interpretation is it would have the effect of making that exemption effectively unattainable. It would also require that a regulated industry meet those other four conditions that are already in the bill. Effectively, it would be eight conditions that need to be met in order for the exemption to apply.

Our interpretation of this is that it would probably not have the effect that we think was intended.

**The Chair:** Okay.

We have Mr. Ste-Marie, then Mr. Chambers and Mr. Turnbull.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I'd like to propose a subamendment to amendment CPC-1. It was distributed to you a little over an hour ago, along with amendment G-1, I believe.

Amendment CPC-1 proposes to modify clause 7 of Bill C-59 by replacing line 37 on page 25. Through my subamendment, I move that the change proposed in this amendment be modified so that, in proposed paragraph (f), the passage referring to “electricity, natural gas or steam or any other input for the production of light, heat, cold or energy” be replaced by the following:

provision — with zero emissions — of electricity, steam or any other input, other than natural gas and nuclear energy

The criticism that my party and I have of the government's transition plan is that it supports industries that do not contribute enough to this transition. We know that the nuclear industry is very risky. From our point of view, it should not be supported. The same applies to the natural gas industry. Although a better choice than other energy sources, this industry should not benefit from the same level of support. This subamendment therefore aims to remove the mention of natural gas and exclude nuclear power from this provision.

● (1220)

[*English*]

**The Chair:** Thank you, MP Ste-Marie.

I believe the subamendment has been distributed to all members.

I have Mr. Chambers to speak now, and then it will be Mr. Turnbull.

**Mr. Adam Chambers:** Thanks, Mr. Chair.

For the officials, there's a coming-into-force date for the EIFEL rules. Can we just confirm what clause that is in the bill? I couldn't find it. My understanding is that it's actually retroactive. Is that true?

**Ms. Lindsay Gwyer:** Yes, the rules apply generally to taxes beginning on or after October 1, 2023. A wide number of clauses in here deal with EIFEL rules, and at the end of each clause there's the coming-into-force provision.

The main clause that deals with EIFEL rules, or one of the larger ones, is clause 7, so at the end of clause 7 there's a coming-into-force rule, but again, throughout the bill there are a number of EIFEL amendments, and each has to have its own coming-into-force rule.

**Mr. Adam Chambers:** Are most of them October 23 for the EIFEL rules, or...?

**Ms. Lindsay Gwyer:** Yes.

**Mr. Adam Chambers:** Okay. Thank you.

**The Chair:** Thank you, Mr. Chambers.

Mr. Turnbull, go ahead, please.

**Mr. Ryan Turnbull:** Thanks.

I just want to clarify the subamendment that was just introduced by Mr. Ste-Marie. As far as I understand it, amendment CPC-1 introduces a sector-specific exemption to the EIFEL rules for regulated utilities. I think what Mr. Ste-Marie has introduced here is a carve-out to that, such that in essence it would not apply.

Could he maybe just clarify for the committee, if that's permitted, Chair, just so I can make sure I'm understanding that?

**The Chair:** Yes, that is permitted.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Yes, that's right.

[*English*]

**Mr. Ryan Turnbull:** That was a very simple clarification. I'm glad I understood.

What would the impact of this be, Ms. Gwyer?

**Ms. Lindsay Gwyer:** I think it would make it so that the exception would be limited to the types of energy that are listed in the amendment right now. If I understood correctly, that would then exclude natural gas, and I think there was a second thing that would also be excluded.

**Mr. Ryan Turnbull:** I think it was nuclear, if I'm not mistaken.

For me, we're generally opposed to the entire CPC amendment, so I think this still maintains some of the amendment structure that the CPC had proposed.

I would say that from my perspective, we're likely to be in opposition to that, but I appreciate Mr. Ste-Marie's attempt to subamend something and salvage it. I'm hoping we can move through this fairly quickly.

Thank you.

**The Chair:** Thank you, Mr. Turnbull.

I see no one else, so we're looking now at the subamendment. Shall the subamendment carry?

(Subamendment negatived on division)

**The Chair:** Now we're going to the amendment.

Mr. Turnbull, please go ahead.

**Mr. Ryan Turnbull:** I wanted to put our rationale for opposing CPC-1 on the record, if that's all right.

In analyzing this, we feel that CPC-1 introduces a sector-specific exemption to the EIFEL rules for regulated utilities, and that is unnecessary because there's already relief provided to all taxpayers in highly leveraged industries such as regulated utilities. The amendment would undermine the policy of preventing the erosion of the Canadian tax base due to excessive interest and financing expenses by large multinationals that are likely to use this debt to finance activities outside of the country.

Finally, the proposed regulated utility exemption is extremely broad. For instance, it would allow regulated utilities to claim excessive financing expenses for borrowings meant to support a utility business outside of Canada and for borrowings that support any part of the regulated utility business. In addition, the change would be vulnerable to inappropriate tax planning, as it allows interest expenses to be claimed on non-arm's length borrowings.

For this reason, we intend to oppose it. I wanted to make that clear on the record.

Thank you.

● (1225)

**The Chair:** Thank you, Mr. Turnbull.

Before I go to Mr. Chambers, just so everybody is aware—and I believe you are—because CPC-1 was moved, LIB-1 cannot be moved, as they are identical.

We will go to Mr. Chambers now.

**Mr. Adam Chambers:** Thank you, Mr. Chair.

I appreciate the thoughts of our new parliamentary secretary—welcome to the committee—and his reason for voting against this amendment.

Perhaps I'll say why we'll be voting for the amendment and why it was brought forward.

It couldn't have been clearer. The question to the witness was whether energy bills would go up as the result of these rules, and Nova Scotia Power said yes. That is the reason we moved the amendment. You have a taxpayer, a market participant, telling you exactly what is going to happen when this passes, and that is an increase in energy bills. That's okay: If you don't want to vote for lower energy bills, that's fine, but we do.

**The Chair:** Thanks, Mr. Chambers.

Mr. Lawrence, please go ahead.

**Mr. Philip Lawrence:** Mr. Chambers said it all. We're good.

**The Chair:** Okay. This vote is on the amendment. We'll do a recorded vote.

(Amendment negatived: nays 6; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** Shall clause 7 carry? We'll do a recorded vote.

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

**The Chair:** Do you want me to go into clause 8?

**Mr. Adam Chambers:** I have one amendment to subclause 8(2). It's very simple.

It says “October 1, 2023” in 8(2)(a). We will change 2023 to “2024”.

How does that sound?

**The Chair:** Did we capture that amendment?

**Mr. Adam Chambers:** Shall I provide some rationale?

**The Chair:** Can you provide that in writing to the committee, Mr. Chambers?

**Mr. Adam Chambers:** Change the 3 to a 4.

**The Chair:** For the legislative clerk, what page is that on?

● (1230)

**Mr. Adam Chambers:** Sure. While I'm doing that, I will provide some rationale.

**The Chair:** No, MP Chambers. What page is that on?

**Mr. Adam Chambers:** It's on page 66.

**The Chair:** It's on page 66.

**Mr. Adam Chambers:** There are 30 times it appears as October 1, 2023.

**The Chair:** We have already done clause 7. That has been voted on.

**Mr. Adam Chambers:** I thought that was in clause 8. It says 8.

**The Chair:** We're going to suspend for a minute.

● (1230)

_____(Pause)_____

● (1231)

**The Chair:** We're back.

MP Chambers and the legislative clerk, are we good? Okay.

Members, can you keep the noise down? Members, please, could everybody keep the noise down to a level at which we can hear the member?

**Mr. Adam Chambers:** I regret my misread of the subsection at the top of that page, which I thought was the clause, and I recognize that we have already dispensed with clause 7, but, in the interests of expediency, so we don't have to do it for every single time that October 1, 2023 appears—and I will provide this in writing—I want to change every single subsequent reference to October 1, 2023 to October 1, 2024.

If you want to wait until we do each clause, that's fine.

**The Chair:** I'm going to confer with the clerk.

MP Chambers, you will have to do it as we go through the bill. You will have to note the clause, the line and the page number.

**Mr. Adam Chambers:** Okay.

**The Chair:** Provide that in writing, please.

**Mr. Adam Chambers:** Sure.

**Mr. Philip Lawrence:** I have a point of order, Mr. Chair.

I don't want to be disrespectful, but I believe that it's the parliamentarian's job to substantively amend it. It is the House of Commons team that helps with the page numbers and stuff. That is not a parliamentary responsibility. That is for the clerk to do.

● (1235)

**The Chair:** The legislative clerk will explain, MP Lawrence.

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

Usually it would be up to the legislative drafter to draft the amendments properly with the page and line number. Let's say, for example, that a parliamentarian says he wants to move an amendment to clause 8 to change a coming-into-force date. We don't know where that is in the bill unless we have been told where that is.

It's a 600-page bill. We don't know all the lines of the coming into force. It would be up to the legislative drafter to do that, but, as you know, we don't have any on site. If you want draft amendments, we can ask for amendments to be drafted, but then we would have to wait for the amendment to come back in both official languages if they are to be distributed.

**Mr. Philip Lawrence:** Should we move to adjourn?

**The Chair:** No, we're continuing here, MP Lawrence.

(On clause 8)

All right. Clause 7 was carried, so we're into clause 8.

Shall clause 8 carry?

**Mr. Philip Lawrence:** I'd like a recorded division.

I believe we have an amendment, do we not, Mr. Chairman?

**An hon. member:** [*Inaudible—Editor*]

**Mr. Philip Lawrence:** Okay.

**The Chair:** We'll have a recorded vote.

(Clause 8 agreed to: yeas 7; nays 4)

**The Chair:** What I heard, MP Chambers, was that you believe the next time you'll want to bring an amendment will be at clause 15. Is that correct?

**Mr. Adam Chambers:** That is correct.

**The Chair:** Okay.

Members, if there are no amendments from clauses 9 to 14, do we have unanimous consent to group those?

**Mr. Philip Lawrence:** No. I would prefer to go clause by clause, Mr. Chair.

**The Chair:** We don't have unanimous consent.

Shall clause 9 carry?

**Mr. Philip Lawrence:** I'd like a recorded division, please, Mr. Chair.

**The Chair:** Go ahead, Mr. Clerk.

(Clause 9 agreed to: yeas 7; nays 4)

**The Chair:** Shall clause 10 carry?

**Mr. Philip Lawrence:** I'd like a recorded division, please.

(Clause 10 agreed to: yeas 7; nays 4)

**The Chair:** Shall clause 11 carry?

**Mr. Philip Lawrence:** I'd like a recorded division.

**The Chair:** MP Davies, your hand is up.

**Mr. Don Davies:** Yes. I have a bit of a question.

First of all, through you, Mr. Chair, could I get from the clerk how many clauses there are in this bill?

**The Chair:** There are 365.

● (1240)

**Mr. Don Davies:** I would just like speak to this process. I'm new to this committee, so I'm not sure what the habit is.

We had a deadline to get in amendments. We all were given lots of time. We had those amendments drafted as a courtesy to all the members of this committee, I would think, so that we all know what the amendments are. It's a very, very thick bill, and it's hard to know where we're going in the bill. Of course, it gives us some time to study the amendments and to consult with stakeholders and our staff and team to determine how we'll vote.

At this committee, I heard the Conservatives say that they would pass this bill as is, in a heartbeat, if they could get their way, I guess, in having a witness come. They didn't get their way on the witness—although I suppose they still could call Mr. Carney in a few weeks, if they wanted to, in the study—but they're now forcing us to go clause by clause without any amendments.

I'm just wondering if my Conservative colleagues can perhaps explain to me why they would do that. Why are we voting on each clause, when they've submitted no amendments, have no discussion on them, and are forcing recorded votes when we could have votes on division?

There are how many clauses, again?

**The Chair:** There are 365.

**Mr. Don Davies:** There are 365, and we're on clause 10. It will take weeks to get through this bill if the Conservatives continue doing this.

I respect that they can oppose the bill. Their votes on division will reflect that, but the only conclusion I can draw from forcing a process where we are forcing a recorded vote on every single clause when there is no amendment to it or discussion or questions, is that the Conservatives purely want to delay this bill. If I'm missing something, I'd be happy to hear their alternate explanation for that.

Regardless of partisan perspective on this committee, all we're talking about here is the efficiency of how this committee works. We're going to get through this one way or the other. I don't see how it's common sense to drag out a bill and take weeks to pass something that we'll pass in the end. It could be passed quickly. They themselves said they would pass it quickly half an hour ago if they got a witness they wanted.

I'm just wondering if my Conservative colleagues can explain to me, if I'm missing something, that their only purpose in enforcing an individual vote on every clause is to delay the passage of the bill?

**The Chair:** Thank you, MP Davies.

I have MP Lawrence.

**Mr. Philip Lawrence:** Thank you, Mr. Davies.

With respect, I don't believe it would take weeks. There isn't a prolonged debate or discussion.

I think it is part of our democratic duty to get our votes on record. That's one of our primary responsibilities, whether in committee or in the House. However, out of courtesy and respect for my colleague, I would move that we group....

I'm sorry, which one are we at right now, Mr. Chair?

**The Chair:** We are at clause 11.

**Mr. Philip Lawrence:** I move that we group clauses 11 to 14 for one vote there.

**The Chair:** Do we have unanimous consent?

(Motion agreed to)

**The Chair:** Shall clauses 11 to 14 carry?

(Clauses 11 to 14 inclusive agreed to on division)

(On clause 15)

**The Chair:** Shall clause 15 carry?

I see MP Chambers has his hand up.

**Mr. Adam Chambers:** I have provided it in writing to the clerk.

**The Chair:** Yes, thank you.

**Mr. Adam Chambers:** I would like to amend the date, “October 1, 2023”, to “October 1, 2024”.

I have a question for officials, since they're here.

In the last few years, I've noticed an interesting trend, which is to make tax increases retroactive. The bank dividend tax was retroactive to a tax year that was already closed. We changed some HST treatment—

**The Chair:** MP Chambers, we need the page and the line, please.

**Mr. Adam Chambers:** It's on page 101, in subsection 2.

**The Chair:** Just give us a moment.

**Mr. Adam Chambers:** We're on clause 15, aren't we?

● (1245)

**The Chair:** Is that line number 9?

**Mr. Adam Chambers:** Sure.

They're not numbered. The lines aren't numbered.

**The Chair:** We're just going to take a moment, members.

● (1245)

_____(Pause)_____

● (1247)

**The Chair:** MP Chambers, continue with your amendment, please.

**Mr. Adam Chambers:** We don't have to do this for every single one, but I want to understand the rationale behind retroactive tax increases. My understanding is that previously they were almost unprecedented.

We're making these EIFEL changes, which are in this bill and are retroactive. The government changed the law based on a tax case and made a retroactive tax increase last year, going back 20 years, on financial institutions. The digital sales tax is also planned to be retroactive.

Is it because the government has already booked revenue for this tax year? Is that why it's retroactive?

**Ms. Lindsay Gwyer:** I'll speak about the EIFEL amendments specifically. It was first announced in budget 2021. The detailed legislation was first published at the beginning of 2022.

It is common for changes, especially tightening changes, to be announced and then made prospective from when they are announced. It would be less common to have changes that are retroactive relative to when they are actually first announced.

The EIFEL legislation has been released for consultation three times. It is very complex. The department did consult really extensively with stakeholders.

The initial date when it was supposed to come into force was earlier. I believe it was the beginning of 2023, and then it was pushed back to October. That really just reflects that ongoing consultation and the changes that were made to try to make sure that the rules work properly over the course from spring 2021 up until now, basically.

**Mr. Adam Chambers:** That's a very acceptable answer.

Has the government booked revenue in its fiscal framework for these rules?

**Ms. Lindsay Gwyer:** Yes, the revenue has been booked for the rules. I would have to find.... It would be what was in the budget.

**Mr. Adam Chambers:** That's okay. I don't need to know the amount.

The government has pre-booked the revenue, so any changes to these rules, such as the amendment we just did, would arguably affect the revenue that's been booked. Isn't that right?

**Ms. Lindsay Gwyer:** Yes. If there was an amendment that would effectively make the rules narrower, it would have costing implications, and, yes, that would require a change to the revenues that have been booked.

**Mr. Adam Chambers:** Thank you very much.

The amendment that was just dispensed with would have affected the government's revenues, which is, I'm sure, not the reason the government members voted the amendment down. I'm happy to leave the amendment as it is if we can get to a vote pretty quickly.

You can move on to the next one, Mr. Chair.

● (1250)

**The Chair:** Okay. I do see MP Ste-Marie's hand up.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I'd like two clarifications from the officials.

Firstly, it seems to me that prior to this Parliament, it was fairly common practice to pass a bill whose effects were retroactive, but whose intention had been announced previously. Can someone assure me that my understanding is correct?

Secondly, if we vote in favour of the amendment to replace “2023” with “2024” without having the precise figures, what effect might this have on the purpose of the bill? Could you explain this to us?

[*English*]

**Ms. Lindsay Gwyer:** I will respond to that. To ensure that my answer is clear, I'll respond in English.

With regard to the first question, yes, it is common to announce changes that are tightening, for them to apply on a prospective basis and for that to be before the legislation is ultimately introduced into Parliament and receives royal assent.

With regard to the second question, about the effect of the amendment, there are amendments, as I said before, on the EIFEL rules throughout the bill. The main rule that would implement the main EIFEL rules is in clause 7 of the bill. That has a coming-into-force date of October 1, 2023. This clause, clause 15, deals with a consequential amendment relating to the debt forgiveness rules, which are a different set of rules.

Basically, this amendment relates to ensuring that a debt that should be subject to the debt forgiveness rules is, in fact, subject to the debt forgiveness rules. Under the debt forgiveness rules, you look at whether interest is deductible on the debt. If interest is not deductible because of the EIFEL rules, you still apply the debt forgiveness rules to this debt, so this is really just a consequential amendment ensuring that a different set of rules works properly. If the date for that was changed to October 1, 2024, that could create situations in which the debt forgiveness rules don't work properly in that interim period from October 1, 2023 to October 1, 2024.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you.

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

Thank you, Ms. Gwyer.

MP Lawrence.

**Mr. Philip Lawrence:** Thank you.

I have just a couple of quick comments, and then hopefully we can move to a vote.

One is that I don't think I'd be doing my job if I didn't point out the fact that the retroactivity is completely at odds with the recent capital gains announcement, which is actually prospective. Where the government will likely receive additional revenue, they give taxpayers time. However, when the reverse is true, they don't do that.

The challenging part about retroactive taxation—this is not me talking about this; it's law professors and tax professors across the world—is that people need certainty with respect to legislation, particularly underneath the rule of law.

The way our system and most western democracies work is that what is written in the tax code, in our law books or what's codified is what people can rely on. It's like going into a hockey game and saying that these are the rules, but then after the game is over, we change the rules and say that, actually, the other team won.

This is particularly troublesome where you reverse course based on a court case that has gone the wrong way. Basically, a judge has said that the taxpayer is correct and their interpretation is correct. Then the government says that it's overruling that. It's a conflict of powers, because it's the judiciary's responsibility to interpret the law and our job to write the law.

What we're saying is that they don't actually get to interpret the law. We get to write it, and if it's interpreted in a way we don't like, we're going to take our ball and go home. I don't want to overstate this, but it undermines the entire democratic system if we just go back 20 years, as in the case that my colleague referenced, and say that, actually, those weren't the rules.

This is really causing tremendous uncertainty in capital markets in a time when Canada's productivity is near the bottom because we are having extreme difficulty attracting capital here in Canada. If you have any sort of care about prosperity and the standard of living of the most vulnerable in our society, stop this.

● (1255)

**The Chair:** Thank you, MP Lawrence.

Is there any discussion on the amendment?

**Mr. Philip Lawrence:** We'd like a recorded vote.

(Amendment negatived: nays 7; yeas 4)

(Clause 15 agreed to: yeas 7; nays 3)

(On clause 16)

**The Chair:** Members, we have clauses 16 to 27. I don't believe we have any amendments on those, so do we have unanimous consent to group them?

**Mr. Philip Lawrence:** We'll go clause by clause on this one. We'll have discussions going forward about how we organize things.

**The Chair:** Sure. Okay.

(Clause 16 agreed to: yeas 7; nays 4)

(Clause 17 agreed to: yeas 7; nays 4)

(Clauses 18 and 19 agreed to on division)

**Mr. Philip Lawrence:** Clauses 20 to 24 are all about the EIFEL measures, so I think we should group those together.

(Clauses 20 to 27 inclusive agreed to on division)

(On clause 28)

● (1300)

**The Chair:** We're on clause 28 and G-1.

MP Baker will move this. Can you speak to it?

**Mr. Yvan Baker:** Yes.

Mr. Chair, I've provided it to the clerk, and I believe it's been circulated to all members. Again, I just want to clarify that there's a revised version of G-1.

I'll just read it into the record. I move that Bill C-59, in clause 28, be amended by adding after line 23 on page 133, under “Insurance corporations—exemption”, the following:

> (2.03) Subsection (2.01) does not apply to a dividend received by an insurance corporation in a taxation year that is
>
> (a) either
>
> (i) received on a share (other than a share described in subparagraph (2.02)(a)(i)) held by the corporation in connection with an insurance contract entered into, issued or acquired in the ordinary course of an insurance business of the corporation, or
>
> (ii) deemed to be received by the corporation as a result of a designation by a mutual fund trust under subsection 104(19) in respect of a unit of the trust that is held by the corporation in connection with an insurance contract entered into, issued or acquired in the ordinary course of an insurance business of the corporation; and
>
> (b) identified in the corporation’s return of income under this Part for the year.

That's the revised motion, Chair.

If I may, I will just add a few brief comments.

The purpose of the dividend received deduction changes in this part is to ensure that financial institutions pay their fair share. This amendment clarifies that Canadians with certain types of life insurance policies that offer variable returns, who are not the target of this change, are not affected by it.

**The Chair:** Thank you, MP Baker.

I see some hands up. I see MP Ste-Marie and then MP Chambers.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Chair.

Unless I'm mistaken, we only received the amendment in English. So I want to make sure that it's not just the English version of the bill that would be amended, but that the French version would be as well, even though we weren't provided with a French version in writing.

I know that Mr. Baker is a francophile and always fights for the defence and promotion of both official languages, particularly French, whether in the House or anywhere else, but I am saddened by the fact that we have an amendment here—

[*English*]

**The Chair:** I'm just going to interject.

I apologize, MP Ste-Marie. We have the French version, and we will all receive it right now.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Ah, I see.

[*English*]

**The Chair:** It should be in your inbox right now. Take a look.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Yes, I've got it. While I listen to the other explanations, I'll read the French version. Based on my colleague Mr. Baker's explanations, I'll support the amendment.

**The Chair:** Thank you, Mr. Ste-Marie and Mr. Baker.

[*English*]

I have Mr. Chambers and then Mr. Lawrence.

**Mr. Adam Chambers:** I guess I'll wait for it to show up in my inbox. I was curious about the change between what was circulated before and your amended version. It hasn't landed yet. Is it a comma, or is it...?

**The Chair:** Do you want to respond to that, or do you want me to go to MP Lawrence and then...?

**Mr. Yvan Baker:** I'm conscious of being efficient and moving through this. I would say there was a version issue in the previous draft. The intent of what we want to achieve is what I described, and it's reflected in the new version of the text.

**The Chair:** MP Chambers.

**Mr. Adam Chambers:** How many policyholders would be affected if this amendment did not pass? Do we have an idea?

● (1305)

**Ms. Lindsay Gwyer:** I don't have the information in front of me. It would relate to any insurance companies, so it would exempt the insurance companies broadly.

**Mr. Adam Chambers:** Does it exempt all insurance companies in total, or does it exempt those parts of the insurance company business where there's flow-through to specific insurance policies, like insurance products?

**Ms. Lindsay Gwyer:** It would exempt any dividends received by an insurance company in respect of a share that's held by the corporation in the ordinary course of its insurance company business, as well as if the share is received through a mutual fund trust.

**Mr. Adam Chambers:** It's for any dividends that all insurance companies receive.

**Ms. Lindsay Gwyer:** If they're holding the share in connection with their insurance business, yes.

**Mr. Adam Chambers:** Okay. That's satisfactory to me.

We still don't have the amended version. I don't think we do.

**The Chair:** No. You should have the amended version. It's been sent.

I have MP Lawrence and then MP Davies.

[*Translation*]

**Mr. Philip Lawrence:** I want to say that my Bloc Québécois colleague raised a good point earlier and I thank him. We're in a bilingual country and that's very important to Canadians.

**The Chair:** Thank you, Mr. Lawrence.

[*English*]

MP Davies.

**Mr. Don Davies:** Thank you, Mr. Chair.

To follow up on the last question, I want to make sure that the effect of this amendment.... Would it confer a benefit, broadly speaking, on the insurance companies, or is it a benefit that's conferred upon the policyholders of certain kinds of policies that may be affected?

**Ms. Lindsay Gwyer:** It's a benefit that would, generally speaking, be conferred on the insurance company, but what we have heard from some insurance companies is that that cost would be passed on to policyholders if the amendment was not made.

Directly speaking, under the existing rules for financial institutions, a dividend received deduction would be denied, including for insurance companies, and this would provide an exemption so that insurance companies, if they meet the conditions of this exemption, would be able to continue to claim the dividend received deduction. It would impact their tax at the corporate level.

**Mr. Don Davies:** How is that different from a financial institution, which could also pass on the extra cost from the change to dividends to their customer base in the form of bank fees or whatever?

I'm trying to figure out why a life insurance policyholder is worthy of protection from additional costs in the form of their premium, as opposed to a bank customer in the form of extra fees.

**Ms. Lindsay Gwyer:** I think it's a policy decision and a political decision whether to provide an exemption for financial institutions more broadly or just for insurance companies. I think one of the concerns is that the insurance companies, in particular, have pointed to a number of products for which they have suggested that fees will be passed on to customers.

**Mr. Don Davies:** Thank you.

**The Chair:** Thank you, Mr. Davies.

That's it.

Shall the new G-1 carry?

**Mr. Philip Lawrence:** Could we have a recorded division?

**The Chair:** We will have a recorded vote.

(Amendment agreed to: yeas 6; nays 0)

(Clause 28 as amended agreed to on division)

**The Chair:** Members, we are going to suspend now for 10 minutes, and then we'll be back and go straight through until two o'clock.

● (1305)

_____(Pause)_____

● (1325)

**The Chair:** We're back, members.

We have about 35 minutes, and right now we have no amendments that I know of for clauses 29 to 35.

Do we have unanimous consent to group those?

**Mr. Philip Lawrence:** We don't, but we will keep asking.

**The Chair:** Shall clause 29 carry?

(Clause 29 agreed to on division)

(On clause 30)

**Mr. Philip Lawrence:** We'd like to make some comments on clause 30.

**The Chair:** Go ahead, MP Lawrence.

**Mr. Philip Lawrence:** Clause 30 is in respect to the climate action incentive credit. I just want to take the opportunity to briefly set the record straight, because it was right here in the finance committee—if you don't believe me, just pull up the Hansard—that the Governor of the Bank of Canada, Tiff Macklem, said that 0.6% of inflation was directly responsible for the carbon tax. That was prior to the April 1 increase, so now it's actually 0.8%.

That's in the Hansard. That's exactly what Mr. Macklem said. He'll be here, so if you don't believe me, please, I encourage you to ask him during Thursday's session.

That's more than a third of inflation. In fact, if we remove the carbon tax—according to Mr. Macklem's calculation, not mine—we would then be within the range of inflation that the Governor of the Bank of Canada has set , which then would set the stage for decreasing interest rates and reducing everyone's mortgages. I know every single one of us has talked to a constituent who has said that their mortgage is too high and too expensive and they're close to losing their home.

All we have to do is scrap the carbon tax.

Also, the PBO, in another bit.... Like I said, I'm just trying to be an advocate for the truth, specifically with respect to the carbon tax.

Liberals will say that eight out of 10 Canadians are worse off. That's just not true. You have to take into account both the fiscal and economic impacts, because you can't live in a country without economic impacts. When you take account of both the direct costs and the indirect costs of the fiscal or economic costs, the majority of Canadians are worse off, even with the rebate or the incentive. Those are the facts. That's the reality, guys.

I would just love it if we could speak honestly about the carbon tax and let Canadians decide.

Thanks very much.

**The Chair:** Thank you, Mr. Lawrence.

I have Mr. Morantz and then Ms. Dzerowicz.

**Mr. Marty Morantz:** I just want to reiterate what my colleague, Mr. Lawrence, has said, because I was in the meeting on October 30. All members of the finance committee were there, and the bank governor was very clear. He said that the carbon tax, at $65 a tonne, added 0.6% to inflation and that if it were to be removed, inflation would be 0.6% less.

Now, Liberal members of this committee have spun that to say that it's only one time, which is really a red herring of an argument. Of course you can remove a carbon tax only once, but the reduction in the inflation rate is in perpetuity. It's locked in forever. If you remove 0.6% off inflation, that's always gone.

Then what the governor said was that if you add $15 a tonne, it goes up by 0.15%, so that's actually what has happened. It's not just 0.15%. The cumulative aspect of the carbon tax at $65 a tonne was 0.6%, and if you add on $15 a tonne, it's now 0.75%. You can round it up to 0.8% if you want, but that's the reality of it.

When the governor is here on Thursday, I'm sure we can get him to clarify that.

Also, I'm very interested in asking him what his position and the bank board's position would be on interest rates if the inflationary aspect of the carbon tax wasn't a factor anymore.

Thank you.

**The Chair:** Thank you, MP Morantz.

MP Dzerowicz, go ahead, please.

**Ms. Julie Dzerowicz:** Thanks so much, Mr. Chair.

I do think it's important for us to go back to the actual transcript of the meetings that we're talking about, because we have something different from what Mr. Lawrence has indicated.

The most recent time that our governor came, in February, he confirmed that the annual increases in carbon pricing raised the average economy-wide price level by 0.1 percentage points and indicated that this would be negligible compared to other determinants of inflation within Statistics Canada's consumer price index calculations. It's also a one-time increase.

It's important for people to know that often, when you're talking about 0.1% or 0.016% or point whatever, it's hard to articulate to the public what that means. I think part of it is just making sure that people understand that it's a one-time cost. It's tiny and negligible, according to what our governor has indicated, compared to other determinants of inflation within the Stats Canada consumer price index.

Thank you.

● (1330)

**The Chair:** Thank you, MP Dzerowicz.

MP Lawrence.

**Mr. Philip Lawrence:** Thank you very much.

The confusion—and I'll be generous to my colleagues and call it "confusion"—might stem from the fact that the governor has talked about two different things. One is that he's talked about the annual increase in the carbon tax, of which he has ascribed 0.15% to the increase. However, of the overall carbon tax, he's ascribed 0.6%. I'll quote Governor Macklem in response to my question:

> The second question you asked me was what the effect of inflation would be if the carbon tax were eliminated. That would create a one-time drop in inflation of 0.6 percentage points.

That's from the transcript.

Earlier on, I asked him about increases, and he said:

> One question is how much the increases in the carbon tax are adding to inflation each year. That number is about 0.15 percentage points....

We add the 0.15%—and I actually asked him about this—to the 0.6%, and he said that it's actually, all together, 0.8%.

The current rate of inflation is 3.1%, I believe. Oh, it's 2.9%, so that's fully a quarter, if not almost a third, of inflation. If we removed that 0.8%, we'd be down to 2.1%.

The Bank of Canada's range is 2%, so we'd be within the margin of being within range, which would then allow us, guys, to reduce mortgage rates, reduce interest rates and get the economy going just by cutting the carbon tax.

**The Chair:** Thank you, Mr. Lawrence. I think that's the discussion.

Shall clause 30 carry?

(Clause 30 agreed to on division)

**The Chair:** Shall clause 31 carry?

(Clause 31 agreed to on division)

**The Chair:** Shall clause 32 carry?

**Mr. Philip Lawrence:** Mr. Chair, could I interject?

**The Chair:** Yes, Mr. Lawrence.

**Mr. Philip Lawrence:** Could we possibly group clauses 31 to 35, unless there's...?

**The Chair:** We already voted on clause 31. It was carried.

MP Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Of course, I always support proposals to group clauses, but I'll ask—

[*English*]

**The Chair:** I'm not getting interpretation.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Can you hear me?

[*English*]

**The Chair:** I can't hear you very well. Hang on one second.

Yes, I can hear you now, MP Ste-Marie. Go ahead, please.

[*Translation*]

**Mr. Gabriel Ste-Marie:** That's very good, thank you.

This time, I'm going to ask that clause 35 be voted on separately, as I'll have a few comments to make about it. However, the other clauses can be grouped together for voting purposes.

[*English*]

**The Chair:** What I'm hearing is that we would group clauses 32 to 34, and then MP Ste-Marie wants to vote on clause 35.

Shall clauses 32 to 34 carry?

(Clauses 32 to 34 inclusive agreed to on division)

(On clause 35)

**The Chair:** Now we're at clause 35.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Mr. Chair, I would like to speak briefly about clause 35 before it is put to a vote. Also, I would ask that it be a recorded vote.

[*English*]

**The Chair:** MP Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I would just like to repeat that my party and I do not support this government's transitional economic plan, because it grants tens of billions of dollars to the oil industry, particularly for carbon capture. What's more, it offers support for and promotes nuclear power, even though we know that small nuclear reactors pose serious risks.

That's why I'll be voting against clause 35 and the subsequent clauses that concern this part. It was to mark the point that I wanted this article to be the subject of a recorded vote.

[*English*]

**The Chair:** Okay, I don't see anybody else to speak, so we're going to go to a recorded vote on clause 35.

(Clause 35 agreed to: yeas 6; nays 5)

(On clause 36)

● (1335)

**The Chair:** We are at clause 36, and we have PV-1, an amendment from the Green Party.

Mr. Morrice, do you wish to speak to this? Okay.

**Mr. Mike Morrice (Kitchener Centre, GP):** Thank you, Mr. Chair.

The amendment amends line 26 on page 160 with the words "2034, 30%, or, in respect of a clean technology property that is intended for use for at least 183 days in any given calendar year, 15%;".

What we're looking to do with this amendment is to recognize that the clean technology manufacturing investment tax credit as it is currently in the bill requires the goods to be intended for use exclusively in Canada. There are companies across the country, like Swap Robotics in my community, that have goods that are clean tech, that are manufactured in Canada and that may be used in and exported to other countries. This would look at allowing for that while reducing the total tax credit accordingly to exclude the time when it's not being used in the country. In their case it's solar-powered vegetation-cutting equipment, for example, that would be included in this tax credit at a lower rate if it were to be passed.

**The Chair:** Thank you, MP Morrice.

The chair's ruling is that Bill C-59 amends several acts, including the Income Tax Act, to allow for the creation of a refundable tax credit related to the acquisition of clean technology products to be used all year round. The amendment seeks to create a partial refundable tax credit for goods that can be used for only 183 days in a calendar year, which in effect would create a new category for which a refundable tax credit could be paid out of the public treasury.

As the *House of Commons Procedure and Practice*, third edition, states on page 772:

> Since an amendment may not infringe upon the financial initiative of the Crown, it is inadmissible if it imposes a charge on the public treasury, or if it extends the objects or purposes or relaxes the conditions and qualifications specified in the royal recommendation.

In the opinion of the chair, the amendment proposes a new scheme, which could impose additional charges on the public treasury. Therefore, I rule the amendment inadmissible.

**Mr. Adam Chambers:** Mr. Chair, that was a very harsh ruling. I'd like to challenge the chair.

I apologize, because I like you very much, but I found that to be unduly harsh.

**The Chair:** Okay, Mr. Chambers, that is your prerogative.

Go ahead, Mr. Clerk.

**The Clerk of the Committee (Mr. Alexandre Roger):** Thank you.

The question is whether the decision of the chair shall be sustained. If you are in agreement with the chair's ruling, you vote yes; if you are against the chair's ruling, you vote no.

(Ruling of the chair sustained: yeas 6; nays 5)

**The Chair:** The ruling is upheld. The amendment is inadmissible.

Shall clause 36 carry?

(Clause 36 agreed to on division)

(On clause 37)

**The Chair:** We are on clause 37 and amendment NDP-1.

Mr. Davies, would you like to move that amendment?

**Mr. Don Davies:** Before I move it, I'd like to speak to it, because I just want to clarify something.

I have a question for the officials about this section and the words "make reasonable efforts to".

On page 169, under "Apprenticeship requirements", in subclause 37(5), it says:

> For the purposes of this section, the apprenticeship requirements for an incentive claimant for an installation taxation year are that
>
> (a) subject to paragraph (b), the incentive claimant makes reasonable efforts to ensure that apprentices registered in a Red Seal trade work at least 10% of the total hours that are worked....

Can you confirm for me that this does not require a hard number of 10%? In order to claim the tax credit, it means the claimant simply has to make "reasonable efforts" to do so. Am I correct in that?

● (1340)

**Mr. Maximilian Baylor:** Yes. Let me clarify that. The basic rule is that in order for the claimant to get the full tax credit, as you indicated, 10% of the hours that are completed by Red Seal trades have to be done by apprentices.

However, to your point, the rules include circumstances.... One of the things we heard from businesses or proponents when we consulted on the draft legislation was that in some circumstances it can be hard to find apprentices, especially in the current environment. There are labour shortages in some areas, particularly in remote areas. The notion was that if you make reasonable efforts to try to find apprentices to fill in those hours, you can be deemed to have filled those hours. The Americans have something very similar. The idea was to have something similar here.

To complete this, I can be pretty precise about what it means for employers to be deemed to have taken such reasonable efforts in respect of the apprenticeship hours. There are really three things that they need to do.

First, they have to post a job advertisement, including a commitment to facilitate the participation of apprentices in a Red Seal trade on multiple websites for 30 days that are open to both existing employees and new hires.

Second, they need to communicate with at least one secondary school or educational institution that can be reasonably expected to facilitate the hiring of an apprentice position as described in the job ad.

Third, they're expected to communicate with the union that can be expected to facilitate the hiring of the apprenticeship positions described in the job ad and receive written confirmation from the union if they're unable to fulfill the request for the apprenticeship. If an employer does not hear back from the union within five business days from the request, the written confirmation is not required.

To close, these hiring efforts would need to be completed every four months. Now, if they do that and they still don't fill the 10%, they're deemed to have satisfied the requirement.

**Mr. Don Davies:** Thank you.

I have a couple of follow-up questions. Where do those criteria that you just read out exist?

**Mr. Maximilian Baylor:** They're in the law.

**Ms. Lindsay Gwyer:** They're in proposed subsection 124.46(16) on page 173.

**Mr. Don Davies:** I'm sorry. I missed that. That's great.

This is my last question. Who would be responsible for enforcing it? Would it be the CRA?

**Mr. Maximilian Baylor:** Yes. Obviously, the burden falls on the taxpayer. It is their responsibility to do this and document it. If it's found that they haven't done that, the CRA will....

**Mr. Don Davies:** That's good. Thank you.

Mr. Chair, I'm satisfied with that. I won't be moving the amendment. I should have read further.

● (1345)

**The Chair:** Thank you, MP Davies.

That one is not moved.

Shall clause 37 carry?

(Clause 37 agreed to on division)

**The Chair:** Members, if you so decide, we can have another grouping here for clauses 38 to 71. I don't see or know of any amendments.

Would members like to group those? Do we have unanimous consent?

**Some hon. members:** Agreed.

(Clauses 38 to 71 inclusive agreed to on division)

**The Chair:** We have CPC-2, proposing new clause 71.1.

I'll look to MP Lawrence.

**Mr. Philip Lawrence:** Thank you very much.

This is, of course, the removing of HST on home heating. Whether you're in Nova Scotia, British Columbia, Alberta or Ontario, we've all noticed the additional cost of heating our homes. It's an issue all across the country, but particularly in rural areas, where oftentimes the only option is to heat your home with either oil or natural gas. The cost of heating has gone up dramatically, and heating, in this great northern country of ours, isn't an option.

If the idea, as my colleagues from across the aisle say, is to drive up the cost of carbon-based fuels in order to have people make other choices, and you have no choice but to heat your home with propane, natural gas or oil, it's inelastic. This is just basic economics. My one wish is that we could have an honest conversation about the impact of the carbon tax. I think it would help not only us on the Conservative side but the Liberal members as well.

If we have an individual who is perhaps on the lower end of the economic spectrum, a vulnerable person who is desperately trying to get by in a cold Canadian winter, I think it's a reasonable thing to do to reduce the cost of home heating by simply removing the HST on home heating. This is eminently reasonable. I am against the carbon tax, and our party is against the carbon tax, but it really doesn't have anything to do with personal ideologies with respect to environmental issues. What it has to do with is whether you have compassion.

Do you have compassion for the single mom trying to get to the end of the month in a cold winter? Do you have compassion for the worker who is working overtime just to pay the carbon tax on his gas and his home heating? Do you have compassion for the individual who is perhaps looking at freezing next winter because they can't afford heating?

It's really a compassion test. It's not even an environmental, carbon tax or economic issue. It's a compassion test. I'm hoping that everyone in this committee will pass this compassion test.

**The Chair:** Thank you, Mr. Lawrence.

Mr. Davies would like to speak to this.

**Mr. Don Davies:** Well, I expect there to be a ruling on this, and I just want to say that I very much sympathize with the sentiments of my Conservative colleagues, but I would just point out that the NDP, as a condition of support for the government, has proposed that we bring in dental care for nine million Canadians who have the lowest incomes. You have to make under $70,000 of net family income, and you can't have any dental insurance. These are the poorest people in the country. These are people making $15,000 or $20,000 a year, such as seniors who are living on fixed incomes, who can't get their teeth fixed. This plan would allow these people to go to the dentist instead of paying out of pocket, and to get better care, by the way, because they don't have to get their teeth pulled.

The Conservatives either don't care that these people get any oral health care at all or they insist on driving these poorest, most marginalized people to the dentist to pay out of pocket for what is essentially primary health care. The NDP plan, which we've worked on in concert with my Liberal colleagues to bring in, would save these people real dollars, as well as improve their health care, yet the Conservatives oppose it. They voted against it, and they oppose it. I'm sitting here, listening to a claim that the Conservatives care about people's month-to-month living costs and people freezing in winter. What about seniors writhing in agonizing pain and having to spend money for that?

I just think it has to go on the record that if there's any virtue in politics in being consistent, I think this is a situation that calls out for that. I'd be happy to have the Conservatives prove me wrong in this by supporting dental care and coming out and saying they're going to vote for it, and the same thing with pharmacare. I just can't let a statement by Conservatives that claims to care about poor people in this country stand on the record as a justification for a vote when they take positions antithetical to that in the next breath.

● (1350)

**The Chair:** Thank you, MP Davies.

Now I have MP Ste-Marie. Then I have to go to my ruling.

MP Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I understand that you are going to make a ruling on the amendment. So I'll listen to your decision and, if appropriate, I can then comment.

I'd like to point out one thing, though, about the motion we have here. If I'm not mistaken, the NDP made the same proposal at an opposition day last November, and the Conservatives opposed it. So, I'm having trouble following the logic.

Whatever the case, I'll listen to your decision, Mr. Chair.

[*English*]

**The Chair:** Thank you for that, MP Ste-Marie.

I'll advise you that you will not be able to speak after my ruling, as you know.

My ruling is this: Bill C-59 amends several acts, including the Excise Tax Act. The amendment seeks to amend schedule VI of the act to add a new part XI to exclude home heating fuel from taxation. This is a new scheme not envisioned in the bill that goes beyond the scope of the bill as adopted by the House at second reading. As *House of Commons Procedure and Practice*, third edition, states on page 770, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill."

Therefore, for the above-stated reason, I rule the amendment inadmissible.

**Mr. Marty Morantz:** Mr. Chair, I'd like to challenge your ruling. I find it very inconsiderate of Canadians who are paying a tax on a tax.

**The Chair:** Okay. It's been challenged, so we'll go right to the vote.

**The Clerk:** The question is this: Shall the decision of the chair be sustained?

(Ruling of the chair sustained: yeas 7; nays 4)

**The Chair:** The amendment is inadmissible.

Members, now we have clauses 72 to 95. There are no amendments for these clauses that I know of. I'm looking to see if members are open to grouping those.

**Some hon. members:** Agreed.

(Clauses 72 to 95 inclusive agreed to on division)

**The Chair:** We are now going to the new clause 95.1. This is CPC-3.

I'll look to MP Lawrence.

**Mr. Philip Lawrence:** Thank you. This is an opportunity, once again, to do what is right by Canadians.

I'll say at the outset that I do expect a ruling that you'll find this out of order, but I would hope that we would listen to our constituents and that we would overturn the chair's eventual ruling.

This amendment would allow us to undo the damage going forward with respect to the carbon tax. We wish that we could give the carbon tax relief retroactively and that the last nine years had just been a bad nightmare, but, unfortunately, it is the reality that we live in.

We live, unfortunately, in a country where GDP per capita is now in the sixth quarter of negativity, meaning that every Canadian on average has gotten poorer over the last year and a half. In fact, since 2018, we have seen a zero increase in GDP per capita. We are facing a high rate of inflation. It's still outside the range, and many economists are now predicting that this last mile of reducing inflation will be the hardest, in Canada particularly. We've had the deputy governor of the Bank of Canada, Carolyn Rogers, say that this is a made-in-Canada issue, particularly with respect to productivity.

Every policy decision that I would hope that any government would make, given the fact that productivity is a crisis of standard of living.... When standards of living decline, it's the most vulnerable who often get hurt the most, and this will be the case here.

We're looking at a tax that is no doubt reducing our productivity, not only domestically, where we've seen the inflationary impact and the cost of everything going up, but also in terms of affecting our international competitiveness.

Of course, the United States of America doesn't have a carbon tax, and we are competing every day against American businesses. Mexico has a very tiny carbon tax that barely needs mentioning. The companies in Mexico and the United States have a competitive advantage, and they are our most direct competitors.

In the PRC, they do not have a carbon tax either. Major manufacturing companies, our closest neighbours and many of our peer nations do not have a carbon tax, which puts Canadian businesses at a disadvantage. When we look at the inflationary impact of the carbon tax and the economic impact, most importantly, as I said earlier, it is the most vulnerable who are being hurt the most by the carbon tax.

Even NDP leader Jagmeet Singh commented about the difficult parts of the carbon tax. They wouldn't come out and completely say that they weren't supporting it, but he did comment negatively about aspects of the carbon tax. Maybe Don will share with us that the NDP are going to be against the consumer-faced carbon tax. This would be an opportunity for the NDP to take a stand and start separating themselves from their Liberal coalition partner. We know it's just a matter of time as they see the sinking ship going down.

This is an opportunity for everyone to do what's right for their constituents by reducing inflation, reducing the cost of living and helping our most vulnerable. Let's axe the tax.

● (1355)

**The Chair:** Thank you, MP Lawrence. I'll now give my ruling.

Bill C-59 amends several acts. The amendment seeks to amend the bill by repealing the Greenhouse Gas Pollution Pricing Act, which is not amended by the bill. This is a new scheme not envisioned in the bill that goes beyond the scope of the bill as adopted by the House at second reading.

As *House of Commons Procedure and Practice*, third edition, states on page 770:

> An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

Therefore, for the above-stated reason, I rule the amendment inadmissible.

**Mr. Marty Morantz:** Mr. Chair, it pains me to do this, because you know how much I normally always respect your decisions—

**The Chair:** There's no debate.

**Mr. Marty Morantz:** I'm going to have to challenge your ruling in this case.

**The Chair:** Go ahead, Clerk.

(Ruling of the chair sustained: yeas 7; nays 4)

**The Chair:** Members, we are going to suspend now.

We'll be back at 3:30 in this room.

● (1355)

_____(Pause)_____

● (1535)

**The Chair:** We're back, everyone.

We are now at clauses 96 to 136. There are no amendments to these clauses, so I'm just looking around to see if we can group these.

**Some hon. members:** Agreed.

**The Chair:** I see a yes, thumbs-up.

(Clauses 96 to 136 inclusive agreed to on division)

(On clause 137)

**The Chair:** BQ-1 is on clause 137.

MP Ste-Marie, would you like to move the amendment?

[*Translation*]

**Mr. Gabriel Ste-Marie:** Yes, Mr. Chair. I would indeed like to move amendment BQ-1.

Several organizations and orders representing professionals in the category of those offering therapeutic services have approached us and come before the committee to tell us about the difficulty they are experiencing, particularly in Quebec, with regard to the harmonization of legislation. According to them and their lawyers, the current wording of the bill means that professionals who offer therapeutic counselling services would not have access to the exemption—

[*English*]

**The Chair:** We're going to suspend for a moment.

● (1535)

_____(Pause)_____

● (1535)

**The Chair:** We are back.

I apologize for that, MP Ste-Marie. The interpreters were asking about your not having a headset, so they couldn't do their job, but are you using a mic that's approved by the House?

[*Translation*]

**Mr. Gabriel Ste-Marie:** Yes, absolutely.

[*English*]

**The Chair:** Okay, off we go.

[*Translation*]

**Mr. Gabriel Ste-Marie:** All right, thank you.

This amendment is very important for professionals who offer therapeutic counselling services. Various professional orders have approached us and come to explain the situation to the committee. As drafted, the bill poses a problem: People who offer therapeutic counselling services in Quebec would not be able to benefit from the tax exemption.

I had put the question to officials and they told me there was no problem. Subsequently, the representatives of these professionals told me that they had consulted the Canada Revenue Agency and Revenu Québec and had been told that, according to the original wording of the bill, they would not be able to benefit from the tax exemption. It's a question of how the laws fit together. The only way one of these professionals could qualify for the tax exemption, according to the original wording, would be if they obtained an attestation from another province, such as New Brunswick, allowing them to practise in that province, even if they had no intention of doing so, and then returned to practise in Quebec. There has been a lot of discussion with the Canada Revenue Agency and Revenu Québec, and it seems that this is the only way to qualify for tax exemption. That's the problem with the original text of the bill.

I'm using New Brunswick as an example, because it's the only province that offers services in French for the recognition of these professional orders. However, this province really doesn't have the resources for every Quebec professional to go there to obtain this recognition.

I know that the government and officials say that these Quebec professionals will be covered and that there won't be a problem. However, because of my extensive experience on the Standing Committee on Finance, I know very well that once a budget implementation bill is passed, there is no follow-up, people are left to fend for themselves and they are not entitled to the measure to which they should be entitled according to the spirit of the bill.

This amendment therefore clarifies matters to ensure that Quebec professionals will be entitled to the tax exemption, like everywhere else in Canada. If this amendment is not adopted, the concern will persist, the administrative maze and the negotiations between Revenu Québec and the Canada Revenue Agency will continue, and there is a very high risk that Quebec professionals will be excluded from the measure, since this is the Canada Revenue Agency's and Revenu Québec's interpretation of the original text of the bill. I repeat: The only way for a Quebec professional to qualify would be to obtain recognition from New Brunswick, allowing them to practise there, and then return to practise in Quebec. But that would create a monstrous bureaucratic burden for New Brunswick.

I invite each of my colleagues to support this amendment.

● (1540)

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

I also have Mr. Turnbull to speak about this.

**Mr. Ryan Turnbull:** Thanks, Chair, and thanks to Mr. Ste-Marie for providing this and putting this forward.

I am very empathetic to the attempt here—wanting to ensure psychoeducators in Quebec are included. I understand that the desire is to make a specific reference to them. However, we have a couple of concerns related to this.

One, we feel strongly that the terms of the bill refer to a “practitioner”. Those practitioners, in fact, would include psychoeducators and other professions in counselling therapy. The bill itself should already include Quebec's psychoeducators. That's the first point.

Maybe I can go to the officials to clarify whether in fact this is the case, because I don't want Mr. Ste-Marie to just take my word for it.

**Mr. Gregory Smart (Expert Advisor, Sales Tax Division, Tax Policy Branch, Department of Finance):** I'm Gregory Smart, an expert adviser at the Department of Finance.

This goes back to the definition of “practitioner” in the act.

First of all, a practitioner has to be licensed or otherwise certified to practise their profession in the province where the service is supplied. If the person is not required to be licensed or certified to practise that profession in that province, they'll have the qualifications equivalent to those necessary to be so licensed or otherwise certified in another province.

I understand that, in this case, the services we're talking about are licensed in the maritime provinces but not in Quebec—at least, not under the title “psychoeducator” or some of these other professions that exist in Quebec. In that case, I would think they would fall under paragraph (c). They would be required to have the qualifications equivalent to those that are necessary to be licensed in a province, such as New Brunswick, where they are so licensed.

That's all I can say.

**Mr. Ryan Turnbull:** Okay. Thank you for that.

In a way, though, you're saying the conclusion is that psychoeducators would be included as practitioners. This is what we've been told in consultation with the CRA.

Would you agree with that interpretation?

I know you've given us a more complex explanation. I understand what you said, which is that psychoeducators, no matter where they're qualified and whether they are licensed or not.... As long as they have the standard set of qualifications, they would count as practitioners.

Is that what I heard?

**Mr. Gregory Smart:** Yes. That's correct. That's the intention.

**Mr. Ryan Turnbull:** Okay. Thank you for that.

Hopefully, that sets Mr. Ste-Marie's mind at ease a bit.

I would also like to raise one more concern with regard to the particular wording of this amendment.

I think there's a bit of a concern that, when you reference one specific province in federal legislation, you're essentially embedding in the law itself an exemption with specific reference to one province but to the exclusion of others. I don't think that's appropriate for federal legislation, even though I understand Mr. Ste-Marie has some legitimate concerns about whether psychoeducators are included. I think we've heard testimony to say that they are in fact included. I hope we can move on from this.

For the reasons I mentioned, we will not be supporting this one.

Thank you.

● (1545)

**The Chair:** Thank you, Mr. Turnbull.

I have Mr. Davies. Then it's back to Mr. Ste-Marie.

**Mr. Don Davies:** Thank you, Mr. Chair.

I'm not sure I completely understand the nature of the amendment. I'll just verbalize what I think it says, and if someone else could correct me, that would be helpful.

This is the clause that would remove the GST on counselling services. I understand that in many provinces in the country, there are counselling services that are legitimate counselling services but are not regulated. We want to make sure those services benefit from the reduction of the GST.

When I read this clause, it seems to me to be saying that if someone is supplying these services in a province that does not regulate the provision of counselling therapy, or if the services are rendered by a person whose qualifications are equivalent to those licensed in Quebec, they would be deemed as qualifying for the GST reduction.

If I understand that correctly, it seems to me that it is delegating to a province—in this case, Quebec—the ability to set the national standard. Now, however much I may admire Quebec's leadership in that area, if my understanding is correct, I don't think it's appropriate to determine the application or not of a federal tax reduction to what one particular province may or may not do.

Is my understanding of what this amendment would do correct?

Should I restate it in simpler terms, or do you understand what I'm saying?

**Mr. Gregory Smart:** It's a question of interpretation, and I have a bit of a difficulty understanding it myself. I believe that's correct, and I believe that's what Mr. Ste-Marie said earlier.

**Mr. Don Davies:** It seems very helpful. I appreciate my colleague's amendment. I think what he's trying to do is make sure that everybody who provides these services across the country benefits from the GST exemption. However, the means of doing it don't feel right to me, because what it's doing is using one province's regulatory decisions as the national benchmark. It might be good in Quebec now, but a future government may change that. That's why I struggle with this amendment.

Thanks.

**The Chair:** Thank you, MP Davies.

I have MP Ste-Marie now.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I thank Mr. Turnbull, Mr. Davies and the official for their participation in the exchanges.

I would like to remind you that Quebec is the only province that manages the GST. In the case of the other provinces, the Canada Revenue Agency collects this tax. Because Quebec is a nation, because it has Revenu Québec and because it has its own ways of doing things, for decades there has been an agreement between the federal government and Quebec whereby it is Quebec, through Revenu Québec, that administers the collection of the GST in this province.

Quebec's professional orders have had discussions with Revenu Québec and the Canada Revenue Agency over the past few months. We've had the text of the bill for some time now. These professional orders are calling us because they have been told that, according to the current wording of the bill, they would not be entitled to the GST exemption.

The senior official, whose name I forget, and I apologize, has just confirmed to us the intent of the bill. I can understand that. When I read the bill, that is also what I take from it. That's the first thing I said to the representatives of Quebec's professional orders; I told them what the intent of the bill was. I then put the question to officials during the first session on the bill. They confirmed that this was indeed the intention of the bill. I went back to the representatives of the professional orders to tell them that this was indeed the case.

Despite testimony confirming that this is indeed the intent of the bill, the Canada Revenue Agency and Revenu Québec believe that given the way the bill is currently drafted, there would be no GST exemption for these Quebec professionals.

It's possible that my colleagues don't like the fact that the text of the amendment talks specifically about Quebec, but that's because its situation is different. It's Revenu Québec that collects the GST in Quebec. That explains the wording. I'm sorry about that. We worked with the legal experts, as that is the way we do things here, to ensure fairness. Fairness doesn't always mean that things are equal for everyone, but that we adapt for everyone.

The official said he thought these professionals would be exempt from GST. Now, other officials had told us the same thing previously, but upon checking, we were told that these professionals would not be entitled to this exemption.

Mr. Chair, before we continue talking about this amendment, I would like to know if there is a representative in the room from the Canada Revenue Agency who could talk to us about this amendment and the current situation.

● (1550)

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

I do not believe that we have anybody from the CRA here. No.

I don't know if Mr. Smart can help with what was asked or if anybody else has some information to provide MP Ste-Marie.

**Mr. Gregory Smart:** I'm sorry. I don't have anything further to add apart from what the intention is. I don't know how the CRA or Revenue Québec is interpreting this particular provision.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Please allow me to continue, Mr. Chair.

I thank the official for his reply. I completely agree with him: The intention is there and it's drafted that way. However, the directives that the Canada Revenue Agency gives to Revenu Québec, as well as the discussions and negotiations between these two organizations, do not confirm this.

I agree with what Mr. Davies, Mr. Turnbull and the senior official say. I thank them for it and I agree with them, but it's all still in the realm of intention. If we really want to guarantee that the GST exemption will apply to these Quebec professionals, we need to amend the text of the bill. We've been talking about this for months. We've had representatives from all the professional orders come and explain it to us at length, forwards and backwards. Unfortunately, this is what it takes. If the amendment is not adopted, they will probably not have access to it. That's really worrying. So that's why I'm proposing it.

Of course, I wish we could have had representatives from the Canada Revenue Agency with us to clarify the situation once and for all and explain why they're telling Revenu Québec that there can't be a GST exemption in this case.

The professional orders have told us that, following their discussions with the Canada Revenue Agency and Revenu Québec, it seems that, even though the bill talks about professionals who have the same training or competence as those who practise this trade in a province where it is regulated, the only way for a professional belonging to these Quebec orders to qualify for the GST exemption is to obtain recognition from a maritime province allowing them to practise their profession there, even if this is not their intention, and then return to practise their profession in Quebec. Quebec has a population of eight million. This obligation will overflow the systems of New Brunswick or the other maritime provinces, which will have to give this attestation to Quebec professionals. This is a serious problem.

I don't want these people from Quebec to be left behind, as happens so often. That's what I've observed in my experience on this committee: After a budget implementation bill is passed, there's no follow-up from the government and it falls into oblivion. I write to Ms. Freeland, she thanks me and says she'll follow up with me, but nothing happens after that.

Now is the time to get it right. I therefore invite you to vote in favour of this amendment.

Thank you.

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

I have MP Davies to speak to this.

**Mr. Don Davies:** Well, I see the concern, but I'm not sure I share it.

What I keep thinking to myself is, would this clause be supportable if we replaced “Quebec” with any other province? I wonder if Mr. Ste-Marie would be okay if we replaced Quebec with “Saskatchewan” or “Alberta”. I think when you do that it illustrates to me the fundamental problem with using that as a benchmark, although I understand the problem he's raising.

The way I read the act, the testimony that was given and the section, it's that people who are certified or practise counselling in a provincially regulated way will qualify for the exemption. The concern arises only when you have someone providing the same services in a province that is not regulated. On the issue there, when I read the CRA's notice 335, giving instruction on how to deal with that situation, they say that if you're providing those services in a province that is not regulated and if you have the equivalent qualifications of someone certified in another regulated province, you could qualify for the GST exemption.

To me, it all makes sense. It holds together. It's a bit unwieldy, but in lieu of every province regulating every profession the same way, that strikes me as a workable solution. If Quebec is regulating these counselling provisions, I would think that they would automatically qualify for the GST exemption, because they're practising in Quebec in a regulated profession. That's where I'm not seeing the concern for the Quebec professionals. I think they're covered, because they're regulated.

We're trying to deal with the situation of people who are practising and doing the exact same services in a province that's not regulated. To me, it makes sense just to say that their qualifications are equivalent to any other province that does regulate. That gives more flexibility as well, because the different provinces may have slightly different regulatory standards. A person providing counselling services in an unregulated province can point to one of the various examples—I understand they're Nova Scotia, P.E.I., New Brunswick and Quebec—and then say their qualifications are equivalent to one of them and, therefore, they would qualify for the GST exemption.

For all of those reasons, I don't think the section is wise or warranted, and I do think the Quebec professionals are probably well covered by the act as it's written.

● (1555)

**The Chair:** Thank you, MP Davies.

I don't see any further debate on this.

Shall amendment BQ-1 carry?

[*Translation*]

**Mr. Gabriel Ste-Marie:** Shall we adopt it on division?

[*English*]

**The Chair:** I've been asked to do a recorded vote.

(Amendment negatived: nays 7; yeas 3)

**The Chair:** Shall clause 137 carry?

(Clause 137 agreed to on division)

**The Chair:** Members, we have come to another grouping. There are no amendments I know of to clauses 138 to 216. I'm looking to see if we have unanimous consent to group those.

**Some hon. members:** Agreed.

(Clauses 138 to 216 inclusive agreed to on division)

(On clause 217)

**The Chair:** That brings us to amendment NDP-2.

**Mr. Don Davies:** Mr. Chair, I will not be moving NDP-2 or NDP-3.

**The Chair:** Okay. Shall clause 217 carry?

(Clause 217 agreed to on division)

(On clause 218)

**The Chair:** We are now on NDP-4.

**Mr. Don Davies:** Thank you, Mr. Chair.

I will move this amendment and speak briefly to it, if I may.

**The Chair:** One moment, please. We're going to suspend.

● (1555)

_____(Pause)_____

● (1600)

**The Chair:** We're back, and we're on NDP-4.

MP Davies, I know you spoke with the legislative clerk, and he has explained how to do it.

**Mr. Don Davies:** It doesn't change the intent, and I'll explain it in a second, but because I didn't move NDP-2, there's a reference in NDP-4 that no longer makes sense. What I will do is move NDP-4 without (a), so I will be striking (a) and leaving the current (b) and renaming it (a).

I'll explain what it does, because it's really easy to understand. It increases the maximum fine for contravening the cost recovery fee provisions from $50,000 to $500,000. That maximum fine is already found in many other sections of the Tobacco and Vaping Products Act, so it harmonizes the penalty and makes it meaningful. I think we all know the tobacco industry has very deep pockets, and I don't think a $50,000 fine has the deterrent effect we want, especially if we're bringing in the cost recovery fee provisions. We want to send a clear message to the industry that we don't want them to contravene it and, if they do, that the maximum fine is meaningful.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Davies.

I do have some people who want to speak to this.

Mr. Turnbull, please go ahead.

**Mr. Ryan Turnbull:** Thanks, Chair.

I don't know if we have any officials left here to answer questions, but I did have a couple of questions for them.

**The Chair:** Mr. Turnbull, they're all online. There are many who are out there waiting.

**Mr. Ryan Turnbull:** Oh, okay. Thank you for that. I couldn't see them and was a little concerned.

I totally understand Mr. Davies' intention here to increase the fines and penalties for tobacco companies that fail to comply with labelling requirements. I would say, though, that the current TVPA abides by something called the “principle of proportionality”, which is sort of that the punishment has to fit the crime. I understand all of us want to see tobacco companies, which I agree have deep pockets, comply completely with the labelling requirements, but I'm just a bit concerned that perhaps changing the fees and fines they would get for non-compliance from $50,000 to $500,000 is a very big increase.

Maybe I could go to any of the officials online to outline any of the issues that they see would arise as a result of the proposed change to the penalty that Mr. Davies has put forward here.

● (1605)

**The Chair:** Thank you, Mr. Turnbull.

With the officials being online, we're going to have to test your mic before you answer. We're going to suspend right now.

● (1605)

_____(Pause)_____

● (1606)

**The Chair:** We'll return now to Mr. Turnbull's questions.

Go ahead, Ms. Johnson.

**Ms. Sonia Johnson (Director General, Tobacco Control, Department of Health):** Just to reiterate on the fines that are proposed with these amendments, we do have the necessary authorities and tools available to us to take immediate action to enforce the proposed cost recovery framework for the Tobacco and Vaping Products Act. We will not hesitate to use any of the authorities and tools we have available to us to compel the industry to pay the fees or charges under the act.

When we were looking at what fine to put forward in this regard, we were looking at proportionality. Because this is considered more of an administrative piece, we wanted to align it with other administrative types of fines within the TVPA.

It's correct to say there are higher fines within the TVPA that are at $500,000, but those are related more to health and safety provisions.

I just wanted to reiterate that we do have a number of tools available to us to recover the cost recovery fees from the tobacco industry, and we will not hesitate to use any of the tools available to us to ensure that the department does receive its money.

Thank you.

**The Chair:** Thank you, Ms. Johnson.

If Ms. Stewart doesn't have anything to add to that, we go back to Mr. Turnbull.

**Mr. Ryan Turnbull:** I have a quick follow-up to that, if I may, for Ms. Johnson.

In terms of the reason it was set with a maximum of $50,000, can you confirm, then, that other administrative-type fees that are comparable to this are the standard, or that there's some information to back that up?

**Ms. Sonia Johnson:** Yes, that is correct. More administrative types of issues within the TVPA are set at $50,000, so this is proportional to that. Other fines within the TVPA, which are higher, are related to health and safety issues.

**Mr. Ryan Turnbull:** Thank you for that.

**The Chair:** Thank you, Mr. Turnbull.

I have Mr. Lawrence and Mr. Ste-Marie.

**Mr. Philip Lawrence:** Thank you very much.

I thank my colleague, Mr. Davies, for bringing this amendment forward. For the reasons Mr. Davies stated, tobacco companies have deep pockets, and we, as Conservatives, are of course the party of law and order. We'll be supporting this amendment.

**The Chair:** Thank you, MP Lawrence.

We have MP Ste-Marie, please.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

Excuse me, I missed the end of Mr. Lawrence's statement. Did he say he was going to vote for the amendment or against it?

Afterwards, I'll have some questions to ask.

[*English*]

**Mr. Philip Lawrence:** We'll be voting for the amendment.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Very well, thank you.

I thank Mr. Davies for submitting this amendment. I have to say that I'm not very familiar with the details of the law we're trying to amend here. I understand that there can be $500,000 penalties for health and safety offences. However, the case raised here concerns administrative problems. When administrative objectives are not met, a $50,000 penalty can be imposed.

Ms. Johnson, you said it was a question of proportionality. I have no sympathy for tobacco companies. As some of my colleagues have said, they have deep pockets. However, I'd like you to tell us what the effects would be on all Canadian legislation, whether in the tobacco sector or other sectors, if an administrative penalty of $500,000 were established as proposed in the amendment.

● (1610)

**Ms. Sonia Johnson:** That is correct.

Thank you very much for the question. I will answer in English.

[*English*]

This is just to make sure I'm clear in my response.

The reason for setting the penalty at $50,000 was that it was administrative, and that penalty is one tool of many that we could use to compel the industry to pay the charge it would need to pay the government as a result of the cost recovery framework.

In terms of what the implications would be, it really just explains why, when we put forth the amendments to the cost recovery framework, the penalty was set at $50,000. On changing the fee, I would say there's no implication from our perspective.

Thank you.

**The Chair:** Thank you.

MP Davies, please go ahead.

**Mr. Don Davies:** I have just a couple of final thoughts that pick up from my colleague's comments.

First, I would point out the obvious fact that this is a maximum fine. It doesn't mean that they're going to be fined $500,000. It would give discretion to levy a fine up to that amount.

I would imagine that all sorts of factors would be taken into account in setting an appropriate fine, whether it was inadvertent or it was a few days late, etc., all the way up to an egregious or repeat offender. As a maximum, $50,000 is too low when you're talking about tobacco, in my opinion.

Second, no tobacco company will ever have to pay it if they comply, which I expect them to do. This is not levying any kind of penalty; it's for companies that don't comply.

The other interesting thing to keep in mind is that the purpose of this is to have an enforcement mechanism for cost recovery. What is cost recovery? It is putting onto tobacco companies the costs that Health Canada has to expend to deal with the health impacts of their product. It's circular: At the end of the day, it comes down to enforcing health for Canadians. That's why I think it sends a strong message, in theory. It's entirely avoidable by tobacco companies; they simply have to comply with the cost recovery provisions.

I will conclude by saying the Canadian Cancer Society asked for this in testimony. In addition to having deep pockets, tobacco companies are very sophisticated, and they have proved for decades they will use every lever at their disposal. They will use every pressure point to try to have their products sold in Canada.

To me, as a government, if we're going to allow this very dangerous and addictive carcinogen to be sold in this country, it's very important that we make it clear that the costs of dealing with it will be enforced in a meaningful way.

For all those reasons, I would rather err on the side of sending a strong message to the tobacco industry than send a weak one.

I'll leave it there, and I will be happy to live with whatever decision my colleagues come to.

**The Chair:** Thank you, MP Davies.

I see no further debate on this.

Shall NDP-4 carry?

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

**The Chair:** Shall clause 218 carry?

(Clause 218 agreed to on division)

**The Chair:** Members, again, we're coming to a point where we have no amendments that I know of to clauses 219 to 233, and we need unanimous consent to be able to group those.

**Some hon. members:** Agreed.

**The Chair:** Shall clauses 219 to 233 carry?

(Clauses 219 to 233 inclusive agreed to on division)

(On clause 234)

**The Chair:** This brings us to clause 234, and we have amendment NDP-5.

MP Davies, would you like to move that?

● (1615)

**Mr. Don Davies:** Yes, I will move this amendment.

In brief, this amendment closes an interpretive loophole in the Competition Act with respect to drip pricing provisions. It follows testimony that was given before the committee. It was also recommended by the Competition Bureau.

I understand that the change that's being proposed here is in a section that's replicated throughout the act. If we don't get unanimous consent to change it everywhere, then I will withdraw the motion here.

Mr. Chair, I'll proceed if we do have unanimous consent and withdraw it if we do not.

**The Chair:** Mr. Turnbull will to speak to this.

**Mr. Ryan Turnbull:** Thank you.

We support this amendment and agree with Mr. Davies that there are numerous other sections of the act that would need to be updated in parallel.

Maybe I could ask Mr. Chhabra or the officials to respond—whoever wants to or whoever is most appropriate.

Could you please discuss whether similar amendments need to be made and where specifically we would need to adjust the act to preserve consistency across all instances where it refers to drip pricing?

**Mr. Samir Chhabra (Director General, Strategy and Innovation Policy Sector, Department of Industry):** Thank you.

Indeed, the provision in question is mirrored in a number of areas in the act. If it were to be amended only in this area and not in others, there would then be an inconsistency about the approach that's being taken to drip pricing. If it were to be done uniformly across, it would open subsections 52(1.3) and 74.01(1.1).

**Mr. Ryan Turnbull:** Given that this particular amendment adds to the criminally enforced anti-spam provisions in a new subsection that recognizes drip pricing as a form of false and misleading representation, that's what's at stake here. We would like to preserve consistency.

I would ask for the unanimous consent of the committee to open the two sections of the bill, subsections 52(1.3) and 74.01(1.1), in order to make those amendments, consistent with the one that's being proposed in NDP-5, please.

**The Chair:** The legislative clerk will just explain the best way to move forward on this.

**The Clerk:** Thank you, Mr. Chair.

It would be better to move them one at a time rather than globally. We would go in the order in which it proceeds through the bill.

**Mr. Ryan Turnbull:** Would we start with subsection 52(1.3), then?

**The Clerk:** It would be NDP-5 first.

**Mr. Ryan Turnbull:** That's no problem. It's whatever you advise.

**The Chair:** First we need to vote on NDP-5.

● (1620)

[*Translation*]

**Mr. Gabriel Ste-Marie:** Mr. Chair, I have something to say.

[*English*]

**The Chair:** I'm sorry. I did not see your hand up, Monsieur Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Before we vote on amendment NDP-5, I'd like the officials to explain to us what this amendment does.

In any event, I'll be voting for the amendment and there will be unanimous consent.

**Mr. Martin Simard (Senior Director, Corporate, Insolvency and Competition Directorate, Department of Industry):** Yes, I'm happy to explain.

I believe this amendment is founded on a suggestion from the commissioner of competition. In his testimony, he recommended tightening up the language around drip pricing.

What we have here in Bill C-59 are consequential changes addressing changes made in 2022 to clarify that, according to the Competition Act, drip pricing is a form of misrepresentation. At the time, it was said that all attainable prices had to be displayed upstream. The best example of this is when someone is shopping online and, after they click "Next" several times, they're surprised to see another price at the end. That practice is not allowed. The total price, the attainable price, has to be shown upfront. However, there was one exception: amounts imposed pursuant to an act passed by the federal Parliament or by a provincial legislature. Such is the case with sales tax, for example. Consumers expect sales tax to be added on the final screen.

The commissioner was concerned that some businesses might allege that other types of fees they have to pay, such as those for staff training or security, are the result of some sort of regulation or act of Parliament and that they could use that as a loophole to add fees to the price at the end of the process.

The amendment specifies that the laws in question must clearly indicate that the fees apply to purchasers themselves. It refers to subsection (1), so to the purchaser. Fees that apply to businesses are therefore not eligible. Sales tax applies to purchasers themselves.

So that's what the commissioner suggested. I must say that because these are new statutory provisions, they haven't yet been tested in the courts. Have they already been interpreted that way? That remains an open question. The commissioner recommended that we not wait and that we go ahead and tighten up the wording.

I assume that the New Democratic Party supports this recommendation since it's covered in amendment NDP-5.

**Mr. Gabriel Ste-Marie:** That's very clear. Thank you very much.

[*English*]

**The Chair:** Shall NDP-5 carry?

**Mr. Ryan Turnbull:** It's fine as long as we are clear that we have unanimous consent.

**The Chair:** We do have unanimous consent.

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

(Clause 234 as amended agreed to on division)

**The Chair:** Members, we're now going back.

**Mr. Ryan Turnbull:** I'm asking for unanimous consent to amend subsection 52(1.3) to make it consistent with the provisions of the act.

**The Chair:** I think we have unanimous consent for that.

We're going to suspend for a moment.

● (1620)

_____(Pause)_____

● (1644)

**The Chair:** I call the meeting back to order.

We are all back. We are going to new clause 233.1.

Monsieur Méla is going to help us out here. He is going to read what new clause 233.1 is.

**The Clerk:** Thank you, Mr. Chair.

Mr. Turnbull, you can correct me as we go if I am going in the wrong direction.

We would have to create new clause 233.1 after line 30 on page 426. The text would read, "Subsection 52(1.3) of the Act is replaced by the following", and then the text would be the text that you sent by email regarding drip pricing in subsection 52(1.3), in French and English.

● (1645)

**The Chair:** Mr. Lawrence.

**Mr. Philip Lawrence:** I am not disagreeing, but this is a bit unusual, so I just want to make sure I understand.

We have amended one section, but in order to make it consistent, we had to open up different sections in legislation in order to make this consistent. Is that correct? Yes.

My question, though, is for the clerk, because if the chair rules that something is out of scope, one of the things that can happen is that even if we override your decision—not that we ever would, Peter—the Speaker can then come back and say this is out of scope and throw it out, regardless.

I am just curious. Is there any chance that might happen with this piece of legislation, because we're opening up other pieces of legislation?

**The Clerk:** No. It's the same act that's being amended. It's just amending another section of the act. That's all. It's the same act.

**Mr. Philip Lawrence:** Okay.

**The Chair:** All right. Does everybody have the text? Yes, they do. Okay.

Now we're going to vote on new clause 233.1. Is that right?

Shall new clause 233.1 carry?

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

**The Chair:** We're going to suspend for a second.

● (1645)

_____(Pause)_____

● (1652)

**The Chair:** We're back.

Everyone, shall clause 235 carry?

(Clause 235 agreed to on division)

(On clause 236)

**The Chair:** We're on BQ-2.

MP Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Mr. Chair, there have been many amendments, and I hope I can explain them clearly to you.

To replace amendment BQ-2, I move the amendment that the clerk emailed to you at 3:40 p.m. This new amendment is in the same spirit as amendment BQ-2.

I want to acknowledge my colleague Mr. Weiler's very thorough work on this. I also welcome the fact that the government is proposing measures to limit greenwashing. That said, the purpose of my amendment is to go further. After completing some working sessions, I came up with what I'm going to propose to you, which is largely inspired by what Mr. Weiler might have proposed, but I'm also adding something at the end.

I would remind you that it's not amendment BQ-2, but rather the amendment sent by the clerk in mid-afternoon. This amendment proposes that clause 236 of Bill C-59 be amended first by replacing lines 14 and 15 on page 428 with the following:

> benefits for protecting or restoring the environment or mitigating the environmental, social and ecological causes or effects of climate

Second, the amendment proposes that the same clause of the bill be amended by adding after line 18 on page 428 the following:

> (b.2) makes a representation to the public with respect to the benefits of a business or business activity for protecting or restoring the environment or mitigating the environmental and ecological causes or effects of climate change that is not based on adequate and proper substantiation in accordance with internationally recognized methodology, the proof of which lies on the person making the representation and the evidence for which must be made publicly available upon request;

The amendment aims to limit greenwashing. For example, companies that make claims about their products will have to be able to prove it. To add to the work done by my colleague Mr. Weiler, I inserted “and the evidence for which must be made publicly available upon request” at the end of the wording so that people can have access downstream to the evidence a company has used to trumpet the environmental benefits of its product.

I hope I've been clear.

I'd like to point out that Mr. Davies worked a great deal on this whole part as well, so I hope to get his support too.

That would be my suggestion.

● (1655)

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

I have MP Weiler to speak to this.

Members and MP Ste-Marie, it was sent through the clerk at 3:40.

MP Weiler.

[*Translation*]

**Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.):** Thank you, Mr. Chair.

I also thank Mr. Ste-Marie for his amendment. We worked on it together, and I know Mr. Davies worked on that part as well.

[*English*]

To be clear, the act originally made some changes to the Competition Act that would deal with greenwashing with respect to specific products, products that you could test, so you would have to prove that the product has the environmental claims you say it does. This amendment that Monsieur Ste-Marie has put forward would expand this further for claims that are made by a business, and this is incredibly important, because there are some things you can't fully prove through a test. What this new change will require is to provide evidence to substantiate this claim.

To give you an example, a company may say that they are on track to net zero emissions by a certain year but not have done that, and that can be a form of greenwashing. This will get at claims like that. I appreciate Monsieur Ste-Marie's bringing this forward.

I also want to say thanks for a lot of the testimony we've heard at this committee, including from the Quebec Environmental Law Centre and the Canadian Association of Physicians for the Environment.

To the last point that Monsieur Ste-Marie made that this evidence be made publicly available on request, this one does create some problems, and while there are other jurisdictions that have similar provisions, they're not done in the context of antitrust law. This would create some challenges in this regard.

Also, there isn't any guidance about how that information would be provided, in what form, in what time period and what the penalties would be for not complying with that, and it would put undue burden on small and medium enterprises and could have the negative effect of leading to a process called greenhushing, whereby companies would be deterred from speaking to some of the environmental attributes of their products.

I would oppose that last change that was put forward and would propose to amend the amendment Monsieur Ste-Marie has put forward at the end, after it says, “the proof of which lies on the person making the representation...” Delete the next part of that amendment, which reads “and the evidence for which must be made publicly available on request”.

**The Chair:** Members, do you need that to be repeated?

MP Weiler, do you have that in writing? Please send that to the clerk so we can distribute it.

● (1700)

**Mr. Patrick Weiler:** I will get that in writing, but before I'm able to send that out, to be clear, this is an amendment to clause 236. Part (b) of the amendment would be “adding after line 18 on page 428 the following”, keeping that whole quotation but removing the last part that says, “and the evidence for which must be made publicly available on request”.

**The Chair:** I'll give everybody a minute or two.

● (1700)

_____(Pause)_____

● (1705)

**The Chair:** We're back.

MP Ste-Marie, go ahead, please.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

Again, I want to thank Mr. Weiler for his work. I would have preferred that the amendment be adopted as I had moved it without a subamendment, but obviously, in politics, it's important to make compromises while standing firm. I think the amendment as amended would be a great compromise. So I'm in favour of the subamendment.

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

First, members, are we good on the subamendment?

**Some hon. members:** Yes.

(Subamendment agreed to [*See Minutes of Proceedings*])

**The Chair:** Now we are going to BQ-13048007. That's the reference number. You will find the reference number at the top of page 428, top left. Just so we are all on the same page, it's to that reference number. That was from the email that went out at 3:40 p.m. It's BQ-13048007. That's the amended version of BQ-2.

How are we voting on that, members?

**An hon. member:** On division.

(Amendment as amended agreed to on division)

**Mrs. Laila Goodridge (Fort McMurray—Cold Lake, CPC):** We just voted on the subamendment. Now we have to vote on the amendment. No?

**The Chair:** MP Ste-Marie, do you want to move BQ-3?

[*Translation*]

**Mr. Gabriel Ste-Marie:** Mr. Chair, I see that amendment BQ-3 is identical to amendment NDP-6, unless it includes subtleties I didn't grasp. As a courtesy, I'll let Mr. Davies move his amendment.

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

The text is a bit different, I understand, MP Ste-Marie. Did you read both texts?

[*Translation*]

**Mr. Gabriel Ste-Marie:** Yes. They're quite similar. As a courtesy, if Mr. Davies wants to move NDP-6, I'm not going to move BQ-3. However, if he doesn't move his, I will move mine.

[*English*]

**The Chair:** MP Davies, are you good to go with that? Okay.

**Mr. Don Davies:** Thank you, Mr. Chair, and thank you to my colleague Mr. Ste-Marie.

They do the same thing. It basically expands the approach to greenwashing taken in clause 236 to cover all environmental claims made to promote a product or business interest.

Subclause 236(1) of Bill C-59 adds a new provision to the deceptive marketing provisions of the Competition Act to help address certain types of falls from misleading environmental claims. It specifies that claims about a “product’s benefits for protecting the environment or mitigating the environmental and ecological effects of climate change” must be based “on an adequate and proper test”. Importantly, the burden of proof would fall on the person making the representation, making it a type of reverse onus provision.

While the Competition Bureau has welcomed the new tool to address certain forms of greenwashing, it has also noted that it may prove to be a limited change that is more in the vein of clarifying the law than expanding it.

Notably, there's already a similar reverse onus provision in the act, dealing with product performance claims. That's in section 74.01. That provision prohibits making a claim about “the performance, efficacy or length of life of a product that is not based on an adequate and proper test”, and it would likely capture some of the same claims captured under this new provision.

The reality is that a significant portion of the greenwashing complaints the bureau receives do not involve claims about products. Rather, they're more general or forward-looking environmental claims about a business or brand as a whole, such as claims about being net zero or carbon neutral by 2030. These more general claims to promote a business interest can also be false or misleading, and they may be captured by our general deceptive marketing provisions. However, these claims are not reverse onus, and, as was stated by the competition commissioner, it can be challenging for the bureau to prove they are false or misleading in a material respect.

While these more general claims may not be amenable to testing in the way product performance claims are, businesses should at least be able to substantiate them, if challenged.

That's the rationale behind the change. I would have been happy with BQ-3, but I think this does the same thing. I hope we can get support for it.

● (1710)

**The Chair:** Thank you, Mr. Davies.

I have Mr. Turnbull.

**Mr. Ryan Turnbull:** Thanks for the exchange here.

When we were looking at these three amendments—BQ-2, BQ-3 and NDP-6—we looked at the various aspects of them together. My understanding of the subamendment just passed for BQ-2 is that we have already covered general claims or representations made by companies in relation to environmental performance or protection.

I believe, if I'm not mistaken, Chair.... Perhaps I would ask for clarification from the legislative clerk as to whether NDP-6 is redundant at this point, given the fact that we've already dealt with the matter at hand, which I think is the intention of this particular amendment.

**The Chair:** Okay. Thank you, Mr. Turnbull.

That would be a question for the officials.

**Mr. Samir Chhabra:** I would concur with the analysis presented by the honourable member.

Our view in the department, when we reviewed the proposed amendments, was that BQ-2, BQ-3 and NDP-6 all touch the same section of the act and all, operatively, have similar effects. Based on the conversation that was just held by committee members and the motion that was adopted on BQ-2, I see very little or nothing left in terms of substantive differences between NDP-6 and the motion that was just adopted.

**The Chair:** Okay. Thank you.

**Mr. Don Davies:** Mr. Chair, I'll accept that and withdraw the amendment based on that answer to Mr. Turnbull.

**The Chair:** We need unanimous consent for that withdrawal.

**Some hon. members:** Agreed.

(Amendment withdrawn)

**The Chair:** Members, we're now going to subclause 236(1.1). Our legislative clerk will explain.

● (1715)

**The Clerk:** Thank you, Mr. Chair.

Since the adoption of the amendment to BQ-2, there is a necessity to add to subsection 74.01(1.1) of the act, a new amendment. I can read what it looks like or sounds like.

We're going to add after line 18 on page 428 a new subclause, 236(1.1), which reads as follows:

Subsection 74.01(1.1) of the Act is replaced by the following:

“The following” is the text that was sent by the clerk a few minutes ago, from Mr. Turnbull.

**The Chair:** It's really clear, isn't it?

Are the members now voting on this? They're voting on subclause 236(1.1) and what was just read into the record. Okay.

**Mr. Ryan Turnbull:** I'm sorry, Chair, I'm just going to say that I'm sure all of us are in the same state here, of a bit of confusion, so maybe the clerk could....

I know that I've provided the text in an email before, but I'm not sure what the text is that you're talking about.

**The Chair:** Members, the bells are going, so we do need unanimous consent to continue.

**Some hon. members:** Agreed.

**Mr. Philip Lawrence:** We have members who want to vote in the House. We can continue for a bit, but we need time to get back.

**The Chair:** Okay, is it 30 minutes we have for the vote? What do you think you need, 15 minutes? Should we...?

**Mr. Philip Lawrence:** Okay.

**The Chair:** We'll continue for 15 more minutes.

Okay, we're going to now suspend, so that everybody can understand where we are.

● (1715)

_____(Pause)_____

● (1715)

**The Chair:** Shall clause—

**Mr. Philip Lawrence:** One second, sorry.

Mr. Méla, could you explain what you explained to Mr. Turnbull to all of us?

**The Clerk:** I was going to defer to Mr. Turnbull.

**Mr. Ryan Turnbull:** I'm happy to say that what the legislative clerk just revealed to me, which I didn't understand when he first spoke, was that this is related to drip pricing. It's adding, by the sounds of it, another clause in order to deal with the drip pricing inconsistency that we would have in the Competition Act. I think it's 74.01(1.1), if I'm not mistaken, which is the section of the Competition Act that has to get amended in order to preserve that consistency.

We all gave unanimous consent, and we passed the other section, because there are two sections. The other one was...remind me of the number. Was it 52(1.3)? That was what we had already voted on, but we gave unanimous consent to amend two sections. The legislative clerk is just saying that we need to now add a clause into Bill C-59 in order to make this additional amendment to the Competition Act.

● (1720)

**The Chair:** All right. To proceed, the first thing we need to do is vote on the amendment that Mr. Turnbull just brought to create subclause 236(1.1).

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

**The Chair:** Now we're going to NDP-7.

MP Davies, would you like to move this?

**Mr. Don Davies:** I would indeed, Mr. Chair. Basically, NDP-7 amends 236(2) of Bill C-59, so that sellers would bear the burden of proving that discounts are genuine. That follows a recommendation by the Competition Bureau.

Fake discounts are a common deceptive marketing practice. In some cases, businesses promote a price as being a discount when, in fact, the advertised price is just the ordinary price of the product. That conduct is prohibited under the ordinary selling price provisions of the Competition Act. That's in section 74, in a couple of different places.

Currently, Mr. Chair, the Competition Bureau bears the burden of proving that discount claims are false or misleading. This means that if a seller makes a claim like "$50 off the regular price of $100", the bureau would have to obtain the data and run the numbers to verify whether the claim is truthful or not and be prepared to prove it in court, which can be a difficult burden. This is not the most efficient approach, given that the company is the one making the savings claim based on its own sales history and is best positioned to back it up if challenged. Therefore, we would recommend that this amendment be made.

**The Chair:** Thank you, Mr. Davies.

I have Mr. Lawrence and then Mr. Turnbull.

**Mr. Philip Lawrence:** Thank you.

We believe that in an efficient and effective marketplace, you need to have players that are transparent. For that reason, we will support that.

I will say, half jokingly, that it would be nice if this applied to the government as well.

**The Chair:** Thank you.

Mr. Turnbull.

**Mr. Ryan Turnbull:** Thank you, Chair.

Let me just check on this. I have a few questions for officials. While I agree with the overall intent, I'm not sure whether this change is actually necessary.

I want to ask officials how the Competition Bureau is currently equipped to challenge companies that are using misleading price promotions.

**Mr. Samir Chhabra:** In clause 236, the government had proposed to make an adjustment to the English version of the act to ensure that representations about prices—particularly a discounted product—are presumed to be making the comparison to their own prices, rather than potentially to an unspecified market price or the prices of competitors. This enables the bureau to be much clearer and more targeted about going after any deceptive marketing in this space that takes advantage of a different selling price.

The bureau, of course, has its investigatory tools and the ability to compel information from organizations that are under investigation. Following the passage of Bill C-56, it also has the ability to seek orders to compel information in the course of a market study. There are a couple of different ways that the bureau can get access to this type of information.

My understanding of the change that's being proposed by NDP-7 is that it would introduce additional requirements that include demonstrating or establishing that a business has "sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation" and that "they have offered the product at that price or a higher price in good faith for a substantial period of time".

Some considerations before the committee are about whether those time periods are testable, relatable and consistently applied across the board. It's about whether businesses would have the ability to understand what's expected of them in that circumstance and, frankly, what a "substantial period" might mean. Do any interim discounts that were offered for a short period of time in between, say, a Black Friday and then a Boxing Day, obviate the ability to demonstrate it as a discount, if they've done it within previous months?

Those are a few issues for the committee's consideration today.

● (1725)

**Mr. Ryan Turnbull:** Thank you.

Just to be clear, the Competition Bureau right now has subpoena powers to compel price records from companies.

**Mr. Samir Chhabra:** That is correct.

**Mr. Ryan Turnbull:** Given what you've talked about here, which is some potential interpretative vagueness that would be installed into the law around time periods and whether they're testable, relatable and consistently applied, would that cause an undue cost and compliance barrier on small to medium-sized enterprises or potentially contribute to that?

**Mr. Samir Chhabra:** I think it's reasonable to assume that businesses would have to take on some degree of compliance activity in order to demonstrate compliance with this. An example of that might be a smaller enterprise. A corner store might be a reasonable example.

Many businesses—90% of our enterprises—are small and medium enterprises. It would be challenging in some circumstances for them to be able to prove that they had documented appropriately their selling prices over a period of what constitutes a substantial period of time. That could, in fact, introduce some burden that may not be in keeping with the benefit that could be derived from introducing this provision in the first place.

**Mr. Ryan Turnbull:** The last thing is that in NDP-7, paragraph (c) calls for the deletion of lines 31 and 32 on page 428.

Can you speak to the utility of that, whether that's advisable and what impact that might have?

**Mr. Samir Chhabra:** We did take note of the provision to delete lines 31 and 32 on page 428. It's not entirely clear to us as a department what effect this would have.

In our view, it may be a drafting error, in the sense that the purpose of that is to mirror a drip provision clause in subsection 74.01(1.1). The purpose of the lines 31 and 32 in this instance are to add an equivalent provision to section 74.011.

**Mr. Ryan Turnbull:** My colleague might add to that.

**Mr. Martin Simard:** Yes.

As mentioned, these two lines are the instruction in Bill C-59. It says this section of the act is amended after the following, so we were all confused about drip pricing earlier. It's because there are four instances in the Competition Act where we have drip pricing. Bill C-59 was amending two of them. Then, collectively, you have now amended three of them.

I think the drafter was confused here and thought we were doing something twice. They deleted the instruction, thinking, “Oh, we've already dealt with drip pricing and this exact same wording,” so they added these things here. It's not necessarily to add a new thing. In fact, what it would do is defeat the purpose of what we're all trying to achieve, which is to make the change in four different places. It would leave one place unamended if we were to delete that instruction.

**Mr. Ryan Turnbull:** Thank you for that clarification.

I've asked the officials questions to help make the argument for why I would oppose this amendment. It's not because I don't agree with the intent. I agree that the subpoena powers are already there and there are some potentially adverse or unintended consequences by way of the particular wording proposed in NDP-7.

Also, at the very least, I would ask Mr. Davies—even if committee members support this—that we consider taking out the deletion of lines 31 and 32.

Thank you.

**The Chair:** Thank you, Mr. Turnbull.

I have Mr. Davies, then Mr. Ste-Marie.

We have only two minutes. We said we would suspend at 15 minutes before the vote.

We'll suspend at this time. Members, we'll come back to this.

● (1725)

_____(Pause)_____

● (1812)

**The Chair:** Okay, guys, we're back. We're on NDP-7.

I can't recall exactly, but I think Mr. Turnbull had the floor. Mr. Davies was next, and then it would be Mr. Ste-Marie.

Mr. Turnbull.

**Mr. Ryan Turnbull:** Thank you.

Perhaps I'll just go back to the officials. I just wanted to further clarify something on this particular amendment.

There are serious concerns I've already asked about and you've already talked about. You've talked about the interpretive vagueness this might create and the challenges in implementing it, the potential cost of compliance barriers this would create for small to medium-sized enterprises. Help me understand what this imposes upon small to medium-sized businesses.

My understanding is if you're a large company and you have to keep pricing information and data, you're probably already doing that on a regular basis. However, if you're a small to medium-sized enterprise, how much of a burden might there be to having a price list to the detail that this amendment would require? What would that look like for that small business? Can you unpack for us a little more the burden that might create?

**Mr. Samir Chhabra:** My response earlier pointed to some of the features within the formulation here that might be challenging for a small business to interpret. In addition to that, obviously they would have to then maintain records of all goods sold over a period of time, as well as the pricing information that went along with that. In that sense, particularly for a small business, it could be quite challenging. Again, I gave an example earlier of a corner store. It's not clear that they would have an inventory management system that would have the ability to drill down on each and every single type of item in inventory that's been sold and then have a price associated with each transaction that occurred.

Of course, as you pointed out, for larger businesses certainly we would expect to have the degree of sophistication to be able to track those kinds of things over time; and we expect, from our understanding, that it's done routinely. However, for a smaller business, more of a “mom-and-pop shop” style.... I can say my own parents had a family business for many years, and it was not the kind of thing that was routinely captured. Their accounting was line by line, item by item, what the pricing was.

● (1815)

**Mr. Ryan Turnbull:** Would this open them up to being accused of misleading discount claims if they struggled to actually comply? That's what my worry is. It's one thing to say, okay, well, there's a cost to a compliance barrier, which sounds like, “Okay, well, boo hoo. You're a business and you should have to track that pricing information.” I get that. However, if it's actually not feasible for them to do so, given the size and scale of the business and that they may not have the resources to do so, potentially it could open them up to undue risks in terms of their not really deserving that level of risk, perhaps.

I don't know if you can say anything else about that. I'm just trying to get really practical about it. I'm thinking about those 600,000 small businesses, for example, that are getting the Canada carbon rebate for small businesses in the future, and how the risk would occur for them.

**Mr. Samir Chhabra:** It's a good question. There are probably two elements to how this might break down in practice.

One the one hand, you could think about the risk of an enforcement action. However, even before you get to the risk of enforcement action, I think there's also the potential for a chilling effect, where businesses hear about the rule set, maybe understand to some degree or partially the rule set that's being imposed and feel it's too burdensome to take on the risk of advertising a sale that could be challenged. It might in some ways be read or misinterpreted as a restriction against offering sales or discounts.

By making the process of offering a discount potentially more complex or contestable or challengeable, it could, in fact, make it harder for a small retailer to put on a sale. That extra burden might mean, in fact, they don't go ahead and offer the discount.

**Mr. Ryan Turnbull:** Well, certainly we don't want to see that. That, obviously, would be an unintended consequence that would not be desirable, given the fact that we all want to see prices for Canadians come down. If they were exposed to risk based on offering a discount, that may deter them from doing so. I get your point. I just wanted to go a little more in depth on that, so thank you very much.

I don't know if I've convinced my colleagues. Mr. Davies doesn't look convinced. Maybe I'll leave it there.

Thanks.

**The Chair:** Thank you, Mr. Turnbull.

I have Mr. Davies, Mr. Ste-Marie and then Mr. Lawrence.

**Mr. Don Davies:** Thank you.

I'm going to do an equivalent dive.

First of all, how many mom-and-pop operations are the subject of Competition Tribunal investigations on fake prices?

**Mr. Samir Chhabra:** I would think it's unlikely to capture the Competition Bureau's attention at the national level, thinking about mom-and-pop shops—

**Mr. Don Davies:** What about in the last year?

**Mr. Samir Chhabra:** I wouldn't have that figure to hand, but I would agree with the assertion that it's unlikely to be contested in that manner, which is why I pointed out that the other point worth noting here is that it does create a bit of uncertainty and could give pause to the—

**Mr. Don Davies:** Mr. Chhabra, I'm not asking whether it's likely.

How many have happened in the past year, to the best of your knowledge? How many mom-and-pop operations have been challenged about advertising a price that's promoted as a discount when it's just the ordinary price? It's currently an offence.

**Mr. Martin Simard:** That's right. You'd have to ask the Competition Bureau, because it's the Competition Bureau that launches an investigation. Only when it's not resolved through a consent agreement does it go to the tribunal. There was no case at the tribunal last year for a small business.

● (1820)

**Mr. Don Davies:** I bet you that I could go back several years and not find a single case in which a mom-and-pop grocery has been challenged at the Competition Tribunal over price advertising. That's just my guess. If I'm wrong, you can let me know.

It's already an offence, isn't it? The only question here is the burden, right? Any business that is selling a product right now, if it is promoting a price at a discount when it knows it's actually the ordinary price of the product, is already in violation, isn't it?

**Mr. Martin Simard:** That's correct.

**Mr. Don Davies:** It was the competition commissioner who came to this committee and said that he wants this changed. Are you aware of that testimony?

**Mr. Samir Chhabra:** We are aware of that, yes.

**Mr. Don Davies:** Now, of course, the question here is, don't you think a business is best positioned to know the prices they charge?

**Mr. Martin Simard:** That's the question at hand: Who has the burden of proof?

Right now, it's for the bureau to build the case. They will have a complaint by a citizen and they will send a mystery shopper or they will look at the website and monitor the website over a period of time. The burden to build the case is with the bureau.

This is indeed a request by the commissioner to shift the burden to say that all companies need to document, and if they don't document, then they're in the wrong.

**Mr. Don Davies:** No. It's my amendment. I know I'm shifting the burden.

My question, though, is this: The Competition Tribunal already has the power to subpoena all those documents, doesn't it?

**Mr. Martin Simard:** That's correct.

**Mr. Don Davies:** How, then, is it creating an additional risk? If you're a small business, you're already at risk of having a complaint made. If a subpoena is made for your documents, you would have to prepare for that risk and keep them. How does this change any of the business practices of a business—whether small, medium or large—to be able to justify the prices it charges when it could very well be called upon to defend that practice and have its documents subpoenaed as a result?

**Mr. Martin Simard:** It's exactly what you said: It's the burden of proof.

Right now, if the company has not kept records, the burden of proof is on the bureau to bring evidence at a tribunal that they were in the wrong, because they have kept records that the company did not. The burden of proof means that if you have not kept records....

Let's say it's that scenario: A small firm doesn't keep a price list and advertises a rebate. Right now, under the current law, the bureau has to have some external proof to win the case, because if they subpoena they will find nothing. With the proposed amendment, if the company—even if they didn't lie—didn't keep records, they will lose. In the current scenario, where there are no records, they win. In the future scenario, where they have not kept records, they lose.

**Mr. Don Davies:** I want to just bring something back here.

The purpose of this is to protect the consumer and promote free competition. Wouldn't you agree with me? It's not to protect businesses that purposely don't keep records in case they get subpoenaed, so there's nothing to produce.

I would ask you, what kinds of businesses don't keep records of their prices?

**Mr. Martin Simard:** That is exactly the question for the committee.

There's a trade-off between the ease of enforcement versus compliance costs for businesses. Every marketplace framework law tries to get the balance right. It is a totally legitimate debate to decide where we put the balance between compliance costs and the effectiveness of the....

**Mr. Don Davies:** I think that might be one way to put it.

Remember, though, that the whole purpose of this is to go after those unscrupulous businesses in the marketplace that are deliberately promoting a fake discount price when, in fact, it is the ordinary price. That's the mystery we're getting at. It's the competition commissioner who came here and said the burden is too hard on this.

I'll summarize.

It's highly unlikely that we're going after any small businesses. If we do, any scrupulous business would be able to keep records and probably easily show that the prices it is charging are legitimate, so it's a legitimate discount. Its documents can all be subpoenaed in any event, so the risk issue you described to me is illusory, because any business would have to be keeping its records one way or the other, whether the burden is on the business or whether their records could be subpoenaed.

Finally, it seems like the one concern that would lie in favour with the position of Mr. Turnbull—and, in fairness, the way you're answering questions—is that we need to be concerned about the business that doesn't keep any records of its prices. That would strike me as a highly unusual situation. I can't see the policy benefit of worrying about the business that doesn't keep prices so that it can't satisfy the Competition Tribunal.

I'll just throw that out.

Does anything I've said alleviate any of your concerns?

● (1825)

**Mr. Samir Chhabra:** I'm not sure I would agree that it would necessarily ameliorate the points we've raised here. It's quite true that the overall ambit or thrust of the proposed amendment, as we understand the commissioner of competition's point of view and as my colleague has already pointed out, is about shifting a bit of the burden. The ease of enforcement versus the compliance impacts to businesses is the issue at hand.

Our responsibility as officials is to raise the consideration of how this could roll out in effect and what kinds of impacts it may have. That was the reason for pointing out that there may be a category of business, likely a significant number of very small enterprises, that may not have detailed pricing records.

As my colleague Mr. Simard already pointed out, the issue here is the burden of proof and on whom that burden is placed. I certainly take the point that under a subpoena situation or in an investigation, any business would have to then be called upon to provide the records. However, because the burden of proof would rest with the commissioner in the current formulation, it would not necessarily result in same outcome as the approach that would be followed if this amendment were to carry.

**Mr. Don Davies:** I'll just conclude with two brief points, Mr. Chair, and then I'll leave it for the vote.

My first point is just that the tribunal has discretion as to whether it wants to pursue a case. One would have to have some confidence that the tribunal would not pursue a business that is clearly acting in good faith. Rather, we would want to give the tribunal the power it has to go after a business when it really perceives deceptive practices in the marketplace.

The second thing I would say is the reason I'm being a bit passionate about this is that the businesses themselves are in the best position to know their prices and the history of what they've charged. Rather than play a game of cat and mouse whereby the tribunal has to go to extraordinary lengths, like subpoenas, getting documents and all those processes, if there's a complaint or a question about whether a price is a legitimate sale, it should be a relatively easy thing for most businesses to be able to say, “Look, this is a discount. Here's what we were selling it at.”

My next point would be on the “substantial volume” and “substantial period” issues that you raised. I think they are fair points. To me, they build in a lot of discretion, because to take in the various examples that you put in about Black Friday, etc., generally, you have to show that you were selling at a substantial price for a substantial period of time. This would give discretion to the tribunal.

Finally, the last point I will make is that I think you're absolutely right. Thank you, Mr. Simard. I think you caught the deletion of lines 31 and 32. Exactly as you said, I think it's a housekeeping matter related to the drip pricing.

I've said way too much on this, but that's my position on it. As the mover of the motion, I just wanted to be very clear about why I thought it was necessary and to respond to Mr. Turnbull's concerns.

**The Chair:** Thank you, Mr. Davies.

I have Mr. Ste-Marie and then Mr. Turnbull.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

I think it's a good amendment. There's nothing revolutionary or extreme in there. It simply limits misleading advertising. If a merchant says they are offering a $100 discount on a product and, in the end, the customer pays the list price, that's unacceptable. The amendment seeks to address such practices.

Provisions are already in place in Quebec's Consumer Protection Act to keep this kind of thing from happening, and they work. I hear all the hypothetical fears being raised, but I must say that, to my knowledge, those fears have not materialized in Quebec, where the Consumer Protection Act is in force.

Today, merchants use cash registers, and even the local snack bar has one. What's unique about these registers is that they record transactions and the prices associated with them. So we have a footprint.

Furthermore, how can a merchant advertise $100 off the list price of a product and then say they don't know the list price? I don't find that argument very strong, with all due respect. I also want to point out that sworn testimony from a merchant is admissible evidence in a court of law.

I therefore invite all my colleagues to support this good amendment. Quebec already has similar provisions and they work, so it would be good if Canada had them as well.

I understand that the bill we're studying here already proposes many amendments to the Competition Act and that the act rarely gets reviewed, but this amendment aims to improve it. Yes, there may be a lot of housekeeping to do and directives to issue. The fact remains that this amendment will improve the act, and that's why I'm supporting it.

● (1830)

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

With my apologies, I have Mr. Lawrence and then Mr. Turnbull.

**Mr. Philip Lawrence:** Thank you very much for the debate and the comments. I am sensitive to Mr. Turnbull's and the officials' comments with respect to adding additional red tape and challenges for businesses. We all know that it's tough enough out there economically, but as many economists and many experts have said, we are in a productivity crisis. Carolyn Rogers, senior deputy governor of the Bank of Canada, said that one of the key reasons that is, when she mentioned “break the glass” in the break-glass speech, is a lack of competition. I think that's echoed by many economists and experts with great degrees of expertise. I will be voting for this, because I believe that when in doubt we should be on the side of competition and on the side of productivity, given the crisis of productivity we have in our country.

**The Chair:** Thank you, Mr. Lawrence.

I have Mr. Turnbull now.

**Mr. Ryan Turnbull:** I've heard, obviously, the arguments of my colleagues. We've brought up our concerns, and I think there's some good discussion and debate that's been had. I would like to propose to subamend NDP-7 to just delete part (c) of the amendment. Removing (c) would essentially deal with the drafting error that we identified. I think Mr. Davies was amenable to that. Then I'm hoping we can get beyond this. Obviously, we know how the other members are going to vote.

**The Chair:** We would first have to vote on the subamendment, members.

(Subamendment agreed to on division [*See Minutes of Proceedings*])

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

(Clause 236 as amended agreed to on division)

(On clause 237)

**The Chair:** We have NDP-8 on clause 237.

MP Davies, would you like to move your amendment?

**Mr. Don Davies:** Thank you.

NDP-8 also closes an interpretive loophole in the Competition Act with respect to drip pricing provisions. This was recommended by the Competition Bureau in its testimony at committee.

In this case, drip pricing is the deceptive practice of omitting mandatory fees from advertised prices, thereby misrepresenting the total cost of goods and services.

I'm wondering if this is different from the one before. Maybe Mr. Turnbull understands it better than I do.

**The Chair:** Go ahead, Mr. Turnbull.

**Mr. Ryan Turnbull:** We have looked at this, and we support it. I just want to get that out there early on. I don't think it needs to be debated; I think we've already had the debate on this.

**Mr. Don Davies:** I'm happy to just go to a vote.

(Amendment agreed to on division)

(Clause 237 as amended agreed to)

(Clause 238 to 243 inclusive agreed to on division)

(On clause 244)

● (1835)

**The Chair:** Mr. Davies, would you like to move NDP-9?

**Mr. Don Davies:** Thank you, Mr. Chair.

NDP-9 expands the Competition Tribunal's remedial authority in cases of refusal to deal. As it's currently drafted, Bill C-59 would allow the tribunal to:

> order one or more suppliers of a product, including a means of diagnosis or repair, in a market to accept a person as a customer within a specified time on usual trade terms

The proposed amendment would allow the tribunal to "order one or more suppliers of a product, including a means of diagnosis or repair, in a market to accept a per—"

This is the additional part:

> —son as a customer, or to make the means of diagnosis or repair available to a person, within a specified period and on the terms that the Tribunal considers appropriate

**The Chair:** Go ahead, Mr. Turnbull.

**Mr. Ryan Turnbull:** We're prepared to support this amendment.

(Amendment agreed to on division)

**The Chair:** Now we're going to NDP-10.

**Mr. Don Davies:** I'm not going to move that amendment.

**The Chair:** That takes us to BQ-4.

Go ahead, Mr. Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

My amendment is consistent with repairability rights. It would force producers of goods to provide parts suppliers or third parties with the necessary information, but nothing more, so that they can repair those goods.

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

MP Hallan, go ahead and speak to this.

**Mr. Jasraj Singh Hallan:** I want to get some clarification from the officials on this. During the new committee study of Bill C-244, the right to repair, and Bill C-294, the department raised some serious issues about the inclusion of diagnosis, maintaining and repairing and the right to repair as potentially being in violation of CUSMA.

Could the officials clarify a little more that we're not going to be looking at any trading conflicts with the U.S. in regard to this amendment or anything with the right to repair?

**Mr. Samir Chhabra:** The issue raised in C-244 and C-294 was related to the circumvention of technological protection measures. In the case of the United States, the approaches were different in terms of what cause or what rationale enables the circumvention of a technological production measure. That was the reason for the flag that was provided and raised at committee. In this instance, we do not see the same issue.

Perhaps my colleague is interested in jumping in with—

**Mr. Martin Simard:** It's very different.

You're right, it's different because it's not about the copyright sections of trade agreements; however, trade secrets are also covered by trade agreements. It is a good concern to raise in this committee as to the impact the proposal could have on trade.

**Mr. Jasraj Singh Hallan:** I have a quick follow-up on that.

I want to make sure you guys are comfortable that there would not be any potential trade issues or issues with CUSMA because of this, specifically.

**Mr. Samir Chhabra:** The department's view of this provision and the additions being proposed—adding "maintenance" and "calibration"—is that they add further specificity but don't change the overall nature of the requirement. We've not identified, as a department, any issues with trade law or CUSMA.

**Mr. Jasraj Singh Hallan:** Thank you.

**The Chair:** Thank you, Mr. Hallan.

Now we'll go to Mr. Turnbull.

**Mr. Ryan Turnbull:** Thanks, Chair.

My understanding of this amendment is that it seeks to strengthen the definition of "means of...repair" and includes "maintenance" and "calibration" as activities that are essential to the aftermarket repair of products.

I want to ask the officials whether the proposed change in part (a) of the amendment gives companies sufficient tools to effectively repair products in today's economy.

● (1840)

**Mr. Martin Simard:** We were conferring. Can you please repeat the question?

**Mr. Ryan Turnbull:** Sure. I want to know whether the proposed change in part (a) of the BQ-4 amendment, which adds, I believe, "maintenance" and "calibration" to the definition of "means of...repair", gives companies sufficient tools to effectively repair products in today's economy.

**Mr. Samir Chhabra:** Our sense is that, yes, in fact it would provide that.

**Mr. Ryan Turnbull:** Similarly, with respect to part (b), which is the part of the amendment that refers to trade secrets, do trade secrets need to be revealed to ensure genuine right to repair?

**Mr. Samir Chhabra:** On the issue of the trade secrets portion of the proposed amendment, there are some concerns that it could create some challenges. In the situation we're talking about here and with the way this is formulated, we understand it would essentially attempt to override existing intellectual property law to suggest that anything that is essential "diagnostic, maintenance, repair and calibration information" does not constitute a trade secret. This is something that could not necessarily be managed appropriately through the Competition Act, but rather in intellectual property law.

There are some concerns about blurring what constitutes the provision of information that enables a repair versus the trade secret that may be behind that. For example, think of a specific lubricant that is important for the repair and maintenance of a vehicle. The provision of or access to that product would be important for the diagnosis or repair work, but it would not be necessary, for example, to reveal the formulation of that lubricant, which could constitute the trade secret.

There is a concern around part (b) and what's being attempted there, which is essentially to suggest that a trade secret "does not include any essential diagnostic, maintenance, repair or...." There could be a bit of an unfortunate blurring there, which should be considered by the committee, for sure.

**Mr. Ryan Turnbull:** Just so I'm clear, what is the risk of trade secrets being revealed? Obviously, it would have some pretty significant impact on the companies that depend on those trade secrets.

**Mr. Samir Chhabra:** The concern with this scenario could be that a company feels emboldened to attempt to not provide some information. I think that's what this is attempting to get at—standing behind a trade secret as a reason for not providing the means for diagnosis or repair.

Our assessment is that the bureau and, of course, the tribunal would be able to manage it, see through it and distinguish between the provision of the means for diagnosis and repair versus the revealing of information that goes behind the product itself.

**Mr. Ryan Turnbull:** With that testimony, I'd like to suggest a subamendment. Hopefully, my colleagues Mr. Davies and Mr. Ste-Marie may find it amenable. It's the deletion of the portion that deals with trade secrets.

I can read it into the record if you like, Chair.

It's to delete the following from BQ-4:

> (b) by adding after line 24 on page 438 the following:
>
> trade secret does not include any essential diagnostic, maintenance, repair or calibration information.

**The Chair:** Is there any more comment?

MP Ste-Marie.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

Industry stakeholders tell us that suppliers and producers of products all too often hide behind industrial secrecy to block repairability rights. However, I understand the information officials gave Mr. Turnbull. If we keep part (a) of the amendment, it will allow for repairability without requiring disclosure of trade secrets. Disclosure of trade secrets is not the objective of the amendment. So if it suits all my colleagues, I'm quite comfortable supporting the proposed subamendment.

● (1845)

[*English*]

**The Chair:** Thank you.

We'll go to the subamendment. Are we supportive of the subamendment?

**An hon. member:** On division.

(Subamendment agreed to on division)

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

**The Chair:** Since BQ-4 has been moved and voted on, NDP-11 cannot be moved, as they are identical.

(Clause 244 agreed to on division)

(Clauses 245 to 248 inclusive agreed to on division)

(On clause 249)

**The Chair:** On clause 249, we have NDP-12.

MP Davies, would you like to move this?

**Mr. Don Davies:** I will, Mr. Chair. I'll speak briefly and have this go to a vote.

It amends clause 249 of the bill to stipulate "that the purpose of an order made against an anti-competitive merger is to preserve or restore the level of competition that would have prevailed without the merger."

As currently drafted:

> Bill C-59 does not address the standard for merger remedies under the [Competition] Act, which remains weak by international standards. Specifically, the Supreme Court of Canada has held that remedies for anti-competitive mergers need only "restore competition to the point at which it can no longer be said to be substantially less than it was before the merger" and, moreover, that we should favour the "least intrusive" remedy that meets this standard.

As well, Mr Chair:

> The emphasis, therefore, is on finding a remedy that makes the harm from anti-competitive mergers less bad, or more tolerable, rather than preserving the state of competition. And even then, the Tribunal has discretion not to order a remedy at all—section 92 only says the Tribunal "may" make various orders if it finds that a merger is anti-competitive.
>
> As explained in the [Competition] Bureau's February 2022 and March 2023 submissions, most jurisdictions seek remedies that fully prevent the harm from anti-competitive mergers. This makes sense [to us, given that] anti-competitive mergers generally occur in concentrated markets where there is limited competition and little prospect of new entry in the future such that the effective markets are unlikely to 'self-correct'.

I'll end by further quoting the Competition Bureau. In March 2024, when they wrote this committee, they said:

> Merger control should seek to preserve the level of competition in these markets as much as possible rather than allow it to be eroded through anti-competitive consolidation that is only partially remedied.

> Accordingly, we recommend that Clause 249 be amended to provide that the purpose of merger remedies ordered under [section] 92 is to preserve or restore the level of competition that would have existed without the merger, consistent with international best practice.

That's exactly what our amendment would do.

**The Chair:** Thank you, MP Davies.

I have MP Turnbull next.

**Mr. Ryan Turnbull:** I think this is one of the rare times that we may disagree with both the NDP and the Competition Bureau or the commissioner.

I want to ask the officials to explain how the current requirements for merger remedies in Canada compare to the requirements in the U.S. and Europe.

**Mr. Martin Simard:** I'm happy to try to do this.

For the consideration of the committee, the way the act currently works is a test—it's a substantial lessening or prevention of competition. The system in Canada is merger as of right, so to speak, unless the commissioner challenges a merger. The threshold to successfully challenge a merger in Canada is the substantial lessening of competition.

What the court has said is this. Let's say a merger is above that threshold and is challenged. When it comes time to decide the remedies, we need to bring the merger back to below the substantial lessening of competition threshold.

Comparing with other countries is always a bit challenging, because countries have different structures and regimes. One consideration is that even though this threshold may vary in countries, we understand that it's always in parallel, so that the threshold to challenge a merger and what the remedies should achieve are always equivalent.

In the U.S., the heads of the FTC and the DOJ actually contributed to the public consultation that the government ran last year. In their submission to the government, they said:

> When analyzing a potential remedy, the courts and agencies focus on whether the proposed remedy would "eliminate the effects of the acquisition offensive to the statute."

The idea of the remedy is to make sure that the merger no longer offends the statute and so is not against the law, as it currently is.

I think it's important to also understand that in Europe, the European Commission is both the commissioner of competition and the tribunal of competition. It is the decider of first instance. It is the same entity for what arises as a merger and deciding on the remedy.

Again, we understand that the threshold is the same. A potential challenge, but maybe not an unsurmountable one, in the Canadian context would be that if a merger substantially lessens competition, it can be challenged, but once it's been challenged, the remedy has to be zero impact on competition, not substantially less.

You have two different things. If you're able to fly under the radar, so to speak, you're able to be under the "substantial lessening" threshold, but if you get challenged, then the remedies are stronger.

There's a bit of a principle question and maybe a practical one, too. If the remedies are bringing parties lower than what would authorize the commissioner to challenge, why wouldn't they just disband a merger and refile a separate one that's just under the threshold? Then the commissioner would have no possibility to intervene.

● (1850)

**Mr. Ryan Turnbull:** To clarify, you're saying that it would create a real inconsistency in terms of the threshold that you have to meet in order to challenge a merger. The remedy would be substantially different; it wouldn't follow the "substantially lessen or prevent competition" test—the SLPC.

Is that correct? It creates a fundamental inconsistency.

**Mr. Martin Simard:** That's correct. It would be a new "zero impact on competition" test, with the remedy. That's how I understand it.

**Mr. Ryan Turnbull:** What is the purpose of a remedy? Let's just get to a very basic thing here. The purpose of a remedy is to...?

**Mr. Martin Simard:** The Supreme Court has said that the purpose of a remedy is to make sure that the merger does not substantially lessen or prevent competition. The merger is brought back into a situation where it could not be challenged.

**Mr. Ryan Turnbull:** The Supreme Court has asked for consistency, then, in using the same test in the remedy as in the merger challenge itself.

**Mr. Martin Simard:** Asking for consistency is maybe not the way I would frame it.

You asked what a remedy should do. As interpreted, the remedy should make sure that the merger no longer substantially lessens or prevents competition.

**Mr. Ryan Turnbull:** What you've said, in terms of what this amendment contemplates or proposes, is that you would see no change to competition at all, rather than a remedy mitigating the risk of substantially lessening or preventing competition.

Is that correct?

**Mr. Martin Simard:** That is my understanding of the commissioner's proposal and the proposed amendment.

**Mr. Ryan Turnbull:** That's not necessarily consistent with other jurisdictions. I think you have said that, but can you just again...? Because this is such a technical change, I think it's really hard to understand the difference between no change to competition versus potentially substantially less, or preventing competition, because what you're saying is that the threshold set for the remedy would be much lower than what it is for the challenge, in the current amendment. Is that right?

● (1855)

**Mr. Martin Simard:** Much lower is not how I would put it. The substantial lessening of competition is what has been established by case law. Our understanding of it is that it's not supposed to be a significant impact on the competition. It's not supposed to be substantial.

I wouldn't say that the threshold's much lower, but it is lower. I think the proposal is to have no impact on competition. It's a matter of degree.

It's also, or it should be in any case, a bit of a dynamic standard insofar as two small companies that merge to a 5% market share, for example, are not potentially lessening competition even if the 5% market share is changing. However, let's say a company that is at 50% acquires a 5%; that can be a substantial lessening of competition.

It's a contextual standard. There are a lot of criteria in the act to determine if it's substantial. Yes, there would be a difference introduced.

**Mr. Ryan Turnbull:** My understanding is that in the United States, the FTC merger guidelines include "does not result in harm to competition", which is not to say no change to competition. Those are not equivalent. Is that correct?

**Mr. Martin Simard:** Again, that would be my understanding of it. The commissioner came here and testified that in his view in the U.S., the authorities considered that it's zero harm to competition. At the same time, when you look at the text and the guidelines and so on, it never talks about zero competition. It talks about remedying the problem and remedying the harm. That's, to your point, a very technical area of law.

What I think we feel more comfortable saying is that in the Canadian context, because we're not experts on all the laws of competition around the world, it seems that it would create a different standard for a challenge and for the remedies. That is something we feel.

**Mr. Ryan Turnbull:** What ultimate impact would that have, then? We often talk about interoperability. In our conversations in the INDU committee, for sure, that has come up a lot. I'm sure here it's the same.

What challenges does that create in terms of having a different test or standard for both challenge and remedy?

**Mr. Martin Simard:** I will let my colleague answer that.

**Mr. Samir Chhabra:** I think it's not so much of a question of interoperability in this case from a technological perspective, or from a rules-based perspective, but it does speak to an inconsistency that could be created such that mergers that do not meet the threshold of creating a substantial lessening or prevention of competition could continue to move through because they could not necessarily be challenged by the commissioner in front of the tribunal.

However, those that do reach that threshold of substantial lessening or prevention of competition are taken to tribunal and are then forced to be remediated to a point where they are bringing back the competition playing field to what is considered to be a zero change to the competition or concentration effects that would have prevailed otherwise.

What we're talking about here is a bit of an inconsistency potentially, whereby some mergers could move through without tripping that SLPC threshold, but those that do trip that threshold would then need to be remediated all the way back down to zero. That's where the inconsistencies hold.

I think Mr. Simard's point earlier as well is that there could be a scenario in which a firm or firms propose a merger that it is determined to trip the SLPC threshold, the commissioner takes the case forward, and then the parties simply withdraw that proposed merger and resubmit a merger that just skirts under the wire.

There are some potential logistical challenges in how this would operate in practice that we're proposing the committee consider.

**Mr. Ryan Turnbull:** Is it an over-remediation then for anything that trips that SLPC standard and is challenged? I'm trying to simplify a bit and understand what the impact would be.

Maybe an example would be helpful. I don't know if you have an example that you could use to illustrate the point. It would be helpful for us—certainly for me. I have studied this and talked about it, and even debated it with colleagues, and still I'm trying to make sure we understand the impact. I'm just trying to be thorough here, folks.

● (1900)

**Mr. Martin Simard:** Let's try a theoretical situation very quickly. Imagine four companies in the same sector, which we'll call the retail sector—we have four retailers. Two merge, and they are just under the threshold of substantial lessening of competition; therefore, they're allowed to go ahead. Then the other two merge and are deemed to trip over the threshold, and they're challenged. They are not allowed to go ahead. In the sector, you have a bit of unfairness here: The first two were able to merge, because they were just under, but the other ones, because they were above, get a remedy, and they're forced not to merge at all, for example, so they've been treated differently even though they're in the same sector.

I think what the commissioner would say is, "Yes, but the two others should have known better when they tripped the SLPC threshold, and that's an incentive for them to never trip that threshold." However, in practice, that can be very hard for businesses to foresee. The process is supposed to be what allows the right outcome to occur.

**Mr. Ryan Turnbull:** That was very helpful. Thank you.

**The Chair:** Thank you, Mr. Turnbull.

I have Ms. Dzerowicz and then Mr. Chambers.

**Ms. Julie Dzerowicz:** First, thank you for being here and for answering all these questions.

I think part of the reason it's so important, at least for me, is, one, we have made some really amazing progress on and generational change to our competition law, and when the commissioner came, he acknowledged that. Then he also said he felt there were two really important additions we also needed to consider for C-59. My ears did perk up at that, because I think he was very happy with C-56, C-19 and, now, the changes around competition here in C-59. However, he then very deliberately said there are two things he really feels we need to have right now. I believe, if I'm correct, the amendment that's before us.... It was when he was talking about merger reviews that he said:

> Merger review is our first line of defence for protecting competition. However, when we find that a merger is anti-competitive, the law does not require strong remedies.

That's this one that we're referring to.

Then he said:

> The Supreme Court held that the goal of a merger remedy is simply to mitigate the harm from a merger so that it is no longer substantial, and to do so in the least intrusive way. As a result, we sometimes end up with merger remedies that take a strong competitor in a market and replace it with a weaker one.

Do you agree with his assessment on that? Do you agree with those statements?

**Mr. Martin Simard:** It's asking us to opine on the decisions the tribunal has taken over the years.

I think the tidbit about the “least intrusive” remedy is fairly universal. If you look at all the merger guidelines around the world, there's a network of enforcers, and they have this part. I think the notion is you want to stop the harm, but you want to keep, if you can, the benefits of a merger, like efficiencies and so on. I don't think Canada is unique in taking the least intrusive remedy that fixes the problem. I think that's the important caveat.

I agree with you that those were the two things the commissioner highlighted, and he clearly feels that the decisions over time have been too timid and the tribunal should be constrained by the act to be more aggressive. It is also perhaps worth replacing this in the overall reforms of C-56 and C-59, which generally really strengthen...so, no efficiencies defence and stronger abuse of dominance. There's a lot that has been changed.

We were also going to talk about the potentially structural remedies just after this, and there's already the ability now for the tribunal to take into account market share alone, so there's a lot that has been done. Even if the diagnostic is that it was too weak before, there has already been a lot of change to strengthen this, and whether this one is needed or not is a question for the committee.

● (1905)

**Ms. Julie Dzerowicz:** I have two more questions, if that's okay.

I forgot to say in my preamble the other reason this is really of great interest to me. If you look, overall, at the various different sectors in Canada, what you'll see is that we have high concentrations of very few players. We also have very little business investment for really long periods of time, even before the pandemic, when we had 10 years of low interest. There are so many different factors that actually led you to believe that our competition law really needed to be upgraded. You're right. We've made so many changes, and again, that was lauded by our competition commissioner. From what I recall, he said that it just brings us to where everybody else is. I think he was saying that if we really want to be competitive and want to make sure we have a competitive marketplace, these were two other additional ones he really felt we needed to have.

Then he did go in.... I know you talked a bit about this when you were answering some of Ryan's questions. The commissioner talked about the U.S., the European Union and the United Kingdom. He said:

> The U.S. accepts only merger remedies that fully maintain competition, reflecting, once again, a common-sense view that the public should not bear the cost of a risky remedy.
>
> In the European Union, merger remedies have to eliminate the competition concerns entirely, and have to be comprehensive and effective from all points of view.
>
> In the United Kingdom, the objective is to ensure that competition, following the remedy, is as effective as pre-merger competition.

Is all of that in each of the countries? You might not know this, because it's technical. Is this legislation that each of these countries has, or is it regulation? What I'm trying to say is that if we don't exactly put this into our own legislation, do we have a chance of putting it in regulations or some sort of set of rules that doesn't require it to be in the laws?

It's a two-part question. Is that all legislation in the U.S., the European Union and the U.K.? That's part one. Part two is this: Does that require us to put this into our legislation, or do we have a chance, moving forward, to find a way to address this concern or this recommendation that the commissioner has come up with in a way that doesn't need to have this included in the legislation?

**Mr. Martin Simard:** I will take the first one.

In every jurisdiction that we're aware of, it's typically a combination of the statute and then enforcement guidelines. At least, that's the case for the U.S., which we're more familiar with and which is very similar to us. In the statute, they don't have the substantial lessening of competition, but it has to substantially lessen competition or tend toward monopolization. You can see that there is, similarly, a high-level test. Then it's in the FTC guidelines on mergers that give the colour of what they mean by that. I think that is what the commissioner has quoted. Their intention is to restore...to completely resolve the harm caused by a merger. That is the stated intention of the enforcement agency.

In Canada, it's the same. We have the statute, and then we have the enforcement authorities that issue guidelines on how they go about it. Then we have the ultimate arbiter, which is the tribunal and the courts if there's judicial review. It's a bit of a feedback loop, because when the tribunal adjudicates something, it gets integrated into the guidelines and so on. With regard to your question, there is no regulation-making power in the law about what is defining a substantial lessening of competition. It is a statutory threshold that has been interpreted by the guidelines of the enforcers and then through the courts.

**Ms. Julie Dzerowicz:** We don't need to include entire legislation to be able to put this into effect for the commissioner's recommendation. That's my question.

**Mr. Martin Simard:** If the intention is to follow the commissioner, we need to amend the legislation. There is no other regulatory mechanism, for example, to give instructions to the tribunal about what is a substantial lessening of competition.

**Ms. Julie Dzerowicz:** I have just one more question. I'm almost embarrassed to ask you this, but I'm going to ask anyway, because I feel I should know it. It's a process question. The commissioner made some recommendations, and you guys are part of, I think, probably a big group or team of experts who advise our government. If there were recommendations from the commissioner, wouldn't you be meeting with him from time to time? It would be to sort of say, “Oh, you've made these recommendations. Here's what we're thinking. Here's what you're thinking.” Have you had a chance to have that discussion around this?

**Mr. Samir Chhabra:** Indeed, there's a good, effective dialogue on policy and enforcement matters that we engage in routinely with our Competition Bureau colleagues. On these issues, we have had engagements and discussions, and it comes down to a very similar issue that we raised earlier. It's about where the appropriate balance point is between the ease of enforcement versus the compliance burden or the impacts to business. In this case, our view is simply that it was important to raise to the committee's attention that this could have potential effects in terms of the impact on fairness, as Mr. Simard pointed out earlier, and in terms of the equity with which all the proposed mergers would be treated.

Then, also, there is the issue whereby a merger could, in fact, be proposed, withdrawn and then reproposed, with a slightly different formulation that would allow it to slip underneath. That's the reason we wanted to raised these for consideration.

● (1910)

**The Chair:** Thank you, Ms. Dzerowicz.

I have Mr. Chambers, Mr. Turnbull and then Mr. Ste-Marie.

**Mr. Adam Chambers:** I would be very interested to hear what Mr. Ste-Marie has to say on this so we may find out where some others sit.

It's hard to follow. This is a simple question—well, it's maybe not simple. Would this amendment or any of the other number of amendments that you mentioned that have come to the Competition Act have provided the government or the Competition Bureau with additional powers to look at the RBC and HSBC merger, as an example?

**Mr. Samir Chhabra:** I am avoiding the fact specifics of that particular case or example, in the sense that there are a number of important changes to the Competition Act that have been proposed—there's Bill C-56, which has received royal assent, and then again there are changes being proposed here through Bill C-59. I think the key piece to recognize is that on mergers in certain federally regulated sectors, including in finance and including in transport, for example, there's a two-key system. There's the Competition Bureau making its assessment and providing analysis and advice, and then there's also an opportunity for a ministerial decision to be taken. Nothing that's being proposed here or in Bill C-56 specifically changed those ministerial engagements.

**Mr. Adam Chambers:** It changed the Competition Bureau's powers, though. Is that correct?

**Mr. Martin Simard:** If memory serves me a little, I think the bureau reviewed that merger and didn't find that it reached the threshold of a substantial lessening of competition. Here we're talking about remedies, so I don't think it would have had a bearing on it.

**Mr. Adam Chambers:** Thank you very much for clarifying that.

**The Chair:** Thank you, Mr. Chambers.

I have Mr. Turnbull and then Mr. Ste-Marie.

**Mr. Ryan Turnbull:** I have a quick one for clarification.

Will the amendment proposed, NDP-12, give Canada a stricter framework than the U.S. and potentially affect our productivity?

**Mr. Samir Chhabra:** I think it's quite difficult to make the case that this would make the regime more or less strict. Because of the differences in the way the systems are established and the processes by which they operate, I think it's very difficult to say this would create a stricter system.

The issue on productivity is perhaps a bit distinct from the question here in particular. There is literature that speaks to the degree of a firm's size and market share, that speaks to their innovative capacity and their ability to manage supply chains effectively. There are, in any event, balances that need to be struck between market power and efficiencies that can be gained from size and scale versus the importance of maintaining effective competition.

**The Chair:** Thank you, Mr. Turnbull.

We have Mr. Ste-Marie, please.

[*Translation*]

**Mr. Gabriel Ste-Marie:** Thank you, Mr. Chair.

Esteemed colleagues, we're in a predicament here. It's really not easy to do what we're doing here.

On the one hand, we have a competition issue and that has an impact on the economy, that's for sure. There are a lot of things being done to address that. The commissioner of competition is suggesting amendments to the bill with respect to the Competition Act. I consider him to be an expert in the field. He's in a position of authority and he's suggesting that we adopt the amendment Mr. Davies proposed to us.

On the other hand, senior officials from the Department of Finance are telling us that some key issues around this could have serious consequences.

Our role is that of legislator, but we're caught between two authorities who are not saying the same thing. That's a real problem.

How did we get here? For years, the government has been promising that it will do a comprehensive reform of the Competition Act, but instead of going through with that reform, it's using a piecemeal approach with this omnibus bill, which deals with a whole host of subjects and acts and implements certain provisions of last year's budget. Meanwhile, this year's budget has been tabled and there's a briefing tomorrow on the notice of ways and means. That's where we're at. We never get to see the big picture.

That leads to situations like the one we're in right now. The government is telling us that we have to look at the Competition Act as a whole. That's its reasoning for rejecting the amendments proposed at the commissioner's request. For example, it's arguing that the threshold would be different in two parts of the act. The government never lets us see that darned big picture.

In my opinion, this shows that the government isn't doing its job well. If they'd wanted to do things properly and ensure that we, elected members who are legislators, had the time to get a complete look at this situation, they would have moved these amendments in a separate bill. That way, we could have taken the time we needed to get a good look at this.

The committee has heard from the commissioner of competition. We've heard the officials' presentations. Now, some officials with us are still making some very important and valuable points. We're flying half-blind, and we can't see the big picture. We're in this situation because the government is doing a bad job, and I condemn the situation.

Yes, the commissioner did say that the issue of his powers to block mergers was largely resolved thanks to the provisions in Bill C-56 and what's in Bill C-59. That said, when the Standing Committee on Agriculture and Agri-Food did its study on grocery prices, the commissioner of competition's arguments were the same ones this amendment is based on, and that committee accepted them. Therefore, if we don't pass this amendment, we're putting ourselves at odds with the Standing Committee on Agriculture and Agri-Food.

Frankly, I would have preferred that the commissioner be with us to debate this amendment in depth.

We're hearing from public servants that there are some very significant issues. However, their arguments are at odds with the commissioner of competition's request, even though the Standing Committee on Agriculture and Agri-Food accepted the commissioner's suggestions.

I find myself having to reject valid arguments to decide on this. As it stands, I will support the commissioner of competition's suggestions, agree with the Standing Committee on Agriculture and Agri-Food and the work it has done, and support Mr. Davies' amendment. Nevertheless, I strongly condemn this situation.

● (1915)

**The Chair:** Thank you, Mr. Ste-Marie.

[*English*]

I see MP Lawrence's hand has come up.

**Mr. Philip Lawrence:** Thank you for your excellent intervention, Gabriel. I think you've really said it all.

**Mr. Ryan Turnbull:** What about me? What about Julie?

**Mr. Philip Lawrence:** Ryan, you were good too. Exactly.

Julie was fantastic. She was the best. I was saving her for last, because she was the best.

**Mr. Don Davies:** I introduced it.

**Mr. Philip Lawrence:** Okay. I want to end the Liberal filibuster, so we'll continue relatively quickly.

That was quite a lengthy discussion—one that was worthy of Kevin Lamoureux—about the threshold and the remediation.

I'm not against there being a punitive element to mergers that would have to.... I understand there is some calculation, but these are going to be large, sometimes multinational corporations. Many times, they will be million-dollar corporations or corporations worth tens or hundreds of millions of dollars. These are folks who employ some very intelligent people who can calculate whether it would be substantial, or at least if it's getting pretty darn close.

If you're going to go ahead, knowing that you're going to violate merger legislation, I am completely fine with the RBCs of the world and the Loblaws of the world having to face a somewhat punitive impact of going ahead with a merger that they know is reducing competition at a time in Canada when all experts and all parties agree we need more competition.

Thanks very much. I'm glad to see the end of the Liberal filibuster.

● (1920)

**The Chair:** There is further debate.

Go ahead, Mr. Davies.

**Mr. Don Davies:** One quick thing just occurred to me. For those of us with a legal background, one of the primary principles of restoration in contract laws is to put the parties back in the position they would have been in but for the transgression. That's a very common application in law in many circumstances.

I just want to conclude by saying that I thought there were a lot of good points made. This is not a hill I would die on, but I do think that this amendment is really doing nothing more than that. I'm fortified by my Bloc Québécois colleague's comments. I'm fortified by the fact that the person who deals with this the most, the Competition Tribunal commissioner, is asking for it.

I think we could try this, and if it proves to be unworkable and the concerns that were raised turn out to be real, we can always revisit it in a few years, but we have a real problem in this country with concentration in a lot of industries, and I think sending a message that we want more competition is a good thing.

I'll conclude with that, and hopefully we can vote.

**The Chair:** Thank you, Mr. Davies.

I don't see any further debate. Shall NDP-12 carry?

(Amendment agreed to on division)

**The Chair:** Now we are on to NDP-13.

It's you again, Mr. Davies. Would you like to move your amendment?

**Mr. Don Davies:** NDP-13 and NDP-14 amend clauses 249 and 250 to enact rebuttable presumptions for mergers consistent with those set out in the U.S. "Merger Guidelines".

Mergers, of course, involving large players in highly concentrated markets pose a greater risk to competition than mergers involving small players in fragmented markets. I think we can all understand that moving from three to two options is worse than moving from 10 to nine, from a competition perspective.

The United States leverages this basic insight in the form of rebuttable structural presumptions for mergers. Where the U.S. agencies can prove that a merger will increase market share or concentration above certain thresholds, the merger is presumed to be anti-competitive, and the burden then shifts to the merging parties to rebut the presumption.

Parties can rebut the presumption by showing, for example, that barriers to entry in the market are low or that there are other countervailing factors that will prevent anti-competitive harm. The higher the parties are above the threshold, the stronger the evidence needed to be able to rebut the presumption, so it operates like a sliding scale.

I'll just quote from the written submission to FINA from the Competition Bureau:

> While we welcome these steps, our February 2022 and March 2023 submissions called for a more definitive reform in this area. We recommend that Clauses 249-250 be amended to set out specific, rebuttable presumptions for mergers aligned with the thresholds set out in the 2023 U.S. Merger Guidelines.

This is beyond my understanding, but it says:

> The U.S. Merger Guidelines set out two different structural thresholds, one based on levels and changes in concentration as measured by the Herfindahl-Hirschman Index and another based on the merged firm's market share.
>
> In our view, adopting a structural presumption would strengthen merger review in Canada.

This is aligned with the "time-tested U.S. approach".

I would so move.

**The Chair:** Thank you, Mr. Davies.

I have speakers.

Go ahead, Mr. Turnbull.

**Mr. Ryan Turnbull:** Thank you, Mr. Chair.

Thanks to Mr. Davies for introducing this, although we have some concerns.

I understand that this presents a significant change to the merger review under the Competition Act.

Mr. Chhabra or Mr. Simard, could you describe what the change is? I know that Mr. Davies did that in his own words, but could you also provide us with your analysis of what that change is?

**Mr. Samir Chhabra:** Bill C-59, as drafted, obviously did not set out a statutory presumption for unlawfulness. Rather, what the bill proposes to do is to essentially repeal the bar against the tribunal issuing a merger remedy solely on the basis of evidence of concentration of market share.

The government has proposed to make a significant move from the current state of affairs, in which the tribunal cannot consider market shares as a basis for decision-making, to move towards a scenario in which, in fact, market shares can be used as an approach, which again eases the enforcement burden.

Additionally, the tribunal is expressly permitted to take into account any effect from the change in concentration of market share that the merger or proposed merger has brought about or is likely to bring about when determining the competitive effects.

Our understanding of NDP-13 is that it would further move the markers of the goalposts from a situation currently in which you cannot consider market shares to a situation in which, in fact, market shares would become a very critical consideration and would create a rebuttable presumption. In other words, it's another area among many that we've talked about today in which the burden of proof would be reversed. It would no longer be incumbent on the competition commissioner to make the case. Rather, the merging parties now would have to prove that it is not anti-competitive to move forward.

● (1925)

**Mr. Ryan Turnbull:** How would that compare to the guidelines in U.S. competition policy or authority?

**Mr. Samir Chhabra:** Our read of NDP-13 is that it mirrors very faithfully the Herfindahl-Hirschman index that is used by the FTC. The difference in this case is an important one, which is that the guidelines in the United States are just that. They are guidelines. They can be refreshed and updated regularly. They were recently put to this level and in this formulation.

We don't have a great deal of time or jurisprudence to evaluate whether they've been effective in the United States context, and we don't have a sense of whether they would be particularly effective in the Canadian context at the moment either.

The big difference is that the United States' approach, while it's the same formulation, is codified in guidelines that can be adjusted, and have been adjusted quite regularly, whereas the proposal here would put it into a statute, which would make it somewhat more difficult to modify over time.

**Mr. Ryan Turnbull:** In essence, in the United States, the regulatory authority sits with the U.S. government to change that threshold over time, whereas the NDP's proposal with NDP-13 would embed it in the law. This would make it considerably less flexible or adaptable in the future.

Is that correct?

**Mr. Samir Chhabra:** I think that's a very fair statement. It's much more malleable or open to change and updates on a regular basis by virtue of being a guideline versus being in a statute.

**Mr. Ryan Turnbull:** In other words, to be truly comparable with the United States, it would be better for us to have the regulatory authority to be able to adapt that threshold over time.

Answer that, and then I have one more follow-up question.

**Mr. Samir Chhabra:** I think that's correct. It would be more comparable.

**Mr. Ryan Turnbull:** Why would the threshold need to change over time? Why would that be so important?

**Mr. Samir Chhabra:** That's a great question as well.

Most nations don't have very restrictive statutory rebuttable presumptions on mergers. We're aware of Germany, which codifies 40% as the cut-off point for rebuttable presumptions on mergers.

It's really important to be able to continue to monitor the market and understand how things are evolving. There are situations, for example, where a large, dominant player might have 50%-plus market share, and two smaller competitors wish to merge to bring them just over the threshold of 30%. That would represent, in some cases, a positive for competition and a positive for consumers.

To codify it into law and then make it very challenging to modify a certain threshold could have some unintended effects on businesses, and on the economy and the markets as a whole.

**Mr. Ryan Turnbull:** On unintended effects or consequences, can you expand further and give us some more detail? What would you anticipate?

**Mr. Martin Simard:** To add a bit of historical perspective, so to speak, it's important to put on the record that in the U.S., they're guidelines, but the guidelines came from the cycle I was discussing before. It started with the courts. It started with jurisprudence in the U.S., and then it was codified in the guidelines.

This exact level that we have here in the proposal is the latest assertion of the enforcement authorities of the U.S. of what the threshold should be. There will then be the cycle. This is going to be tested in the courts, and so on.

In fact, it's a return to form, because the authorities in the U.S. had stopped using 30% for many decades. To your question, it went with the evolution of economic thinking in the U.S. toward a more liberal.... In the 1980s and so on, they were more skeptical of antitrust as a tool. Now we have a revival that we see in Canada as well. They've returned to the level of the 1960s. Just the fact that it evolved over time with the evolution of economic thinking shows that it's a more flexible approach in the U.S.

We would, in effect, be codifying the current point in time in the statute. That is the proposal to vote on.

● (1930)

**Mr. Ryan Turnbull:** Essentially, as economic theory and understanding evolve, we need the threshold to evolve with them. If you codify it in law, it will not be as easy to adapt.

Based on that testimony, I would like to suggest a subamendment that is meant to be very constructive and further allow for that adaptation to happen. I move a subamendment to NDP-13 to add: "(5) The Governor in Council may, by regulation, prescribe different values than those provided in paragraph 92(3)."

**The Chair:** I have a subamendment.

I have some speakers who were still on the board. Those are MP Weiler and then MP Chambers.

**Mr. Patrick Weiler:** Thank you, Chair.

I appreciate my colleague's subamendment, because I think it gets at a really challenging issue here if we were to set this threshold at the wrong level and, frankly, import something from the United States economy, which is 10 times the size of Canada's.

Getting back to this threshold level, do we have a sense of how many mergers the bureau has reviewed and calculated this HHI for?

**Mr. Martin Simard:** I don't, but what I've said previously at committee is worth repeating, I think.

Right now, at least in our understanding of the guidelines, unless it reaches 35%, the bureau is not in the habit of challenging. I imagine it's changing, aligned with the fact that it's changing in the U.S. They are intending to be more aggressive since the proposed 30%, but I don't have numbers for you.

It's important to understand that the effect of these things is not only in the cases the commissioner takes. I've talked about the pyramid before. There are many mergers in the economy in a given year. Only a subset are large and need the bureau to be notified. Then, usually, it's a consent agreement.

Someone mentioned sophisticated lawyers. Everybody can read the writing on the wall, and they get and have an agreement. It's only in the fringe cases, where both sides disagree about the state of the law, that they get challenged in the tribunal.

Adding the statutory presumption is quite meaningful, because every negotiation before the tribunal happens in the shadow of what people think will happen at the tribunal. By putting a rebuttal presumption, you are clearly strengthening the hand of the commissioner in these negotiations in many more cases than the number that end up in a tribunal.

**Mr. Patrick Weiler:** With this in mind—and maybe the statistics are not being gathered for it—what other evidence would the bureau or we, as MPs, be able to marshal to satisfy ourselves that the benchmark gets set at the right point, to capture the more problematic mergers but, at the same time, not actually chill the potentially permissible mergers?

**Mr. Samir Chhabra:** Mr. Simard mentioned the 35% threshold that's currently codified in the Competition Bureau's guidelines versus the 30% here. That's exactly why it's important to maintain some degree of flexibility, as other jurisdictions do. It's not just about evolving economic theory. It is also about specific markets and testing these approaches, as the Competition Act is an enforcement statute and it is meant to be tested in law.

If it's the will of the committee to move forward with using an HHI—to put that in place and then have certain thresholds established—it's prudent, in our view, to ensure that there's an opportunity to adjust those as the bureau and the tribunal are learning going forward, to have an opportunity to make adjustments based on changing market conditions.

● (1935)

**Mr. Patrick Weiler:** Thank you. I completely agree with you.

**The Chair:** Thank you, MP Weiler.

MP Chambers.

**Mr. Adam Chambers:** Thank you very much, Mr. Chair.

Just in the interest of expediency and so the government knows, Conservatives are also going to support NDP-14. If there is a subamendment they have to make, maybe they want to table it right away.

**Mr. Ryan Turnbull:** We will, when we're on NDP-14.

**Mr. Adam Chambers:** That's great. That's understandable.

If the Bloc is also in favour, we can move it along a little quicker.

**Mr. Ryan Turnbull:** We're almost done.

**Mr. Adam Chambers:** That's nice. That's good.

I'd like to congratulate Mr. Davies. I've actually never seen, in probably half a dozen budgets, a budget bill get amended like it's getting amended right now. I can understand why the government's a bit nervous about it. They had six months for drafting the clauses, and we're still fiddling with some subamendments, which they've also had from all members of the committee for a couple of weeks.

I also note, just out of interest, that the ways and means motion that was tabled today amends this bill. I find it really convenient that on the day we're doing clause-by-clause on a bill that is supposed to pass, the government tables a ways and means motion that amends Bill C-59.

I think that's a whole other story that we'll save for another day, but it's not above board.

Thanks, Mr. Chair.

**The Chair:** Thank you, MP Chambers.

I see no further debate on the subamendment.

(Subamendment agreed to)

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

(Clause 249 as amended agreed to on division)

(On clause 250)

**The Chair:** We are on clause 250 with NDP-14.

MP Davies, would you like to move your amendment?

**Mr. Don Davies:** I would, Mr. Chair. It's a very small, targeted amendment.

We recommend amending clause 250, the new discretionary factor for market share and concentration under section 93 of the act. We would delete the words “any effect from”. This would clarify that an increase in concentration or market share brought about by a merger is itself relevant evidence that the tribunal can consider in evaluating whether the merger is anti-competitive.

**The Chair:** Thank you, Mr. Davies.

I have Mr. Turnbull to speak.

**Mr. Ryan Turnbull:** We support this one wholeheartedly and have no subamendment. It's only because Mr. Chambers intervened, though.

**The Chair:** I see no further debate.

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

(Clause 250 as amended agreed to on division)

**The Chair:** There are no amendments to clauses 251 to 317. We need UC again to....

Yes, we have MP Hallan.

**Mr. Jasraj Singh Hallan:** I have a suggestion. I would be okay with not moving CPC-4 and CPC-5.

**The Chair:** If you want to do that, MP Hallan, you can.

**Mr. Jasraj Singh Hallan:** I was just going to say that we can group clauses 251 to 365 together after that. We can pass it all on division.

● (1940)

**The Chair:** Yes, we can do that. That's great.

This is for clauses 251 to 365—right to the end.

**Some hon. members:** Agreed.

(Clauses 251 to 365 inclusive agreed to on division)

**The Chair:** There we go.

Thank you for that contribution, Jas.

Members, we're almost done. We are 30 seconds away.

Shall the short title carry?

**Some hon. members:** Agreed.

**An hon. member:** On division.

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**An hon. member:** On division.

**The Chair:** Shall the bill as amended carry?

**Some hon. members:** Agreed.

**An hon. member:** On division.

**The Chair:** Shall the chair report the bill as amended to the House?

**Some hon. members:** Agreed.

**An hon. member:** On division.

**The Chair:** Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

**Some hon. members:** Agreed.

**The Chair:** Congratulations, everyone. We have concluded Bill C-59.

Shall we adjourn?

**Some hon. members:** Agreed.