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Chair: Mr. Joël Lightbound



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• (1105)

[English]

The Vice-Chair (Mr. Rick Perkins (South Shore—St. Margarets, CPC)): I'm calling this meeting to order.

Welcome to—Mr. Williams, just hang on—meeting number 131 of the House of Commons Standing Committee on Industry and Technology. Today's meeting is taking place in a hybrid format, as we know, pursuant to the Standing Orders.

Pursuant to the order of reference of Wednesday, February 7, 2024, the committee is resuming consideration of Bill C-352, an act to amend the Competition Act and the Competition Tribunal Act.

We will commence clause-by-clause today. We don't have anyone online, so we don't have to talk about the testing. However, we do have these earpieces. We need to keep them away from the microphones to protect our wonderful interpreters, so I'd ask for everyone's co-operation.

Mr. Williams, do you want to say something?

Mr. Ryan Williams (Bay of Quinte, CPC): Yes, sir.

Mr. Chair, thank you very much. We have a notice of motion that I just want to quickly put through before we get to a lot of work today, which I know we want to get through.

Mr. Chair, the committee has a large workload on its docket—

The Vice-Chair (Mr. Rick Perkins): If I could interrupt....

If we can get through the bill, we would, with the committee's consent, not meet on Wednesday—if we can get through that today.

Mr. Ryan Williams: Yes.

I know that we've spent a lot of time on Bill C-27 for the last three or four months, and I know the committee is anxious to get to some of the other issues that are facing Canadians right now, specifically around the high cost of living, inflation, productivity, affordability, taxation and just the economy as a whole.

With all of that work and the fact that we still want to get back to Bill C-27 and get that finished in the fall, we are hoping we can still meet for a few meetings over the summer just to deal with some of these issues. I know that our member from Windsor also brought up, I think, a motion that he had on interprovincial trade and certain issues that we have that we want to bring the Competition Bureau back for, which I'm all for.

Therefore, we have a motion, Mr. Chair, that reads:

Given the large workload the committee has on the docket, the committee instructs the chair to book five meetings between July 8 and September 13, while the House is adjourned, to deal with unfinished business and pressing matters facing Canadians, such as regulatory barriers to competition, wireless telecommunications affordability, and examining the government's proposal to migrate Sustainable Development Technology Canada's funding into the National Research Council Canada.

The Vice-Chair (Mr. Rick Perkins): Thank you, Mr. Williams.

Is there any...?

MP Masse.

Mr. Brian Masse (Windsor West, NDP): Yes, could we vote to move this to committee business in terms of our subcommittee for the agenda? I'm open to considering this, but we're supposed to get more work done here today.

I like some of the content here, but I think that this is committee business and scheduling, which we normally have the subcommittee look at. That's the only thing. I wasn't prepared to deal with this today.

I also would like to know the financial costs associated with adding these meetings in the summertime because many of the staff here haven't had a break. It will require the House to resume too, so perhaps we could get that as well.

I'm open to it, for sure, but five meetings is basically... I don't know whether the five full meetings of two hours are going to be done through tele-stuff or... Then, we know that the chair of this committee just had a newborn, I believe. Oh...not yet.

Okay. It would require the chair to have to come to Ottawa to convene the committee, and I don't know if that's really fair. I don't want to get too much in public on this, but the reality is that the chair has to come back here during that time, so we would want to have a backup plan to that, as well, if the chair can't be here. I've been through that before. I had the birth of my son during the old days when we didn't have virtual...and I had one day to go home and come back. I would hate to see that situation take place for the chair, who's been very diligent here in terms of accommodating all of us.

That's why I think we should maybe just push this off a little bit. I appreciate the member bringing this forward in terms of the elements, but there are some practical things I'd like to consider because, again, I don't know if we have all that info in front of us.

Thank you.

The Vice-Chair (Mr. Rick Perkins): We don't currently have a subcommittee on agenda scheduled, but obviously that's always in the committee's hands. I do know that in, I think, early July and late August there are construction issues around some of the committee rooms, but there is a gap in between.

MP Garon is next.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Thank you, Mr. Chair.

I want to start by thanking our Conservative colleagues for proposing this motion. Upon reading it, I understand that our Conservative colleagues find the committee extremely busy and that, as a result, we need a lot more time. In my opinion, this only reinforces the idea that it would be wise to use this meeting to do a clause-by-clause study of Mr. Singh's bill.

I also want to point out to the committee that similar motions have been proposed in other committees. Our Conservative colleagues could no doubt tell us how many committees in this Parliament are so busy that they will have to sit all summer, in their opinion. Indeed, this seems to be cutting and pasting motions that have been tabled all over Parliament Hill. Last night, I was walking down Wellington Street and I think I saw a motion like this stuck on a telephone pole.

Also, I want to add that the House's technology services have advised us that the systems are due for major maintenance and that they need at least five to six weeks to complete it. In past years, summer meetings have been a major hindrance to the modernization of the systems. As a result, the situation has become critical and technological systems are in dire need of modernization this summer.

I'm quite curious to see where this conversation will lead, but allow me, in all open-mindedness, to express the greatest of reservations.

[*English*]

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Garon, for that update on the posting on trees.

MP Turnbull is next.

Mr. Ryan Turnbull (Whitby, Lib.): I think there are topics here, some of which we've already studied at this committee and some of which I think have some merit for studying. I'm not sure, but "regulatory barriers to competition", I think, is referring to Mr. Masse's motion. I would certainly support studying interprovincial trade in the fall, but I don't see how that requires working over the summer on that particular topic.

We came to committee today for clause-by-clause. We have important work to do today, and my feeling is that we should adjourn debate on this and get focused on what the committee meeting was

about today—Bill C-352 and the clause-by-clause on it—which I think is an important topic to get through.

I would move to adjourn debate.

• (1110)

The Vice-Chair (Mr. Rick Perkins): Okay. That's a dilatory motion and goes right to a vote. I'll ask the clerk to do a vote.

(Motion agreed to: yeas 9; nays 1)

The Vice-Chair (Mr. Rick Perkins): Okay, so we've adjourned the debate.

Mr. Ryan Turnbull: That was interesting.

The Vice-Chair (Mr. Rick Perkins): Interesting is one way to put it.

Mr. Ryan Turnbull: I'm glad the Conservatives agreed with us, or most of the Conservatives agreed.

The Vice-Chair (Mr. Rick Perkins): We'll start clause-by-clause.

I would like to provide members of the committee with a few comments on how the committee will proceed with the clause-by-clause consideration of Bill C-352.

As the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I will call each clause successively. Each clause is subject to debate and a vote. If there are amendments to the clause in question, I will recognize the member proposing it, who may explain it.

In addition to having to be properly drafted in a legal sense, amendments must also be procedurally admissible. The chair may be called upon to rule amendments inadmissible if they go against the principle of the bill or beyond the scope of the bill, both of which were adopted by the House when it agreed to the bill at second reading, or if they offend the financial prerogative of the Crown.

Amendments have been given a number in the top right-hand corner to indicate which party submitted them. There is no need for a seconder to move an amendment. Once moved, you will need unanimous consent to withdraw it.

During debate on an amendment, members are permitted to move subamendments. Approval from the mover of the amendment is not required. Subamendments must be provided in writing. Only one subamendment may be considered at a time and that subamendment cannot be amended. When a subamendment to an amendment is moved, it is voted on first. Then another subamendment may be moved or the committee may consider the main amendment and vote on it.

Finally, if members have any questions regarding the procedural admissibility of the amendments, the legislative clerks are here to assist the committee. However, remember that they're not legal drafters, so should members require assistance with drafting a sub-amendment, they must contact the legislative counsel.

I thank everyone for their attention.

With that, I'd like to welcome our departmental officials who are here today to try to guide us through clause-by-clause of this bill.

From the Department of Industry, we have Samir Chhabra, director general, marketplace framework policy branch; Martin Simard, senior director, corporate insolvency and competition directorate; and Ian Disend, senior analyst, corporate insolvency and competition directorate.

We will start with clause-by-clause consideration.

Pursuant to Standing Order 75(1), consideration of clause 1, the alternative title, is postponed.

The chair calls clause 2.

(On clause 2)

The Vice-Chair (Mr. Rick Perkins): Go ahead, MP Turnbull.

• (1115)

Mr. Ryan Turnbull: This clause proposes to give market study power to the Competition Bureau. This was already done in Bill C-56. This version of the wording lacks the necessary and widely supported checks and balances that were built into Bill C-56, so Liberal members will be voting against this clause.

The Vice-Chair (Mr. Rick Perkins): MP Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

This is the bill of Mr. Jagmeet Singh. One of the things that took place—just for the public to know—is that a couple of competition bills came forward. Bill C-56, as the parliamentary secretary noted, already took care of this issue. I have a number of quotes from different witnesses for this that call for this clause to be removed because it's redundant with other legislation.

Thank you very much for that.

The Vice-Chair (Mr. Rick Perkins): Is there any other discussion? Shall clause 2 carry?

An hon. member: On division.

(Clause 2 negated)

(On clause 3)

The Vice-Chair (Mr. Rick Perkins): Go ahead, MP Turnbull.

Mr. Ryan Turnbull: Penalties already increased in Bill C-19 through the elimination of a statutory maximum. This clause reintroduces a cap based on a formula not adapted to criminal provisions, which would, in practice, lower the penalties.

We're opposed to this one.

Mr. Brian Masse: We'll be supporting this because historically the courts have actually not followed through with penalties. This

gives guidance to the courts for the penalties to actually be greater, at \$25 million and also profits or, lastly, 10% of the company's revenue for the past 12 months.

This really comes out of the past practices of the court system that have been basically unwilling to put stricter fines and penalties in place. We support this amendment.

Mr. Brad Vis (Mission—Matsqui—Fraser Canyon, CPC): In general, I would echo Mr. Masse's sentiments on clause 3. Putting in higher penalties will be an effective deterrence for cartel-like behaviour moving forward.

The Vice-Chair (Mr. Rick Perkins): Mr. Williams is next, and then Mr. Turnbull.

Mr. Ryan Williams: I think this is a good clause. We look at the bigger problems we've had. Other witnesses talked about Canada Bread and others where we've had the bread price-fixing, and we've had certain problems there. We have to catch up to other countries. We do agree higher fines and penalties are a deterrence, as well as the law. I think this is a good clause.

Mr. Ryan Turnbull: I strongly disagree with my colleagues in that this is imposing a maximum penalty, which removes the court's discretion. We heard from witness testimony very strongly that this would not increase penalties. In fact, it caps penalties and doesn't allow the courts to use their discretion when determining the penalties. The order of fines could be higher without this in place. In fact, I think Bill C-19 addresses this already, so we'll be voting against it.

I wanted to clarify, Chair, that on the previous vote I said “on division”, but apparently you can't vote something down on division. That's my mistake. I shouldn't have made that mistake, because I know better.

The Vice-Chair (Mr. Rick Perkins): The clause was defeated.

Mr. Ryan Turnbull: It was defeated. Okay. I wanted to make sure. Thanks.

The Vice-Chair (Mr. Rick Perkins): Go ahead, MP Garon.

[*Translation*]

Mr. Jean-Denis Garon: I wanted to make the same point, Mr. Chair.

Some of the witnesses we heard from, including jurists, credible people with long experience studying Canadian competition law, did point out that although the intention is excellent, clause 3 would interfere with judicial discretion. Moreover, as my colleague Mr. Turnbull said, it could be interpreted by the courts as capping fines.

In this context, we will vote against clause 3.

• (1120)

[*English*]

The Vice-Chair (Mr. Rick Perkins): Are there any other speakers? I see none.

Then we'll go to a vote on clause 3.

(Clause 3 negated: nays 6; yeas 4)

(On clause 4)

The Vice-Chair (Mr. Rick Perkins): Are there any comments about clause 4?

Go ahead, MP Turnbull.

Mr. Ryan Turnbull: Yes, quickly, as we understand, this provision has fallen into disuse. It's not used very often at all. We understand that the commissioner of competition is against adopting the language as is within clause 4, so we'll be voting against it.

Mr. Brian Masse: This clause increases a penalty for agreements or arrangements between federal financial institutions to a fine of \$25 million to match criminal cartel penalties. For that reason, we support that, because that consistency is necessary to change the behaviour of some of the practices.

Mr. Ryan Williams: It's the same arguments as last time. We also agree with the NDP on this that we need some consistency. Even though I hear the argument that the courts may lose discretion, they're not normally using their discretion. They're not having cases come to the courts. This puts this into writing. It is a better deterrent to have that in the bill.

Thank you.

The Vice-Chair (Mr. Rick Perkins): Are there any more comments?

Seeing none, shall clause 4 carry?

(Clause 4 negated: nays 6; yeas 4)

(On clause 5)

The Vice-Chair (Mr. Rick Perkins): Go ahead, MP Turnbull.

Mr. Ryan Turnbull: I'll just make a very quick comment here. This language is adopted verbatim, exactly as is in Bill C-56, so I believe this is clearly redundant. We'll be voting against.

Mr. Brian Masse: We agree. We're really glad the Liberals changed their position on this, because the history of this committee had this issue up several times, and we had recommendations. It's with a sigh of relief I see that they're not going to reverse again on this issue.

The Vice-Chair (Mr. Rick Perkins): Are there any other comments?

MP Williams.

Mr. Ryan Williams: I just wanted to agree that there's redundancy.

The Vice-Chair (Mr. Rick Perkins): Are there any more comments on clause 5?

It doesn't look like it, so shall clause 5 carry?

(Clause 5 negated)

(On clause 6)

The Vice-Chair (Mr. Rick Perkins): On clause 6, we have an amendment from the NDP, NDP-1. I'll open up the floor.

MP Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

Specifically, clause 6 increases penalties from 3% of worldwide revenue to 10%. Other aspects of this clause are deleted since the need to prove anti-competitive efforts to find abuse of dominance have already been dealt with through the NDP amendments in Bill C-56. This would align the penalties that we have proposed to deal with conspiracy, and we would hope the committee moves on this. I think it's one of the ones for which we had a lot of testimony that supported this part of adding the competition strength that's necessary.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Masse.

MP Williams.

Mr. Ryan Williams: Yes, we agree with this for the same arguments, just the same voting we've just done in the last two, which is that we need more deterrence. We need to have greater penalties. We have a major problem in Canada by having too much power in the hands of a very few. We need more penalties to ensure there's greater deterrence until we have more competition to take care of that on its own.

• (1125)

Mr. Ryan Turnbull: My understanding is that this amendment would increase the backup calculation for a maximum amount of an administrative monetary penalty in the rare situation where the benefit derived from an abuse of conduct cannot be determined. It's really a backup calculation. It's not actually....

Maybe I'll just quickly ask Mr. Chhabra or any of the team if they could quickly comment on how they see this one interacting with the changes that have already been made in Bill C-56 and Bill C-59.

Mr. Samir Chhabra (Director General, Marketplace Framework Policy Branch, Department of Industry): Sure. Thank you for the question.

There are a couple of issues that we've identified with NDP-1. The first, in our view, is that the amendment fails to repeal the entirety of the redundant provisions that would be created against Bill C-56, which would leave incongruencies and duplication in this section. My understanding is that particularly subsection 79(4) remains unaddressed by NDP-1.

On the second point, you're quite correct that this amendment would only increase the backup calculation. The primary calculation for a maximum amount of an administrative monetary penalty would continue to be driven off the benefit derived by the action. This is simply a backup calculation in the rare instances when it's not possible to calculate the benefit derived by the party.

The current formulation was adopted by the House in 2022. The backup calculation has not yet been invoked at any time, and no issues have yet arisen that would suggest that a change to the law this soon after is necessary.

On two issues, I think there's some consideration for the committee. The first is the lack of complete amendment considerations against the bill vis-à-vis 79(4) being outstanding. The second is whether it's important to move forward with amending this backup calculation, at this time, given the lack of evidence.

Mr. Ryan Turnbull: I hear both that there's a lack of evidence to justify this being necessary but also that it doesn't repeal the full section, meaning that it would create some incongruencies. That was the word you used, but I would also say it creates some inconsistencies in the way the bill would be interpreted, so for that reason, we'll be voting against.

Thanks.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Turnbull.

MP Masse.

Mr. Brian Masse: My understanding is that it's still withstanding and 79(4) does not stop this improperly from being administered through the process. I don't quite understand the argument there because the amendments were drafted by legislative counsel and are consistent with passing and that context, so I think that's....

The second thing is that it hasn't been used as a backup. That's the whole point of having a backup: It's there if you need it, so to use it as a reason not to do something defeats the whole purpose of having a backup, because that's what it's there for. We have continued problems with regard to competition in Canada and this gives us one other option to actually state to those operators out there that there is a system in place that will take care of you if you abuse Canadian consumers. That's the point of a backup.

The Vice-Chair (Mr. Rick Perkins): Thank you.

It doesn't appear there are any more comments on NDP-1. There being none, I get a sense that we probably need a recorded vote on this.

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

The Vice-Chair (Mr. Rick Perkins): MP Turnbull, please go ahead.

Mr. Ryan Turnbull: Very quickly, I believe that this is also redundant following the passage of Bill C-56. This would result in inconsistencies if it were to pass.

Thank you.

Mr. Brian Masse: To be consistent as well, the commissioner said this was not necessary, so I want to highlight that the competition commissioner agreed.

Thank you.

• (1130)

Mr. Ryan Williams: Mr. Chair, is it clause 7 we're on?

The Vice-Chair (Mr. Rick Perkins): We're on clause 6.

Mr. Ryan Williams: Okay. Thank you.

Mr. Brian Masse: I jumped ahead. I'm sorry. That's my bad.

The Vice-Chair (Mr. Rick Perkins): MP Masse, were you speaking to clause 7 or 6?

Mr. Brian Masse: I was speaking to clause 7, so you have my apologies. I moved ahead.

The Vice-Chair (Mr. Rick Perkins): You jumped ahead. I know this is exciting, and you're anxious to move.

Mr. Brian Masse: Exactly. My friend from the Bloc said to resign, and I called for Mr. Turnbull's after his...so that's fair.

The Vice-Chair (Mr. Rick Perkins): It's balanced. Okay.

Is there any more discussion on clause 6?

(Clause 6 negatived)

(On clause 7)

The Vice-Chair (Mr. Rick Perkins): I gather Mr. Masse has something he wants to say about clause 7.

Mr. Brian Masse: Briefly, it's to thank the competition commissioner for the evidence because it's already taken care of. Thanks very much, Mr. Chair.

Mr. Ryan Turnbull: I was going to say that we're against it as well. This is already taken care of, and we don't want to reinsert the efficiencies defence into the legislation. Thanks.

The Vice-Chair (Mr. Rick Perkins): Are there any other comments? There being none, are we ready for a vote?

(Clause 7 negatived)

Mr. Brian Masse: I have a point of order.

Thank you. It took 10 years to get that done. It's a good one.

(On clause 8)

The Vice-Chair (Mr. Rick Perkins): Are there any comments or questions on clause 8?

Go ahead, MP Turnbull.

Mr. Ryan Turnbull: We've created a complete ban on the blocking of mergers being based solely on market share. This reintroduces that, which I think is confusing and incoherent given the decisions that have already been made. I think that's supported by the competition commissioner, so I would say we're voting against.

The Vice-Chair (Mr. Rick Perkins): MP Williams, go ahead.

Mr. Ryan Williams: The 30% will be law in clause 249 of Bill C-59, and as we heard, a 60% ban was opposed by almost all witnesses, so we'll be voting no on this.

The Vice-Chair (Mr. Rick Perkins): Are there any more comments on clause 8? There don't appear to be any.

(Clause 8 negated)

(On clause 9)

The Vice-Chair (Mr. Rick Perkins): We will start with amendment NDP-2. Is there any discussion?

I have MP Masse on NDP-2.

Mr. Brian Masse: Thank you, Mr. Chair.

On the advice of legislative drafters, given the changes already made in Bill C-59, we have chosen to repeat the text that is found in C-59 and modify it slightly to incorporate structural presumption mergers resulting in over 60% market share, which has been proposed in clause 8.

We heard from the Canadian Anti-Monopoly Project on the eight challenged mergers by the bureau over the last 40 years, and seven resulted in there being market shares above 60%. Four of them were near or literal monopolies, only two of which had any sort of remedy, and none of them were blocked.

We want to help the Competition Bureau rebalance the equation against corporations, monopolies and oligopolies and towards protecting consumers. We would also just recall the testimony from Mr. Péladeau with regard to the telco sector, which is very relevant to this section with potential telecom mergers in the future.

We would like this to be passed and would be hopeful that, given the testimony you had in support of this, we're going to see this actually become reality. Thank you.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Masse.

MP Turnbull, you have the floor.

Mr. Ryan Turnbull: My understanding is that this does not delete the bill's existing presumptions, needlessly leading to two highly similar sets of presumptions, and multiple stakeholders have expressed concerns, including the commissioner of competition.

Maybe I could ask the officials, Mr. Chhabra and/or other members of the team, whether they could speak to the concerns that NDP-2 brings up.

Mr. Samir Chhabra: I understand, with the committee having taken the decision to vote down clause 8, NDP-2, which modifies clause 9, would no longer create the duplication issue that was previously flagged. However, it continues to offer some other challenges, including an outright bar against mergers over 60% market share.

I believe that this committee heard from a number of witnesses who indicated that it would be unprecedented globally and not recommended for a number of reasons. It could lead to undesirable or absurd results, of course, including in a scenario where, as many in Canada's start-up ecosystem have noted, it's often via sale to a large

er player that they find an exit strategy. That can also result in some pro-competitive or pro-consumer outcomes as well.

Implementing an outright bar on mergers rather than the approach that was already taken by this committee under Bill C-59, which was to reverse the burden of proof, would be a significant step forward and one that has not been supported by stakeholders and experts.

• (1135)

Mr. Ryan Turnbull: Maybe if I could clarify, it's not that market share wouldn't be taken into consideration upon merger review. It's just that we wouldn't be saying there's an outright ban on market share over 60% based on this.

We heard from witnesses, the lawyers, Mr. Iacobucci, and others, Ms. Quaid, and I think all spoke to this. They were unanimous when they were here. I don't think that there was one witness, as I recall, who was interested in seeing this particular amendment move forward.

Mr. Chhabra, was that your understanding?

Mr. Samir Chhabra: That is, indeed, our understanding as a department. It's probably worth pointing out that, in the last several weeks in deliberations of the House committee on finance as well as in the Senate committee, there have been a number of important changes undertaken to the Competition Act.

Bill C-59 at its outset proposed to enable the tribunal to take into account market share, which it was previously barred from doing. The House committee on finance took that a step further and introduced the structural presumptions approach that essentially reverses the burden of proof and puts it on the merging parties under certain conditions as they have been laid out.

This approach here would then, again, in a matter of weeks—and I believe C-59 is scheduled for third reading in the Senate today, so we can expect that it would move forward to become law shortly—introduce yet another change on top of that series of changes that have already taken place.

Mr. Ryan Turnbull: Thank you, Chair.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Turnbull.

We now go to MP Williams.

Mr. Ryan Williams: Thank you, Mr. Chair.

While this looks good on paper, I do agree with our friend from the NDP on this. Based on some of the other testimony and the lack of some other testimony as well, looking at having a blanket clause and the problems it would have.... Look, we know that the problems in the past with Superior Propane and its merger led to a major monopoly in Canada, but if we look at the other provisions that we're eliminating, like the efficiencies defence, that was enough to take care of that sort of instance.

When we looked at this case, we asked some of our witnesses like Jennifer Quaid whether this would be another provision that would take care of the issue of major monopolies. The testimony that came back was pretty clearly saying that having that percentage would bring up some other problems.

We already have a 30% in law and raising it to 60%, given the fact that it will not alone ensure that we're taking care of the problem and some of the other things we're looking at with this bill and others, we will vote no to this, but it's not that we're not looking at the other clauses. There are going to be other things on that, but given the testimony that 60% was too high, we're going to be voting against it.

Thank you.

The Vice-Chair (Mr. Rick Perkins): Mr. Garon.

[Translation]

Mr. Jean-Denis Garon: Thank you, Mr. Chair.

In the same vein, we recognize that market shares are among the indicators that can and should be used by competition authorities, as are concentration indices. However, I am reminded of what has been clearly stated by the experts who have testified here. I'm thinking in particular of Mr. Edward Iacobucci, legal experts, as well as Mr. Thomas Ross, from the University of British Columbia, a highly recognized economist in the industrial economics of competition.

They began by pointing out that this made the framework too strict for the Competition Bureau, and that this could have counter-productive effects and prevent it from working.

On the other hand, there is the question of establishing a fixed threshold, say at 60%, which could lead to disputes about the threshold itself. For example, one could look at how a market is defined and try to determine whether or not one exceeds the threshold, rather than looking at the consequences of market shares.

In this context, I want to reiterate the fact that nobody likes monopolies and nobody likes to see companies with significant market power. However, the exceptions and pitfalls are enough for us to vote against this motion.

• (1140)

[English]

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Garon.

MP Masse.

Mr. Brian Masse: One thing that doesn't get enough attention—and I'll use a specific example—is the grocery store chains and their monopolization now of pharmacies and other convenience stores as well. Their market share dominance goes beyond the

physical brand that you see when you pull into the parking lot directly. Indirectly, they have been purchasing and also moving their food products inside those different businesses, which is affecting consumers, so their market share dominance is actually larger than what it would seem. We still support this.

I heard the same arguments against the efficiencies defence, and we've been trying to get rid of that for decades.

As well, similar to what's going to happen for the NDP clause, we have to predict what's going to take place in the Senate as part of this and I would not want to do that.

Again, having a backstop is a backstop, it makes sense to actually do things that we can control. The next amendment will also face that type of challenge, but it's a challenge we should embrace rather than run from.

Thank you, Mr. Chair.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Masse.

Are there any more comments on NDP-2.

Seeing none, are we ready for the vote?

(Amendment negatived: nays 9; yeas 1 [See Minutes of Proceedings])

(Clause 9 negatived: nays 9; yeas 1)

(On clause 10)

The Vice-Chair (Mr. Rick Perkins): Thank you.

We're moving on to clause 10 and NDP-3.

MP Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

This is similar to the previous one, so I'm not going to belabour the point.

This makes it clear that we will actually take care of it here as opposed to predicting what will take place in the Senate. That's why we're in favour of this, but we don't have to rehash the arguments unless there's a willingness to do so.

The Vice-Chair (Mr. Rick Perkins): Are there any other comments on NDP-3?

MP Turnbull.

Mr. Ryan Turnbull: Just really quickly, I think this is an attempt to fix and back out. We removed the efficiencies defence in Bill C-56. I think the original clause that was proposed by the NDP threatened to reintroduce that back in. Perhaps that wasn't intended, and I think this tries to fix that. I think it's just simpler to vote this down because we already did the work on this, and let Bill C-56 and Bill C-59 stand.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Turnbull.

MP Williams, go ahead.

• (1145)

Mr. Ryan Williams: Thank you.

We agree with that, and I know that the efficiencies defence.... The first one came from my private member's bill and I think this one came from the NDP leader's as well. We don't want to bring it back in. We worked too hard to get it through, so we're not going to support this one.

The Vice-Chair (Mr. Rick Perkins): Thank you.

Are there any other comments on NDP-3?

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

(Clause 10 negated)

(On clause 11)

The Vice-Chair (Mr. Rick Perkins): We move to clause 11. Are there any comments on clause 11?

MP Turnbull, go ahead.

Mr. Ryan Turnbull: My understanding is that this is entirely redundant, given the passage of Bill C-59, which was the fall economic statement bill. We already did this work in that bill.

The Vice-Chair (Mr. Rick Perkins): Are there any further comments?

(Clause 11 negated)

(On Clause 12)

The Vice-Chair (Mr. Rick Perkins): We have an amendment proposed, NDP-4. Is there any discussion?

MP Masse, go ahead on NDP-4.

Mr. Brian Masse: Thank you, Mr. Chair. Hopefully, this one finds a better path.

It increases the one-year limit to commissioners to challenge a notifiable merger to three years. Bill C-59 increased the limit to three years only for mergers for which the commissioner has issued an advance ruling certificate or for not-notifiable mergers but excludes notifiable mergers. We can keep the exceptions for advance certifications under section 102 to align with Bill C-59, but extend three years for all other mergers based on the commissioner's advice that three years would be helpful, which he raised in his testimony.

What we're doing is giving more runway for the commissioner. I don't have to get into further details, but we had a lot of testimony in favour of that, and I think that giving the competition commissioner more time is a modest improvement to what we have.

The Vice-Chair (Mr. Rick Perkins): I have MP Williams next.

Mr. Ryan Williams: Thank you, Mr. Chair.

Yes, we agree. I think that giving more resources and more time to the commissioner and the bureau is going to be beneficial to their ability to do their job, and we support this.

The Vice-Chair (Mr. Rick Perkins): Go ahead, MP Turnbull.

Mr. Ryan Turnbull: I go to the officials to ask whether this creates an unintended consequence. I know that advance ruling certifi-

cates might be something that we see every merger party apply for in the future. Do we think this would create some unintended consequences, in terms of increasing the amount of time from one year to three?

Mr. Samir Chhabra: Thanks very much for the question.

From our reading, this amendment imports about half the formulation or language that was voted on through Bill C-59. It essentially allows parties to benefit from a shortened limitation period when applying for an advance ruling certificate. That is a mechanism to ensure that the bureau is aware of a transaction, but it doesn't make this allowance for fully notified mergers, as Bill C-59 does. In that sense, it's a half-measure.

What it will do is create two different pathways by which an organization can do that kind of notification approach, and it will create a lot of administrative burden for the bureau as well as for companies because it will simply encourage them all to apply for advance ruling certificates rather than simply notifying. That creates a lot of extra work for the bureau to then review, assess and respond to. It essentially becomes an ineffective half-measure. It allows for this extension to occur but only in certain circumstances, which will then incentivize behaviour to take, essentially, the other pathway.

Mr. Ryan Turnbull: Take the longer route in order to delay.... Is that correct, possibly?

Mr. Samir Chhabra: It would take a route that would increase the burden and workload on all, including on the bureau, but not actually achieve the desired effect, because it would then allow them to still continue to benefit from a one-year period.

I think it's important to note that we've already taken steps in previous bills, including specifically in Bill C-59. There was consultation on this issue through the overall consultation on competition reform. It was seen to be important to provide more time for the commissioner to review, but not in cases where the bureau isn't aware of the transaction in advance. That's the difference between Bill C-59's approach and what's being proposed here, aside from the drafting issue I just noted.

It comes down to a question of why you'd want to increase business uncertainty over a longer period of time when an organization has already gone through the step of advising the bureau in advance of its activities of the proposed merger.

• (1150)

Mr. Ryan Turnbull: Got it. Thank you.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Turnbull.

MP Masse.

Mr. Brian Masse: To respond, the bureau and the competition commissioner have asked for this. I've heard these arguments about business uncertainty. Again, it's about the black hole opening up and sucking us all through. That we're not going to have innovation and all these different things because we protect consumers has been used against the public continually through arguments here at Industry Canada for decades, and I don't think it's going to limit any of those things.

I think that giving flexibility to the Competition Bureau to be able to discretely use that direction they have, and those capabilities, will actually provide more strength to them. Also, when we have some of the changing technologies going on, it's going to require some flexibility for the Competition Bureau to look back, and one year is not sufficient anymore when three years of damage to competition for Canadians could take place for it.

I support this wholeheartedly and believe it's a modest step forward to improving the bill.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Masse.

Is there any further discussion on NDP-4?

I will ask for a recorded vote.

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

(Clause 12 negatived: nays 10; yeas 0)

(On clause 13)

The Vice-Chair (Mr. Rick Perkins): We have an amendment to clause 13, NDP-5.

MP Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

I'm really pleased to move this amendment. I would think this at least would get passed, especially if you are concerned about the abuse of Rogers and other telcos on Canadian consumers. This is dealing with the tribunal claim costs from the bureau and making sure that it incorporates parts of Bill C-59 in clause 13 of Bill C-352. This would serve the purpose of ensuring the amendment is made in a case where clause 266 of Bill C-59 is not passed by the Senate in its current form.

Again, coming from the department of redundancy, it is to make sure we actually have this pass here. What I'm concerned about, and I think lots of Canadians are, is that the tribunal has passed on costs to the Competition Bureau to do its job.

I'll leave it at that. Hopefully, we can pass this to make sure it gets done. Again, we can't predict what the Senate's going to do.

The Vice-Chair (Mr. Rick Perkins): We have MP Williams and MP Turnbull.

Mr. Ryan Williams: Thank you, Mr. Chair.

Yes, I think this is a good amendment. You think of the things that are wrong. When you have a police force that's responsible for bringing charges or a decision you would think would be anti-competition, or you think of competition as a whole.... We can talk

about this law with the committee and the privacy, but eventually, hopefully, we talk about the Competition Tribunal.

It overturns the ruling and then the organization, Rogers, was able to sue the bureau. That would be like something getting overturned in court and the defendant suing the police force, which happens sometimes when things are really wrong. We say that, under exceptional circumstances, that should happen, but it should not have happened in this case.

Rogers should not have gotten a penny out of the Competition Bureau. The Competition Bureau was doing its job. Of all of them, this is probably, I'll agree, the best amendment that we have coming out of this bill, and we certainly support it.

Thank you.

• (1155)

Mr. Ryan Turnbull: My understanding of this is that the way that it was initially drafted, it inadvertently allowed for cost awards against the Crown in its original formulation. The NDP has tried to fix that drafting error, which is now duplicative of what's already in Bill C-59, which is a simpler and more elegant fix, so I don't see the need to pass this. We can vote against it, and we will be doing so.

The Vice-Chair (Mr. Rick Perkins): MP Masse, you have the floor.

Mr. Brian Masse: There's no downside to making sure that this happens.

I'm kind of concerned that the Liberals, again, are counting on something that hasn't taken place, whereas this is going to ensure that there's consistency in this. We are facing right now the same situation with the Privacy Commissioner by creating a tribunal that the Liberals want. It's why they filibustered two days of this committee, not moving on Bill C-27 because of that. It was because we are at odds with regard to their creating a tribunal that could then cost Canadian taxpayers.

It's not just the Competition Bureau that lost in this case. It was Canadian taxpayers, who had to pay money out of their pockets to Rogers because the Competition Bureau didn't have the protection necessary to go at the case, and it's having a cooling effect out there. How many other large corporations, conglomerates and oligopolies are going to be allowed this type of exemption and be told that it's okay for them to go after the Competition Bureau in their rulings?

That's a cooling effect that's really hard, and it also takes resources away from the Competition Bureau. They're short \$5 million from their funds right now to protect Canadians, because Rogers went after them on this specific case. It sends the message as well that we're going to pass this over and say, "Hey, it's okay. We're going to basically allow you to continue this type of behaviour, and we're going to green-light it."

That's what this is about. It's fine if it is a little bit redundant with regard to what has taken place with another bill that's in another chamber that we can't guarantee will get done. The Liberals are going to oppose it for just that alone, not for the real reasons for doing that. That's fine. They can be on the public record for doing that, for giving them another pass. When they come here, it almost looks like an audition for them, looking at their board of directors, because we've seen the history of what's taken place when people leave here and where they go.

I can tell you this much, this at least is the most modest thing that has been proposed by a progressive bill, which is going to send a message to Canadian companies that they're not going to abuse our competition commissioner and the bureau anymore. I hope that this will get support to get done, because it is very much, at the very least, going to have the control that we have in this part here....

I'm not willing, but I guess the Liberals are willing to turn over the reins to the unelected Senate. With regard to this, I'm not willing to do so, because they could do an amendment on that bill that takes this out. We don't have the ability to know what they're going to do or when they're going to pass it. We would then have to deal with that back in the House of Commons as well. Maybe it's a precursor to this. Maybe it's their plan to take this out of Bill C-59 in the Senate bill and put in back in the House. That could be their strategy perhaps, because it doesn't make any sense for them to oppose what they put in the legislation before, which we can't control right now. However, we can do it at this moment and make sure that we send a strong signal to the Competition Bureau and the commissioner.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Masse.

Go ahead, MP Turnbull.

Mr. Ryan Turnbull: We're opposing this because we've already done it. It's in the bill that is in the Senate. Mr Masse is making a plea to us to support something that we've already supported. It's already been done. This is redundant, and that's why we're voting against it. It's as simple as that.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Turnbull.

MP Vis, you have the floor.

Mr. Brad Vis: Can Mr. Masse clarify whether he thinks this is redundant?

Mr. Brian Masse: It's a backstop, but that's the whole point. The problem is that we don't have enough supports in our systems, and we don't control what the Senate's going to do. Maybe the Liberals are going to take this out of Bill C-59 in the Senate. We could have that happen. We don't know what they're going to pass, but what we can do is pass this here and tell the Senate that we're supporting this change.

What we're telling the Senate right now, if we don't pass this, is that we don't really care about this. That's what we're telling the Senate. They're dealing with the legislation, so if we take this out, the message to the Senate is that they can take it out as well, because we're not being consistent in protecting what we want. That's the reason I think it's important.

I don't know what their objective is on this, but clearly, there is an objective here in the sense that, if we say to the Senate right now that we don't care about this and that we're going to pass a bill without it, we've just told them that they can tinker with that because the House of Commons has now defeated it, and that bill will be inconsistent with what we're dealing with right here. That will be the message that we send them.

On this particular issue, it's pretty germane to what's taken place with Canadian competition and the offence that's taken place to the Competition Bureau. That's what we're dealing with now, and that's why I think the redundancy that we've proposed here today is actually important.

I'm a little upset with it because we're telling the Senate right now, again, that we're reversing course, that we're changing sails, and a House of Commons committee with the government voting against this is telling the Senate that they don't care about this issue, that they don't support consistency and that they have mixed messages. On top of that, they could actually take those messages and turn that around to amendments that will then come back to the House of Commons, further delaying the passage of Bill C-59, because if the bill actually gets amendments in the Senate, then we have to deal with it again in our chamber.

This is why I'm a bit concerned about this. I think it's a bigger issue than it is because I don't understand why the Liberals just wouldn't say, "Do you know what? It's redundancy, but that's okay. We have a backstop here. Let's go. We'll send the message to the Senate that we're clear, that we're good on these things and that we want it passed." Instead what they're doing is saying that they have second thoughts about protecting the Competition Bureau, second thoughts about the competition commissioner getting sued by large conglomerates, including Rogers, and second thoughts about other things to protect Canadian consumers.

That's the message being told here, and I'm totally concerned with their position on this because I don't know if they have another agenda in the Senate. I don't know if we now have to have delays to get the bill passed because it has to come back again, but that's what we're telling them.

They'll look at this. They'll look at the testimony here, and they'll say, "Well, do you know what the government's saying? It's saying that it doesn't want to do it anymore."

Again, I think we should just pass it because it's consistent, and I think consistency's important to get it done.

Thank you.

• (1200)

The Vice-Chair (Mr. Rick Perkins): Thank you.

MP Garon.

[*Translation*]

Mr. Jean-Denis Garon: My colleague Mr. Masse knows how much esteem and respect I have for him, but I don't understand why so much success on the part of the NDP generates so much anger. It's part of the benefits of an agreement with the government to see that what you put in your own bills ends up in the government's.

For my part, I'm in favour of legislative simplicity and against duplication. If the people in the Senate are listening to us—let's assume they are—we can send them the message today that we find this element important and that they should not remove it from Bill C-59. I submit to my colleagues that, if the Senate removes this part from Bill C-59, quite logically, they won't mind removing it from a private member's bill.

So, while reiterating the fact that this is a very important point, I feel that, for reasons of legislative simplicity, it would be advisable to vote against this amendment.

[*English*]

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Garon.

Are there any more comments on NDP-5? Are we ready for a vote?

Given the debate, I think we should probably have a recorded vote.

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

(Clause 13 negated)

The Vice-Chair (Mr. Rick Perkins): A new clause 14 is being proposed by the NDP in NDP-6.

I'm assuming Mr. Masse wants to speak to NDP-6.

• (1205)

Mr. Brian Masse: Yes. I don't think we knew to do the coordinating amendments because nothing was passed, so we're done.

The Vice-Chair (Mr. Rick Perkins): I understand, from the clerk, that it's your choice whether you want to move NDP-6 through NDP-12. Are you suggesting you're not going to move them?

Mr. Brian Masse: No, that's fine. It gets the same results, so it's fine.

The Vice-Chair (Mr. Rick Perkins): All right. Thank you, MP Masse.

We'll move to the end-of-the-bill motions. Shall the alternative title carry?

We'll have a vote—

Mr. Brian Masse: I wanted to speak on this. I apologize.

The Vice-Chair (Mr. Rick Perkins): Do you want to speak on the alternative title?

Mr. Brian Masse: Yes. The lowering prices for Canadians act was designed to be complementary and was actually put in the system before some of the other legislation were actually proposed.

I'm not going to speak long on this, but I am going to point out that what we did have was testimony after testimony from witnesses, whether it was Mr. Iacobucci, Professor Ross or Mr. Hatfield.... We also had Mr. Bester, and Mr. Boswell from the competition commission, talk about this bill being an add-on and certain parts of it being important for Canadians. There could be some disagreement with some of the stuff that was actually proposed, but there was no disagreement that it was value-added, so I'm perplexed in terms of the support that has not been provided by the Liberals on this. It's unfortunate, because our Competition Act, as we hear it from the competition commissioner, is related to our productivity.

Again we have another missed opportunity, which is, sadly, the history of this place and of this committee in dealing with the act—it takes, basically, a decade to two decades to get fixed. Universally, all of our witnesses—and I asked them across the table several times whether they thought certain parts would actually help to get this changed in Canada—agreed to that, yet we can't find anything in this bill to protect Canadians. I find that an unfortunate, missed opportunity, Mr. Chair.

Thank you for the time.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Masse.

Are there any further comments on the alternative title?

There being none, shall the alternative title carry?

(Clause 1 negated: nays 6; yeas 4)

The Vice-Chair (Mr. Rick Perkins): Shall the title carry?

Mr. Brian Masse: I request a recorded vote.

(Title negated: nays 6; yeas 4)

The Vice-Chair (Mr. Rick Perkins): Shall the bill carry as amended?

I'm hearing noes and I'm hearing yeses, so we'll need a vote on this one.

Mr. Ryan Turnbull: Can we clarify for one second, please?

The Vice-Chair (Mr. Rick Perkins): Do you want to suspend for a moment?

Mr. Ryan Turnbull: Yes.

The Vice-Chair (Mr. Rick Perkins): Okay. We're suspended for a moment.

• (1205)

(Pause)

• (1210)

The Vice-Chair (Mr. Rick Perkins): We're back in session.

Is there any more discussion on the bill?

MP Masse.

• (1215)

Mr. Brian Masse: Thank you.

Can we get an update from the Liberal star chamber on what took place in the last 10 minutes and maybe get an indication of their vote?

The Vice-Chair (Mr. Rick Perkins): I'll leave that for a discussion amongst yourselves.

If there is no further discussion, shall the bill, as amended, carry?

Some hon. members: Agreed.

The Vice-Chair (Mr. Rick Perkins): I'm seeing yes all around, so we don't need a recorded vote.

Thank you very much.

Mr. Brad Vis: On a point of order....

Oh, there are still two other motions.

Mr. Ryan Turnbull: Yes.

The Vice-Chair (Mr. Rick Perkins): Shall the chair report the bill, as amended, to the House?

Some hon. members: Agreed.

The Vice-Chair (Mr. Rick Perkins): Thank you.

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 Vice-Chair (Mr. Rick Perkins): Thank you very much.

Before anything else, since we are done, may I ask the committee's indulgence to dismiss the officials?

Some hon. members: Agreed.

The Vice-Chair (Mr. Rick Perkins): Thank you.

Mr. Vis.

Mr. Brad Vis: Seeing how efficient we were with our time today, I'd like to go back to Mr. Williams' motion from the beginning of this meeting, finalize our discussion and have a vote on this important matter about what we're going to do this summer.

The Vice-Chair (Mr. Rick Perkins): My understanding is that it was adjourned, but if there is progress on something else in between, my layman's version of the rules is that you can reintroduce a motion. Is that what you're proposing to do?

Mr. Brad Vis: I propose to reintroduce Mr. Williams' motion.

The Vice-Chair (Mr. Rick Perkins): Is there any discussion about that motion?

Mr. Brad Vis: I can talk about it if you'd like me to.

The Vice-Chair (Mr. Rick Perkins): It's not up to me. I'm the chair.

MP Turnbull.

Mr. Ryan Turnbull: I don't really need to discuss it.

Procedurally, we adjourned debate on this motion. Can it be brought back to the floor in the same meeting?

The Vice-Chair (Mr. Rick Perkins): My understanding is yes, but I'll ask the clerk to comment.

The Clerk of the Committee (Ms. Miriam Burke): It can, as long as there's something in between.

The Vice-Chair (Mr. Rick Perkins): Go ahead, MP Vis.

Mr. Brad Vis: Right now in Canada, the Bank of Canada outlined that we have a productivity crisis. We have less competition than we used to in Canada. Industries are becoming more concentrated, and the number of industries where this is happening is increasing. The standard of living for Canadians is declining with no end in sight, and we are on the cusp of the worst decline in living standards in 40 years.

Canada is experiencing one of the longest and deepest declines in real GDP per person since 1985. If per GDP does not recover in 2024, this period may be the longest and largest decline in per-person GDP over the last four decades. Two-thirds of Canadians believe the economy is headed in the wrong direction. According to Statistics Canada's analysis on small businesses, in the second quarter of the 2024, smaller businesses were more likely to have lower revenues in 2023 compared with 2022 and remain less optimistic than larger businesses.

Over the next three months, businesses expect obstacles such as rising inflation, the rising cost of inputs and rising interest rates. Small businesses are less likely to hire in the short term. Small businesses are more likely to expect a decrease in profitability, and 72.9% of businesses with one to nine employees do not plan to take on more debt. For 23.3% of those businesses, it is because they cannot take on any more debt.

With that, Mr. Chair, I think we should have a vote on this. Conservatives want to get our work done this summer. We've done some good work on the industry committee. Let's continue that. Canadians are expecting that from us, and I think our proposal is very reasonable.

The Vice-Chair (Mr. Rick Perkins): Thank you, MP Vis.

MP Garon.

[*Translation*]

Mr. Jean-Denis Garon: I move that we vote on adjourning debate on the motion, Mr. Chair.

[*English*]

The Vice-Chair (Mr. Rick Perkins): A dilatory motion is always in order. We have a motion to adjourn the debate again on this motion. We will go to a vote.

(Motion agreed to: yeas 6; nays 4)

The Vice-Chair (Mr. Rick Perkins): The motion to adjourn the debate passes.

Is there any other business? There's no other business. Seeing as we don't have any business set up for Wednesday, I'll have a discussion with the clerk, but I'm sure....

MP Masse.

• (1220)

Mr. Brian Masse: If this is our last meeting, can we have the clerk acknowledge that, if a certain member has a child, we send a letter from the committee during the summertime to congratulate that member? A member has been running this committee, and you've done a good job in his absence, but the member has actually.... We have actually been well served over the decades I've been here on the industry committee by chairs, and it would be nice for the member to get that.

The Vice-Chair (Mr. Rick Perkins): I would agree. We have been blessed in my short time here, coming up to three years, with one of the best chairs of any committee. Absolutely, a letter of congratulations to that individual, whomever they may be, is the least we can do.

MP Vis.

Mr. Brad Vis: I'd like to extend the same courtesy to our wonderful analyst, who is also expecting a baby in July.

Some hon. members: Hear, hear!

The Vice-Chair (Mr. Rick Perkins): She's still running marathons, which is incredible.

Is there any other business?

Some hon. members: No.

The Vice-Chair (Mr. Rick Perkins): All right. The meeting is adjourned. See you in September.

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