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Standing Committee on Government Operations and Estimates

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• (1100)

[English]

The Chair (Kelly McCauley (Edmonton West, CPC)): Good morning, everyone. Welcome to meeting number 15 of the House of Commons Standing Committee on Government Operations and Estimates, known as the mighty OGGO.

I'm very pleased to see everyone's faces today and that people are not out in planes or cars driving back to their constituencies, for obvious reasons.

Before we start our meeting with Mr. Bédard, I'm going to see if we can get the usual approval of our budgets, which everyone received copies of.

The first one is for our briefing with the interim PBO, which is \$500. Can we get approval for that?

Some hon. members: Agreed.

The Chair: The second one is mostly video conference expenses for the creation and planning of the Defence Investment Agency. Again, these are upper totals which we never come close to spending. It's \$2,750.

Some hon. members: Agreed.

The Chair: The third one is for our upcoming study on the estimates, which is \$1,500 for meals and video conference, etc.

Some hon. members: Agreed.

The Chair: We will consider those passed.

We'll welcome back Mr. Bédard. I suspect that today's meeting will be relatively short. I'm going to suggest that we open the floor, as we did before, to Mr. Bédard to answer questions on our access to files or the documents that we were discussing regarding Stellan-tis and others.

After Mr. Bédard has answered our questions, I'm going to suggest that we adjourn. I would suggest that the parties then perhaps get together to work out a path forward, and we'll discuss it at our next available open meeting.

We're not going to do a speaking order. We'll just open the floor.

The question order for Mr. Bédard will be Mrs. Block and then Ms. Khalid.

Kelly Block (Carlton Trail—Eagle Creek, CPC): Thank you very much, Chair.

Notwithstanding that Mr. Bédard made opening comments, I'm going to go back and ensure that I understood his presentation, so I do have a few questions that I would like to try to get through. I'll maybe limit it to the first four out of eight that I have, so that others will have the opportunity to ask questions as well.

It is my understanding that there are no limits to parliamentarians' power to send for papers. If there are, what are those limits?

Michel Bédard (Law Clerk and Parliamentary Counsel, Office of the Law Clerk and Parliamentary Counsel): The power to send for records and papers is rooted in the parliamentary privilege of the House and Parliament. It is subject to the limit that Parliament or committees want to set when they ask for documents. They could provide some safeguards regarding the distribution of documents to maintain confidentiality.

Ultimately, the power to send for records is unfettered.

• (1105)

Kelly Block: Committees can set their own limits when it comes to their ability to send for papers.

What recourse do we as parliamentarians have if a department does not comply with the order that we have put forward?

Michel Bédard: In terms of committees, the power to send for records and papers is delegated from the chamber. If the chamber itself was to set limits, for example, that certain documents are to be consulted only in camera, the committees, as creatures of the House, would have to obey those limits.

Based on the standing powers of standing committees, they have the power to send for records. There's no limit. If a committee asks for documents and they are not provided, the committee has various options. It could decide not to pursue the investigation or the search for these documents. It could decide to compromise and have a discussion with the party that is resisting the provision of documents to see if safeguards or measures that will protect confidentiality will address any concerns that have been expressed. Committees could insist on the production of unredacted documents.

If the committee insists on the production of unredacted documents and the documents are not provided, then the committee cannot itself enforce the failure to provide documents. The committee has to report to the House and then the matter can be raised as a question of privilege in the House of Commons.

Kelly Block: Thank you.

The Chair: Sorry. Just quickly before we go forward, and I'm guilty of this as well, I want to remind everyone to keep the earpieces far away from their mics, please, for our interpreters. Thanks very much.

Kelly Block: A follow-up to that would be, does this differ with organizations external from the Government of Canada? If we were to call for information from Stellantis itself, would our ability to compel those documents or negotiate look different with an external organization, a company, versus a government department?

Michel Bédard: The power is the same. However, the concerns that will be expressed by third parties and the government may be different depending on the circumstances. When we're seeking documents from the government, they might be more concerned about solicitor-client privilege, cabinet confidence and other government sensitive information.

If you're dealing with a third party, it could be commercially sensitive information. When you're asking the government for documents, a contract for example, which is relevant in this case, then the government will put forward the same concerns as a third party about commercially sensitive information.

Kelly Block: It's my understanding that...

Okay.

The Chair: We have to move on. We can get back.

Ms. Khalid.

Iqra Khalid (Mississauga—Erin Mills, Lib.): It's okay, let Mrs. Block finish.

The Chair: Okay.

Go ahead, Mrs. Block.

Kelly Block: It's my understanding that this could be by way of a confidentiality claim. I think you mentioned that in your opening comments to us at the last meeting. When a respondent makes that confidentiality claim, what recourse do parliamentarians have in addressing it?

Michel Bédard: If the committee asks for documents and then there's a claim of confidentiality, it is for the committee to decide whether the concerns expressed are sufficient to put safeguards or to insist on the production of documents.

Kelly Block: Okay, thank you.

The Chair: Thanks, Mrs. Block.

Ms. Khalid.

Iqra Khalid: Thank you very much, Mr. Chair, and thank you, Mr. Bédard, for being here today. We really appreciate your attendance and your knowledge.

To start off, what is your role in terms of providing support to committees? Are you giving us legal advice today, or in terms of

answering questions, are you just providing knowledge or awareness?

Michel Bédard: I'm providing legal information, legal advice. The Office of the Law Clerk provides legal advice and legal services to the House, committees, members. We will do it on a confidential basis for members, and for committees it will depend on the circumstances. Committees will decide whether or not they want to receive the information, the advice, in camera or in public. I'm here to advise the committee as a whole.

• (1110)

Iqra Khalid: You're providing legal advice to our committee today, is what I understand, based on the questions that committee members are asking. How do you think that legal advice should be taken, in camera or in public?

Michel Bédard: Normally, in different settings, in a typical relationship, I would say a lawyer-client relationship, the advice is provided confidentially so that it remains protected by the solicitor-client privilege.

Here, in terms of the information and the advice I'm providing to the committee, it's based on information that is publicly available: the motion that was adopted by the committee on October 20 and correspondence that was received by the committee that I understand is in the public wallet of the committee. Also the law that I'm sharing is a matter of public knowledge.

I've advised committees often on this matter in the past at public meetings.

Now, all that being said, it's really up to the committee to decide whether or not they want to continue or have a discussion in camera or in public.

Iqra Khalid: I appreciate that, and I will come back to that point.

We're going back to the motion that brings you here today, about access to contracts, public access to those contracts with Stellantis, etc. Do you think there are any issues with completely unredacted contracts that have obligations on the part of the government, on the part of private companies and of Parliament that may be challenging to our national interests?

Michel Bédard: First of all, going back to the October 20 motion, this motion requires the department to produce unredacted documents and make suggestions for redactions. I did not read into this motion that, as a consequence, the documents will become public. That will be a decision for the committee.

I've seen the correspondence. There are two letters that the committee has received which I've read. I did not see the documents, so I cannot speak to the nature of the information. The only information I have is the information that is shared in the letters.

I will say that, in the past, when committees were faced with a similar claim, one option that was adopted by certain committees was to put in place measures to safeguard confidentiality concerns. The public accounts committee, for example, when it requested and obtained the vaccine contract, had measures so that the contracts were only consulted in camera or within the clerk's office.

Iqra Khalid: I appreciate that.

Do you think it's important for us to hear from all parties involved before we, as a committee, make any decisions as to what should or should not be redacted?

Michel Bédard: Ultimately, it's up to the committee to decide.

In its letter of November 5, the department shared with the committee the result of its consultation with Stellantis. If the committee wants to, in addition to this, consult with Stellantis or other parties, that's really up to the committee to decide.

Iqra Khalid: Thank you so very much for that.

Generally, I agree with you. I think, as a committee, we should be taking in as many facts as possible and as many scenarios. I'm going to move a motion just on this topic:

That the committee invite officials from Innovation, Science and Economic Development Canada and Stellantis to provide their rationale as to why some portions of the provided contracts remain redacted.

I think it would be good for our committee to hear from all parties before we come to a decision ourselves.

• (1115)

The Chair: Are you going to distribute that?

Iqra Khalid: Yes. Would you like it distributed electronically? I believe we have copies.

The Chair: If you have both, that would be preferred.

Iqra Khalid: Okay, we'll send it.

The Chair: I'll start a speaking order on the motion.

We'll start with Ms. Gaudreau.

Jeremy Patzer (Swift Current—Grasslands—Kindersley, CPC): Mr. Chair, can I ask a clarifying question?

The Chair: Ms. Gaudreau, is it okay if Mr. Patzer asks a question first? You're first on our speaking order.

[*Translation*]

Marie-Hélène Gaudreau (Laurentides—Labelle, BQ): Agreed.

[*English*]

Jeremy Patzer: Quickly, Ms. Khalid, is this motion designed to set up meetings to invite them to come to the committee, or are you just simply asking for a written submission from these folks to the committee to explain their rationale?

Iqra Khalid: I would prefer if they came to the committee to answer our questions; however, if that's not possible, then I would be okay with written submissions. I do think the committee needs to understand the rationale around the redactions.

The Chair: Ms. Gaudreau, please go ahead.

[*Translation*]

Marie-Hélène Gaudreau: Thank you, Mr. Chair.

I did not have the time to ask Mr. Bédard before he moved his motion, but they were directly related to this.

Ultimately, I understand we may succeed in getting the information we need to do our work. After all, jobs are at stake. This file is

so important that even I am talking about it, even if it is about jobs in Ontario. In my job, I advocate for people, but I advocate above all to protect taxpayers' money.

As an aside, I will add that, for decades—

Gentlemen, you are disturbing me. I am trying to concentrate.

[*English*]

The Chair: I'm sorry; let me interrupt here.

Gentlemen, we've had this discussion before. We're in such a small room. We have to keep our voices down, everyone, please.

Thanks.

[*Translation*]

Marie-Hélène Gaudreau: Be careful, colleagues, because I hear and see everything.

I was saying that this is about taxpayers' money.

I was about to say that I spent decades trying to help organizations survive on \$20,000 or \$50,000 that we managed to obtain. You cannot imagine how much the audits cost. Often, when an organization got \$10,000, it had to shell out \$1,200 for an audit, to be in compliance with accountability requirements.

In the contract of interests to us here, there was an explicit mention that all of its content should be made available to the department, meaning the government.

It's a lot of information. It represents a lot of work. It's already been done, but I have no desire to relive it.

A number of solutions can be proposed, but they may not allow us to obtain the desired information. How can we find a solution that will ensure both good management of taxpayers' money and the preservation of jobs? I am having trouble understanding how this can be achieved. That said, I am prepared to hear a solution.

You will remember this, Mr. Bédard, but I am saying this for the benefit of my colleagues who were not here at the time: in 2020, I had to hide for three hours, along with someone from the clerks' team acting as a third party, to consult the unredacted documents on the organization UNIS. I have already experienced this situation.

So, I wonder. Will this become a question of privilege? Ultimately, how far does the committee's sovereignty extend? Let's be honest: if there is one person here who can work with a clear conscience, it is me. I understand that my poor Liberal colleagues have to save the government and their Prime Minister. As for the official opposition, it must do everything in its power to strike hard. I am somewhere in between. Yes, we need to know what is really going on, and we must not hide things from taxpayers.

Mr. Bédard, would this proposal help us obtain the information we require to find out more about these contracts?

• (1120)

Michel Bédard: When you say proposal, Ms. Gaudreau, are you referring to the proposal on Stellantis or Ms. Khalid's motion?

Marie-Hélène Gaudreau: I am referring to the proposal that representatives of Innovation, Science and Economic Development Canada and Stellantis would come explain the situation to us. Just how successful might we be at getting the information we need if we do that?

I have been in a similar situation before. I was there when we had to deal with the Pornhub file, the foreign interference file and the UNIS file. Even if witnesses are sworn in, to what extent can we successfully obtain the information we need? We saw an example of this in the House last year. At the end of the day, what can we do if we don't have the documents?

Would giving parliamentarians the possibility of consulting the documents in camera under surveillance be preferable to what is being proposed in this motion? I need an opinion on this matter.

Michel Bédard: The committee has now received the documents. I have not seen the documents, and I understand that no committee members have looked at them either. According to the November 5 letter, the documents contain a few redacted passages, which violates the committee's order.

I will now return to Ms. Khalid's motion. If representatives of the department and Stellantis appear before the committee, I think discussions will have to take place in camera, in case reference is made to a document that, pursuant to the motion adopted by the committee on October 20, must be discussed in camera.

The stumbling block is that Stellantis has not provided two sets of documents. It has only provided one set of documents with some redacted passages. If the committee wants all the information, it could meet representatives of Stellantis and the department in camera and then examine the unredacted documents in their presence. The committee would then have access to all the information.

Ultimately, it is up to the committee to set the limits and implement measures it deems appropriate under the circumstances.

Marie-Hélène Gaudreau: I am visual, so to understand clearly, I need to speak with people and read the documents. In my opinion, the two are connected. We can meet the witnesses, but we will need to know why the contracts are redacted. Will we be told it's for reasons related to national defence, competition or I do not know what else? I am sorry, but these reasons are too easily invoked.

Furthermore, I feel my rights are being violated. It's as if I were being told that I cannot be trusted. Perhaps some parliamentarians

do not trust other parliamentarians. Personally, I am devastated to see that people do not trust me when it comes to taxpayers' funds allocated to a contract where jobs are at stake. People are trying to buy time by saying that they are going to come and explain why we are not being given all the information. Frankly, we have other things on the table.

Furthermore, I am really happy that you are here, Mr. Bédard, because I hope there will not be any filibustering and that we can reach an agreement. For my part, I will not give up. When I go back to my riding, people thank me for not getting caught in the same situation as my colleagues, who must defend their positions at all costs. I hope then that we will not spend too much time debating this issue and that we will ultimately get to view the documents.

I will stop there, because I am extremely frustrated.

[English]

The Chair: Thanks.

We will go to Mrs. Block, then Ms. Khalid, then Mr. Gasparro.

I will note that part of this motion in a way is already in the original motion, that departments responsible for producing the documents suggest redactions in writing and their reasoning for such.

Before you go ahead, Mrs. Block, I will note that we did go out of our normal format with Ms. Gaudreau because we don't normally ask questions during such proceedings. However, because we have Mr. Bédard here, we might as well make use of our asset with his being here right now, so if you wish to refer to him in your interventions, please go ahead. I think it would be to the betterment of our committee.

Go ahead please, Mrs. Block

• (1125)

Kelly Block: Thank you very much, Chair.

You basically stole my thunder in pointing out that this notice of motion is not completely different from the motion that was passed previously, and I would add that the part you were speaking to was an amendment put forward by Ms. Sudds to include the detail of asking the departments and agencies tasked with document production to suggest redactions in writing. I'm assuming that, along with their suggestions, there would be some rationale.

What is not clear to me in this new motion is what exactly they're asking for. I think the question was, are you asking for these witnesses to attend a committee meeting, or are you simply wanting them to provide in writing...? That is not clear in this motion; it remains silent. It is just asking them to provide their rationale.

Therefore, I would like to suggest that we could simply call for them to provide some rationale, if they haven't already provided that in writing when they submitted the redacted documents, and to a degree—

The Chair: The clerk does have the documents; no one else has seen them.

Was there anything with the documents beside the redactions?

The Clerk of the Committee (Marc-Olivier Girard): Yes, this letter.

The Chair: But not the specific...? Okay.

The Clerk: No, not the specifics....

The Chair: Okay, so nothing else was provided.

The Clerk: They are already redacted.

The Chair: Yes.

Go ahead.

Kelly Block: They would not clarify why they were providing us with redacted documents.

The other point I would like to make is that ISED has already provided us with the rationale for why they were in conversation with Stellantis to determine what they could and could not share.

I think this is a bit of a redundant motion, but I would leave that for you to rule on.

The Chair: Ms. Khalid and then Mr. Gasparro.

Iqra Khalid: Thank you very much, Mr. Chair.

I just want to touch on a couple of points that we've heard.

First and foremost, none of our members are here to defend anything of the government or of private companies and their interactions. That's why I'm putting forward this motion to say let's hear why ISED and Stellantis are redacting the documents that they have provided to us.

I think it's really important for us to be able to ask those questions and to be able to verify and clarify what is in the national interest, what is best for Canadians and our economy and what is best for jobs in our country. We as a committee, as we're coming to decisions, need to verify and to clarify with the people who are involved. That is very important.

Ms. Block mentioned that we didn't hear from these organizations as to why they redacted the documents that they did. It's important for them to come to our committee to clarify why they are redacting these pieces. It's important for us to make informed decisions.

Ms. Jansen may find this amusing, but I think we have a responsibility as a committee to provide oversight. We are not representing anybody except Canadians here, and we want to make sure that whatever decisions we make here in this committee are responsible, accountable to Canadians and in the best interest of Canadians, as well.

In order for us to do so, I think we need to get the full statement of facts from everybody who is involved here as to why the documents that we've received are redacted and the reasons for the

redactions. It's the best way that we as a committee can make informed decisions for the public interest.

Thank you, Chair.

● (1130)

The Chair: Mr. Gasparro, please go ahead.

Vince Gasparro (Eglinton—Lawrence, Lib.): Thank you, Chair.

I think the importance of this motion that has been brought forward is simply that it's the next step in the process of potentially seeing documents or not. All of us have spoken really in theoretical terms.

Ms. Gaudreau and I, when this was first raised.... I talked about the thesis around commercially sensitive information being put out into the public realm and the importance of making sure that not only this government but future governments are able to engage in contracts and are able to keep commercially sensitive information exactly that: sensitive.

In this phase of the process, getting Stellantis here, for example, to actually speak to why the documents need to be redacted just seems to make sense. We're all working off of a theoretical nature. I'm saying it's commercially sensitive and I'm speaking in theoretical terms, but if we actually get the company here—in camera, hopefully, or in some form—saying why they need to keep these documents redacted, and we have ISED, the DM and other officials here saying the same thing, that will help to inform our decision.

That is why I think it is important that we not jump into anything too hastily by making sure that we have the company here to defend why the documents, or portions of them, need to stay redacted. It's the same thing with the officials, the people who are well aware of this, and not just, frankly, a bunch of politicians around a table here—

The Chair: Hey, what's wrong with politicians?

Vince Gasparro: Nothing. Hey, I'm now part of the club.

It's just a bunch of politicians talking in theoretical terms, and that includes me.

I led off, Ms. Gaudreau, by talking about commercially sensitive documents and current and future governments being able to engage in transactions and not have those transactions spilled out on Twitter and into the world.

Instead of speaking in these theoretical terms, let's get the company and department officials here to say why. Let them make the case.

The Chair: Ms. Rochefort.

Pauline Rochefort (Nipissing—Timiskaming, Lib.): Thank you, Mr. Chair.

I would simply say that we're equally all concerned. This is a very disturbing situation, obviously, but I'd like to amend the motion, Mr. Chair, to suggest that maybe we specify that it's an in-person meeting that we're seeking. I find that to be very important so that we—Madam Gaudreau, Madam Jansen and all of us as committee members—will be able to challenge the company on their position and why the information has been redacted.

We could even, on the spot, maybe seek an in camera meeting, so that they could explain the rationale—

The Chair: Can I interrupt?

You've put forward an amendment. It's to clarify what's come up a couple times, that it would be an in a meeting and not written, as is partially in the original.

Pauline Rochefort: Right.

The Chair: Do we need to have a debate on that or is it something we can just accept as an understanding of the original motion?

[*Translation*]

Pauline Rochefort: This amendment states that we want the individuals to appear in person so that we can ask them questions.

Marie-Hélène Gaudreau: I think that goes without saying.

Pauline Rochefort: I wanted to make sure.

[*English*]

The Chair: Do we need to discuss this or are we fine?

[*Translation*]

Marie-Hélène Gaudreau: I think there's consensus on this.

• (1135)

[*English*]

The Chair: My understanding of the original motion from Ms. Khalid is that it would be in person.

Okay. Just to clarify, it's clear—

Pauline Rochefort: We have consensus—

The Chair: Yes. We accept as a committee that it will be in person.

Pauline Rochefort: Thank you so much.

The Chair: To do so, I'm going to provide a bit of context, having done this in public accounts with the vaccine documents.

We will receive the redacted contracts that we have right now in our possession. Those will be distributed. We'll have those for the meeting, and then we'll schedule the meeting if it is to go ahead that way.

Just so everyone is clear on that, the redacted ones have been received by the clerk. The clerk is hanging on to them, but those will be made available to us pretty much immediately.

I have Ms. Gaudreau, then Mr. Gill and then Ms. Khalid.

[*Translation*]

Marie-Hélène Gaudreau: It's important to go around the table, because it allows us to reflect as well.

Clearly, we need to proceed in stages. The first step is learning more about the reasons for the redaction. As I said earlier, is it for reasons related to competition, national defence or I do not know what? Knowing that the representatives will be here in person and that we will have the redacted documents is a first step.

I know other people have their name on the list to speak on this matter, but if everyone withdrew their name, I would be prepared to vote in favour of this motion.

[*English*]

The Chair: I have Mr. Gill and then Ms. Khalid.

Harb Gill (Windsor West, CPC): Thank you, Chair.

Mr. Bédard, I come from a policing background. When somebody does not comply with the orders, we automatically escalate it to a higher court.

What should we be doing when a minister ignores a production order? Rather than going through prolonged negotiations with them, is there a mechanism that we can perhaps adopt?

Michel Bédard: In terms of sanctions or implementation of the power to send for records and papers, when faced with a refusal, the committee can put in place safeguard measures, but if still unsatisfied with the information provided, what the committee can do is report the matter to the House, which is the higher court in the circumstances. Then, based on the report of the committee, a question of privilege can be raised.

Harb Gill: All right. Thank you.

The Chair: I'm sorry. There's one thing I have to clarify, and I thank the clerk for bringing this up. When we say "in person", because it's in camera, etc., I'm going to make the assumption that it is physically in person, because our Standing Orders allow virtual.... I'm going to suggest that we state that it's in person for all of us and for witnesses as well.

Are we good on that, everyone? Yes?

The Clerk: You can't go against the Standing Orders.

The Chair: Well, yes and no, because we've actually had the previous one where we've had the committee overrule the Standing Orders, but I'm going to strongly suggest that if it's so important and private, we strongly encourage everyone to show up in person.

I have Ms. Khalid next on the list.

Iqra Khalid: Chair, I agree with you that we can strongly suggest they appear in person, but, again, we know that the Standing Orders are as they are, and I will leave everything else as is.

I agree with Ms. Gaudreau. I'm ready to vote.

The Chair: Mrs. Block, go ahead.

Kelly Block: It looks like we're all ready to vote.

The Chair: Before we do, I have November 25 open, so I'm going to suggest we put that in on November 25, so we can move forward on this.

There's consensus around the table.

(Motion as amended agreed to)

The Chair: Just to be clear, we will have members from Stellan-tis and various departments, if necessary, here in person on November 25. Well, we'll try for November 25. We will release the unredacted.... We have them only in print right now, so I'll check with the clerk to either scan and send them to your P9s or arrange to have them hand-delivered to you. They'll be redacted, so you can read them and bring them to the meeting.

I see nods all around, so I assume there's unanimous consent for that.

That being out of the way, we'll book that for the 25th, and we'll go back to questions for Mr. Bédard, if necessary, on access to documents. If not, we will excuse Mr. Bédard.

An hon. member: I wish to adjourn.

The Chair: Yes, we will adjourn. However, before we do, I just want to give a warm OGGO welcome to Mr. Bédard's equivalent from Austria, who is visiting us today and joining us in committee.

Some hon. members: Hear, hear!

The Chair: If our members have a chance to pop over to say hello, she's a wonderful lady with a breadth of experience similar to our situation here in Canada.

With that, thanks, Mr. Bédard, for being with us.

Colleagues, thanks.

We are adjourned.

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