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# Standing Committee on Health

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**EVIDENCE**

## Thursday, February 3, 2005

## Chair

**Ms. Bonnie Brown**

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● (1110)

[*English*]

**The Vice-Chair (Mr. Rob Merrifield (Yellowhead, CPC)):** Okay, we'll call the meeting to order. Bonnie Brown is ill. I understand she's suffering from pneumonia. I understand we have some substitutes on the Liberal side, which has some ill people as well.

We have two survivors. Only two survivors on the health committee—that doesn't look good. Maybe it's not good at all.

I do want to welcome Jean Crowder. She is joining us as a permanent substitute from the NDP, replacing Bill Blaikie. So there is a bit of a new look around the table as we go into after-Christmas sessions on the health committee.

Before we get into the testimony we have—and we're going to be dealing with tobacco—there is a motion. I think there was a notice of motion that was given with regard to consideration.... Actually, it's Mr. Fletcher's motion. I'll ask him if he wants to introduce it at this time.

**Mr. Steven Fletcher (Charleswood—St. James—Assiniboia, CPC):** Thank you, Mr. Chair.

My motion was submitted within the necessary timeframe for notice of motion. I am requesting that....

Shall I read it, Mr. Chair?

**The Vice-Chair (Mr. Rob Merrifield):** Yes, you can read it, if you like.

**Mr. Steven Fletcher:** Okay. The motion is that the Standing Committee on Health request that the Minister of Health refrain from any action pertaining to the Internet pharmacy industry until the committee has fully studied the issue and has submitted its recommendations to the House.

Mr. Chair, I think this is a very important motion. It's a very important issue. There are a lot of areas upon which this issue touches. The Minister of Health has repeatedly said to me in the House that the Canadian drug supply and the price of Canadian drugs are safe. Certainly, the safety of the drugs is not in question.

However, I find it very disturbing that the Minister of Health has made statements that he intends to shut down this industry—which, by the way, has flourished under a Liberal government—without due process. Everyone on this committee is aware that online pharmacies are high on the priority list of this committee for review. This committee should have the opportunity to review this very important issue and do it in a manner that will serve Canadians well and not do it in a haphazard way.

That is why this motion is so important. I'm sure members from all parties will agree that this issue needs to be dealt with in depth.

I note that members from all parties also put this on their priority list to be looked at. I hope that all members of this committee will respect the committee and allow us to investigate this in an appropriate manner before the minister takes any rash action.

**The Vice-Chair (Mr. Rob Merrifield):** I think there are two other speakers who want to speak to it at the present time, but just before that, I want to refer you to the long-range calendar and maybe ask the clerk to advise us as to how this came about and the details of it, because I think that's in reference to the motion.

The clerk will pass it out. I understood she had passed it out already.

**An hon. member:** Is it just the motion?

**The Vice-Chair (Mr. Rob Merrifield):** No, there's a long-range calendar. The clerk has already set some dates and some witnesses to come forward.

**The Clerk of the Committee (Ms. Carmen Pape):** The reason they're on these dates is that this is our time slot now: Monday and Wednesday afternoons from 3:30 to 5:30. All the witnesses who are on that calendar you'll receive have been confirmed for those dates and at those times.

If we go outside our slot, we won't be able to have the rooms in the Centre Block where we're supposed to meet. It'll always have to be a room like this one, where we can be bumped at any minute. You only have priority in your own time slot.

**The Vice-Chair (Mr. Rob Merrifield):** Further to this, for the committee's information—I believe it's February 7 and February 9—we have the Health Council coming in, Michael Decter, on February 7; the Patient Safety Institute on February 9, on the adverse events study. We talked about this before Christmas. Then we were into the Internet pharmacy for a couple of meetings. And then the Auditor General's coming in. Those are, I think, confirmed dates at this time.

So whether we would need more Internet pharmacy meetings or not would be up to the committee. And then we'll have testimony, I guess. We'll open the floor up for.... That's for the information of the committee.

We'll ask Mr. Thibault and then Réal.

**Hon. Robert Thibault (West Nova, Lib.):** Mr. Chairman, everybody agrees with the intent of what Mr. Fletcher is proposing. I have difficulty with the wording because it is restrictive. The intent, I think—and Mr. Fletcher will correct me if I'm wrong—is that Parliament would be apprised of the situation so that we would fully understand the ramifications of making any changes to the regulatory framework surrounding the Internet pharmacy and the risks to the integrity of the Canadian drug system and we would be able to make recommendations to the minister prior to a decision being taken. That I agree with.

I have no more knowledge than any other member as to exactly what the plans are on the part of the minister to deal with this issue, but one could assume from what the minister has said in press conferences and in answers in the House that he would be presenting some options to cabinet. I assume that the options to deal with this would be either legislative or regulatory. Those would be the two ways the minister could deal with it. In both instances there is an opportunity for the industry, the clientele, and persons in Canada to make an appearance here at the committee and through the gazetting process to be in contact with the ministry and politicians. So nothing can happen in a rash, quick way.

Any activity by the minister to regulate this would have to be quick. I have trouble with the words "from any action". I think we should say "from final decisions" prior to hearing from the committee. I think that intent is there. I think it would be incumbent upon us to do this as quickly as possible and not to unduly drag it on so that the minister can't take a decision.

This is not going to be an easy situation. I have met with people on both sides of this issue. A lot of jobs are at stake. There is an emerging industry. Another industry is developing and evolving in Canada that is cutting the legs out from under the Internet industry, and that is the bulk transfer of drugs out of the country. That is a huge risk to the integrity of our system and the national interest, and it raises concerns with regard to medical ethics.

I think we need to understand all of that prior to making recommendations. But we can't stop the world from evolving.

● (1115)

[*Translation*]

**Mr. Réal Ménard (Hochelaga, BQ):** First, we must understand that this is an illegal industry. As the minister has said several times, it is illegal to prescribe medication when you haven't seen the patient.

Second, in my opinion, it would seem rather paradoxical that we, as a committee, are working to draw up proposals if the government has already made a choice. It's the minister's responsibility to evaluate certain number of scenarios. However, when he appeared before us, he said he was thinking of changing the definition of the word "professional" in the *Canada Health Act* regulations. Maybe that is the solution. But I think that at the very least some respect should be shown for this committee by waiting for its recommendation before introducing a legislative measure. Otherwise, let's not waste our time on a study.

In my opinion, that is what Mr. Fletcher is suggesting, which does not prevent the minister to ponder the question and express himself publically to give his opinion. However, before it becomes government policy committing the cabinet, they should wait for our recommendations. You can't do this kind of study in three weeks because it's an extremely complex problem. The two national associations representing the industries, both generic and brand name drugs are concerned with this question. So the study will be taking a few weeks. In my opinion, at the very least, the minister could wait.

Mr. Chairman, I would also like you to ask to set aside some time at the end of our meeting to discuss the committee's schedule. I would not want to do that in presence of our guests. So I'd like us to come back to that question later.

We can dispose of Mr. Fletcher's motion. I don't want to delay our witnesses. However, I would like us to have some time set aside at the end.

We will support the motion.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** There is one here.

● (1120)

**Mr. Gary Carr (Halton, Lib.):** I have a friendly amendment to the motion: put a comma after "to the House" and add "and that these recommendations be provided by the committee by March 15".

**Mr. Steven Fletcher:** That's not a friendly recommendation, Mr. Chair.

**Mr. Gary Carr:** The intent is friendly, but if it's not accepted as being friendly, then—

**Mr. Steven Fletcher:** No, I don't accept that as a friendly amendment.

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Thibault.

[*Translation*]

**Hon. Robert Thibault:** I'd like to clarify something with Mr. Ménard. I agree with the motion. I would prefer it to be amended, but the intent is clear. We agree on that. I am not saying that the minister should decide everything before having spoken to us.

In French, the motion reads as follows: "Que le Comité permanent de la santé demande au ministre de la Santé de ne prendre aucune mesure...". It could be understood as not making any final decision or not adopting any bill or any regulations.

Here's how the English motion reads:

[*English*]

"That the Standing Committee on Health request that the Minister of Health refrainfrom any action".

[*Translation*]

The words "*any action*" might mean that he can't even draw up a first draft and can't publish in the Canada Gazette and that he cannot introduce a bill in the House of Commons, that he can't do anything.

In my opinion, the intent of the member—and that's what I would support—is that the final decision or the final measures not be taken before the matter has been referred to the committee and that the committee has made its recommendations.

**Mr. Réal Ménard:** We can make an amendment.

[*English*]

You can make a friendly amendment.

[*Translation*]

I understand what Robert is saying. We could amend the motion to go along with what the parliamentary secretary is saying and say: That the Standing Committee on Health ask the Minister of Health not to take any legislative or regulatory measure—

If he wants to table a brief with cabinet, if he wants to undertake consultations within the context of an interdepartmental committee, we are not opposed to that. We don't want—Mr. Fletcher will correct me if I haven't understood him properly—the minister to take any legislative or regulatory measure.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** We'll ask if that's a friendly amendment—"regulations or legislation", right?

**Mr. Steven Fletcher:** I think it's understood, though, that we're talking about action that will have an impact.

**Hon. Robert Thibault:** A final decision.

**Mr. Steven Fletcher:** No, even a temporary solution could cause a lot of problems.

If the minister wants to brief his cabinet colleagues or meet people like that, obviously this motion doesn't pertain to that. It pertains to this committee and looking to make sure that he respects this committee.

**The Vice-Chair (Mr. Rob Merrifield):** What we need to do is determine whether you see that as a friendly or hostile amendment.

**Mr. Réal Ménard:** Did you accept my friendly amendment? Make yourself comfortable, but I will remember for a long time.

**The Vice-Chair (Mr. Rob Merrifield):** There we go.

**Mr. Steven Fletcher:** Chair, I would have to ask the member to repeat his amendment.

**The Vice-Chair (Mr. Rob Merrifield):** Could you repeat the words that you want to add there?

[*Translation*]

**Mr. Réal Ménard:** The parliamentary secretary said that the minister might have to make decisions even if only in terms of consultation. During those consultations, we don't want to be faced with regulations or legislation.

Instead of saying "aucune mesure" it should say: That the Standing Committee on Health asks the Minister of Health to take no legislative or regulatory measure.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Okay, I think that's clear. Is it friendly?

**Mr. Steven Fletcher:** I'm not sure if that's necessary. Isn't it implicit in that? No one is going to stop the minister from talking to someone.

**The Vice-Chair (Mr. Rob Merrifield):** It's your motion, but before we can move on, you have to decide whether that's a friendly amendment or not.

**Mr. Steven Fletcher:** I understand what the member is saying, and I'm hoping that he doesn't have a long memory. I'm not sure it's necessary, so then it's not a friendly amendment.

**The Vice-Chair (Mr. Rob Merrifield):** Okay, then it's not deemed to be a friendly amendment.

**Hon. Robert Thibault:** I want to comment on the original motion.

I'm going to support it because it is a request to the minister, and a request is a request. But I want Monsieur Ménard to understand something.

[*Translation*]

Mr. Ménard, it is important for you to understand what might happen, unless everyone is clear on this. We are asking the minister to wait; we are inviting him to wait. We are not giving him any orders.

If the minister cannot table a bill in the House before the committee has truly fully studied the matter and tabled a report in the House of Commons, the spring session might well be over before we have had an opportunity to amend the regulations or the act. It is a question of determining the urgency of discussing the problem of Internet pharmacies and if we feel there is a need for that.

We do not want what was initially a good intention to end up being cumbersome and to prevent the necessary steps from being taken.

● (1125)

**Mr. Réal Ménard:** But he cannot table a regulation or an act until we have completed our consultations. Otherwise, let's not waste our time doing consultations.

**Hon. Robert Thibault:** At least he should not put in place any definitive measures, in other words table a bill.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** I think we understand that part of it.

Mr. Fletcher.

**Mr. Steven Fletcher:** I just want to emphasize, regarding my colleague's comment on the amendment, that it is just a request. We're not telling the minister to do anything; we're requesting it. I think this is something we could all support, and it still gives the minister the flexibility the suggested amendment provides. We can just move on.

**The Vice-Chair (Mr. Rob Merrifield):** As the chair, what I sense is happening—and catch me and correct me if I'm wrong—is that the mover is saying, to accommodate what the parliamentary secretary is suggesting, that we not tie the hands of the minister; this is just a request. I think the mover of the amendment was saying to take no regulatory or legislative action, but if it's just a request, it would certainly have the same effect. I don't see a lot of difference in the intent, unless I'm wrong here, and I see heads nodding.

Are we ready for the question? I don't think we need to belabour this any more unless somebody wants to intervene.

(Motion agreed to)

**The Vice-Chair (Mr. Rob Merrifield):** Do you want to discuss the long-term calendar at the end?

[*Translation*]

**Mr. Réal Ménard:** We could do it at the end, because I do not think that this is pleasant for the witnesses.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Let's get on to our witnesses, then.

At this time we'd like to welcome them here and maybe apologize for the delay at the beginning of our meeting, but that needed to take place. We appreciate your coming in.

We'll start with Physicians for a Smoke-Free Canada, and you have Neil Collishaw and Cyril Sabbah as representatives. I don't know exactly who is going to start.

**Mr. Neil Collishaw (Research Director, Physicians for a Smoke-Free Canada):** I'll start. Thank you very much, Mr. Chairman.

We find it a great honour at Physicians for a Smoke-Free Canada to have been your last guest in 2004 and, I believe, your first one in 2005. It's certainly heartening to know that the main topic of discussion at the end of 2004 was tobacco and that at the beginning of 2005 it's once again tobacco. We think this is actually fitting because, notwithstanding the interesting discussion you've just had and of course the many other health issues facing all of us—this committee in particular—it's still the case that tobacco is the number one public health problem that Canada faces.

Despite the progress we have made, and it has been considerable, tobacco remains the leading cause of death, causing over one-fifth of all deaths in Canada. So I am pleased to be here today to talk about tobacco again, and I am pleased to introduce you to my colleague, Mr. Cyril Sabbah. Mr. Sabbah is a biologist by training and has been doing some research on behalf of Physicians for a Smoke-Free Canada, examining biological research undertaken by tobacco companies, so the research he's been doing is very pertinent to the topic of today's discussion, the toxicity reporting regulations. In a few minutes I'll ask him to share with you some of the highlights of what he's been finding.

Something completely unexpected happened some years ago in Minnesota that has had a profound impact on what we do in tobacco research. This occurred in 1998 and it continues to be of great benefit to public health around the world. There was an out-of-court settlement towards the end of a major trial that pitted the Government of Minnesota against the big tobacco companies in the United States. As part of that settlement, so that the trial would not proceed to a formal court decision, the tobacco industry reluctantly agreed to make public about 40 million pages of previously secret industry documents in exchange for the State of Minnesota dropping its claim for reimbursement of extra health care costs caused by tobacco. Other agreements have been put in place requiring them to add new documents to the collection, so the collection is now about 60 million pages of documents and is growing.

Why that is important to the proceedings here is that those American companies are the headquarters of multinational companies that go all around the world, including Canada, where they have subsidiaries. In one case, the head office was in England and the subsidiary was in the United States. They went after that company too, and got the documents from England. That company, British American Tobacco, has its subsidiary right here in Canada, Imperial Tobacco, Canada's biggest tobacco company, headquartered in Montreal. It turned out that a lot of those 60 million pages of documents are documents of Imperial Tobacco or are documents of direct relevance to Imperial Tobacco.

We in Physicians for a Smoke-Free Canada and other public health researchers around the world have been doing a lot of research on these documents, and it's been fascinating. With this veil of secrecy lifted, in just six years we and other public health workers have learned more about the workings of the tobacco industry, including the secret science they have conducted within their walls, than we learned in the previous 60 years. Secrecy and public health don't mix; public health requires that information in the public interest be made public.

A little later you'll be hearing from our colleagues in Health Canada. You should know that in the 1980s I was in their position. I was in charge of the tobacco products file in Health Canada during the 1980s, and it was my dubious distinction to have received information from third parties that I was required to maintain as confidential.

● (1130)

I was certainly scrupulous in doing that. I was a good civil servant. That doesn't mean I liked it. Where's the public interest, I wondered, in information important to the public and to public health being known only to me? It really wasn't worth much if stuff that should have been public was a secret and I was the keeper of the secret. It wasn't worth much to the public then, and it isn't worth much to the public now.

If we are to advance public health work, including tobacco control, nothing succeeds like sunshine. We want the sun to shine on the information that would be obtained under the draft regulations that you are examining today. We are learning how important information on cigarette toxicity available for independent study in the public interest can be, from the research that we are conducting on this subject, looking at the secret science conducted by the tobacco industry in the 1970s and 1980s.

I'm now going to ask Mr. Sabbah to share some of the highlights of what he has been finding in the last few months, as he's been digging deeper and deeper into the biological research.

Cyril.

**Mr. Cyril Sabbah (Research Biologist, Physicians for a Smoke-Free Canada):** Thank you, Neil.

Thank you for giving us this opportunity to testify.

Industry documents that were made available as a result of litigation in the United States have provided a unique opportunity to better understand the role of biological research in shaping industry strategies on public health issues. It is now well documented that the industry has not been forthcoming historically, to say the least, with regard to the findings of their own research programs, despite the direct relevance of these programs to public health.

As an example, I have been researching a project sponsored for over a decade by the Canadian Tobacco Manufacturers' Council. This research was closely monitored and directed by Imperial Tobacco's research and development team for several years. This project sought to elucidate the effect of cigarette smoke on the protective lining of the airways in laboratory animals. It was discovered that the cigarette smoke compromises the integrity of this lining. More particularly, as early as 1977, it was established that the greater the exposure to cigarette smoke, tar, or nicotine, the greater the disruption of the impermeable nature of the airway lining.

Those who conducted the studies warned in reports and correspondence, addressed directly to members of the industry and to Imperial Tobacco, that this loss of impermeability may be the mechanism by which cigarette-related diseases develop. Nevertheless, no recourse was taken by the industry to address this issue, nor was the finding that nicotine and tar disrupt the protective lining of the airways disclosed to the public. This research was simply ignored until independent scientists confirmed these findings and publicized them in the media several years later.

● (1135)

[*Translation*]

More generally speaking, the development and use of biological and toxicologal testing to assess the various types of tobacco have been important components of Imperial Tobacco's research and development program since the 1960s. In fact, for decades, this company as well as its sister companies, with which it worked closely, conducted hundreds of studies.

The tests developed by these companies include, among others, chromosome aberration testing, the application of tar on the backs of mice, testing on the fraction index, as well as the Ames test, used systematically by Imperial Tobacco to assess experimental and commercial products.

For example, a confidential document from British American Tobacco, Imperial Tobacco's parent company, entitled *A Review of the Biological Activity of Smoke*, illustrates the importance of using biological testing for these companies.

The document is a general review that summarizes the results of three tests in particular conducted by British American Tobacco and its subsidiaries between 1960 and 1990. This document, which reports on a mere fraction of the many studies developed, does, nevertheless, make reference to more than 140 research projects.

Moreover, despite the interest that all of this research could have generated in the scientific community, among government authorities, or among smokers, the results of all of these tests simply remained, for the most part, secret and confidential.

[*English*]

Further, the notion of requiring tobacco manufacturers to perform toxicology testing and to report the results of this testing is not new to the industry. Indeed, several documents reveal that Imperial Tobacco and its sister companies have been expecting legislation to this effect for decades.

In fact, their anticipation of this type of regulatory requirement provided an additional rationale for the development and utilization of these types of assays. We have copies of one such document of five pages dating from 1981, nearly a quarter century ago, and we have some extracts from two other documents from 1987 and 1988. We would be happy to share these with members of the standing committee.

Thank you.

**Mr. Neil Collishaw:** Thank you, Cyril.

I have copies here of the documents that Mr. Sabbah referred to, and I would be delighted if you could look at them.

I'll just mention that the one Cyril mentioned from 1981, the five-page document, gives a very comprehensive program about how the company would undertake to do biological research. It ends by saying the reason they would do this would be to meet the requirements of regulatory authorities. So this company was preparing for this day one-quarter of a century ago. There are similar documents from 1987 and 1988 that also refer to preparing for eventual regulation on toxicity.

Certainly it's something that tobacco companies have been anticipating, and I don't think we should be too worried about their not being able to provide this information this year. They've been preparing for it for a long, long time. I think the regulation requires them to begin reporting it in October 2005. They shouldn't have any problem.

[*Translation*]

In this regard, we urge you to recommend the implementation of these regulations without amendment. However, Mr. Sabbah's research, as well as other related research, has shown us the importance of having public access to technical information on the toxicity of tobacco products. When documents are not available to the public, science is suppressed. When science is suppressed, public health protection suffers enormously.

● (1140)

[*English*]

As I mentioned earlier, secret information does not serve the public. Public information is what we need to serve the public interest. The same principle applies with respect to other reports that the tobacco companies are currently sending to Health Canada, not just what's proposed they send in the future in these regulations.

For example, the tobacco companies for some time now have been required to report information on specific toxic substances in tobacco smoke, by brand, to Health Canada. I think there are around 40 toxic substances that they're supposed to be measuring in cigarettes, reporting quantities by brand to Health Canada.

We at Physicians for a Smoke-Free Canada and some of our sister organizations consider this to be vital public health information, and as we've said, public health information is only good for the public health if it's in the public domain. But this information isn't. We, the members of the public, can't get it, at least not in its detailed form. There are provisions of the Access to Information Act that constrain Health Canada from giving it to us. They are required to protect third-party information. This Access to Information Act is known lovingly in our office as the “no access to information act”. It's a frustrating piece of legislation that keeps information from us that should be in the public domain.

So we urge you to consider recommending that the Minister of Health make all information received under these regulations public. Nothing improves public health like sunshine, so let the sun shine on toxicity reporting regulations.

It is possible to do so. The minister could invoke subsection 20(6) of the Access to Information Act, which authorizes the release of information in the public interest if the minister considers the public interest more important than the private interests of tobacco companies. We certainly think this is the case; we hope members of the committee do too.

I would add that it's often difficult for public servants who work for the Minister of Health or for the Minister of Health himself to make that judgment, because there's no guidance. There's nothing in the environment to tell him that the public interest is more important than the private interest, but there is something that's able to tell him that, and that's Parliament. A recommendation from Parliament to the minister will help the minister greatly in being able to invoke subsection 20(6) of the Access to Information Act.

I'm going to take a risk here; I'm going to appear presumptuous. I've actually drafted a report to Parliament for your consideration.

[*Translation*]

It is bilingual, it is written in both languages. So we can distribute it.

[*English*]

It contains the proposed regulations I have just outlined. It's for your consideration. This committee can look at it and decide whether this is the forum you would like to....

[*Translation*]

I do not have an answer for Mr. Ménard.

[*English*]

This report is for your consideration. It contains the ideas I've just outlined about making things public and accepting the recommendations as drafted.

I thank you for your time and attention. I look forward to your questions and look forward to other opportunities to discuss this matter with members of the committee.

Thank you very much.

**The Vice-Chair (Mr. Rob Merrifield):** Thank you very much.

We'll go right on to Health Canada and their representatives. I'm not sure whether both are going to speak.

**Mr. Denis Choinière (Director, Office of Regulations and Compliance, Tobacco Control Program, Healthy Environments and Consumer Safety Branch, Department of Health):** I'll start.

Good morning. My name is Denis Choinière. I'm the director of the office of regulations and compliance at Health Canada's tobacco control program. Here with me today I have another person from the tobacco control program, Victoria Tunstall, who is a policy analyst.

We'd like to thank you for inviting us to speak to you about the regulations amending the tobacco reporting regulations today.

You've been given binders, I see, from Health Canada. They contain three tabs. We'll be referring to those tabs as we move along the speaking notes. The notes themselves can be found at tab 1.

It hasn't been long since we were here before you to testify on the proposed cigarette ignition propensity regulations, as was previously mentioned, on December 14, at which time you unanimously adopted those proposed regulations. The cigarette ignition propensity regulations will establish a standard for the ignition propensity of cigarettes manufactured or imported for sale in Canada as of October 1, 2005.

The regulations before you today are a complement. They're called the regulations amending the tobacco reporting regulations, and they can be found in tab 2 of the binder. They were to some extent discussed at our last appearance, not that they were before you, but the issues raised were discussed to some extent.

The development of the regulations amending the tobacco reporting regulations was precipitated by industry's concern that modifying a cigarette to reduce its ignition propensity would result in increased toxicity. Although Health Canada believes there's a high probability that the smoke from the new reduced-ignition-propensity cigarettes will be just as toxic as that of the cigarettes currently sold in Canada, we also feel that the responsible thing to do is to try to monitor any change of toxicity as closely as possible.

Let me remind you that cigarette smoke is a very complex mixture, containing over 4,000 chemicals. The link between each of these chemicals and the toxicity of the smoke is not well defined. The current tobacco reporting regulations already require the submission annually of information on more than 40 chemicals found in cigarette smoke. What these new regulations do is amend the tobacco reporting regulations in order to help Health Canada monitor any change in cigarette smoke toxicity.

These regulations will require cigarette manufacturers to perform three toxicity tests on all cigarette brands manufactured in or imported into Canada both prior to and after the ignition propensity standard comes into force. A short description of each of the three proposed tests is included under tab 3 in your binders. Manufacturers and importers would be required to submit the results of these tests to the Department of Health an on annual basis.

The proposed regulations were prepublished in the May 1, 2004, edition of *Canada Gazette*, part I, followed by a 75-day consultation period. The majority of comments received were from members of the tobacco industry. Here is a short review.

One issue expressed by the tobacco industry was that the testing protocols are too restrictive, inaccurate, and insufficient. Other statements claimed that these methods are subject to a high degree of variability. The methods are indeed quite restrictive. In fact, they were designed this way on purpose in order to minimize the variability of results.

● (1145)

[*Translation*]

Another issue raised was the requirement for the toxicological essays to be performed by laboratories accredited under the International Standards Organization, Standard 17025, commonly referred to simply as ISO 17025.

The industry would prefer that we accept data from laboratories that are compliant to what is known as *Good Laboratory Practices* (or GLP), or allow a grace period of two to four years for laboratories to gain accreditation to ISO 17025.

Health Canada's experience is that a GLP-based approach is more appropriate in a context of pre-market review, like that for drug or pesticide review. This is not what we have under the legislative framework provided by the Tobacco Act. Rather, we have a post market framework, where accreditation under ISO 17025 offers a better suited tool, in our opinion.

Manufacturers also requested more time to submit the toxicity testing reports. Health Canada has agreed to this request. The regulations tabled before you, propose to provide this in two ways—by extending both the sampling time and the date for submitting the first reports.

The tabled regulations now require the initial testing on cigarettes manufactured after December 31, 2004, providing a few extra months, and the deadline for submitting the first reports has changed from October 31, 2005, to January 31, 2006.

Finally, I would now like to bring to your attention another change we have made to the proposed regulations since they were first published last May. We have added a requirement for manufacturers to perform a third toxicity test, the micronucleus test. This is not quite new, actually, since it had been included in the cost-benefit analysis published with the proposed regulations as well as in the questionnaire previously sent to stakeholders.

Further, cigarette importers and manufacturers were consulted on the details of this test in June 2004 and they included their comments in their responses to the pre-publication in *Canada Gazette* Part I.

In closing, we have given you an overview of the proposed regulations and their impact. We have also provided you with some comments from stakeholders and our views on these comments. We would now be pleased to answer any questions you may have.

● (1150)

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Thank you very much.

That's the witness portion of the committee done.

We'll open it up to questions, and we'll start with Mr. Fletcher for 10 minutes.

**Mr. Steven Fletcher:** Thank you, Mr. Chair.

I guess I have a point of information, to begin with, for the clerk. I'm wondering why no one from the industry is here.

**The Clerk:** I called Imperial Tobacco and they didn't want to appear. They have someone here as an observer. But I did call them myself, and no one else from the industry called me to appear.

**Mr. Steven Fletcher:** Okay.

My question is first for Health Canada. Has there been any economic analysis to determine how much these regulations will cost either the Government of Canada or the industry?

**Ms. Victoria Tunstall (Regulatory Policy Analyst, Office of Regulation and Compliance, Tobacco Control Program, Healthy Environments and Consumer Safety Branch, Department of Health):** Yes, we did an extensive cost-benefit analysis. We didn't look at how much it was going to cost the government to implement, but we did look at how much it would cost industry and found that it would be around $34 million to $53 million per year, which works out to a net present value, an economic term, of $1.14 billion to $1.8 billion. The benefits outweigh the costs by a factor of two at least.

**Mr. Steven Fletcher:** Okay.

And if I understood your presentation correctly, there isn't any scientific data to support the claim that toxicity would be increased.

**Mr. Denis Choinière:** There has been some work done by industry itself on this. Generally, they didn't find any significant change in toxicity.

We think that because the cigarette is basically unchanged, the smoke will probably be very similar at the end of the exercise. But we feel that we at least need some information to help us detect if there's any chance; hence those regulations.

**Mr. Steven Fletcher:** So it was the industry that raised this concern?

**Mr. Denis Choinière:** Yes.

**Mr. Steven Fletcher:** Okay.

My question then is for the Physicians for a Smoke-Free Canada.

Thank you very much for appearing again, and thank you for your comments. Yes, smoking and how to reduce it is a very important issue for all members on this committee.

I wonder if you could comment on this. Do you find it in any way ironic that the industry is raising the issue of toxicity and/or that they are concerned that the toxicity of cigarettes will somehow be increased because of the new regs?

**Mr. Neil Collishaw:** I believe it's very responsible of Health Canada to be responsive to questions that are raised. If they say these fire-safe cigarettes may be more toxic, let's find out. From the presentation I heard, that was the motivation for producing the regulations. I think that's an excellent and responsible thing to do. However, I think the benefits of having this information will go much beyond just finding out whether the cigarettes are more or less toxic with respect to their new fire-safe properties.

Knowing whether these products are mutagenic or carcinogenic will be very valuable to us in documenting just what the industry knows and what their responsible action should be in the face of real data that we can all look at, asking what it means for public health and what the accountability for the tobacco industry should be in producing toxic products.

● (1155)

**Mr. Steven Fletcher:** I'll throw this question out to both parties. The information-gathering analysis section says that the minister must be able to manipulate test results. What is meant by the term "manipulate"?

**Mr. Denis Choinière:** We struggled a lot with this part. I will give some background if you want. We receive a lot of information from the industry, and it's a challenge to process all of it.

With these regulations, we are requiring that they be submitted in electronic format. There are technical aspects that we need to consider here, and one is that you can get data sent to you on software, but you cannot extract them, process them, play with them, add or subtract, and get results at the end of the day. So we are looking for language that would make it clear that the information that would be submitted to us in electronic format could be manipulated so that we can, as I said, add or subtract or multiply and get results.

After discussions with people in the software area, as well as mathematicians and statisticians, we came to the conclusion that "manipulate" was the best term in this case.

**Mr. Steven Fletcher:** I have to tell you that I'm very uncomfortable with the term "manipulate", because it has a variety of definitions according to the dictionary, and one of them is to influence or control the data. When data are presented, I would hope that whoever the data are presented to could have faith in the integrity of those data. "Manipulate" suggests that they may not have integrity.

I wonder if there are comments about that.

**Mr. Neil Collishaw:** I find Mr. Choinière's answer reasonable. I think there is a point that just seeing the word without the explanation raises questions, but it sounded to me like a pretty good answer.

**Mr. Steven Fletcher:** Okay.

Can you confirm to us that the data will be made available in a transparent manner?

**Mr. Denis Choinière:** It's not a decision I can make today for the department. Consultation will be required. There's a good likelihood we'll be able to, but that's as far as I can go.

**Mr. Steven Fletcher:** I will conclude my questions with that.

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Ménard.

[*Translation*]

**Mr. Réal Ménard:** Thank you,

I have great sympathy for the lobby groups that want to ensure that we live in a smoke-free environment. I point out, however, that it would be a mistake for the committee to accept a wording, because the committee must maintain a balance among all groups that want to make themselves heard. I would be very uncomfortable. Regardless of the bias that we should have, I believe that the credibility of a committee prevents it from fully accepting to table a report from a lobby group, as good as it may be. It cannot work that way in democracy. As for me, I would oppose it, as I feel that it goes too far. When you want to table reports on behalf of a committee, you must get elected. You cannot do it as a lobby group. I caution you about some attitudes that go too far. I am saying this without any ulterior motive, as I am aware of the good that you are doing for our society.

Mr. Choinière, if the regulation were to be adopted, the industry would be required to conduct a number of tests. The difficulty lies in the conditions for operationalizing these tests. The industry wants to conduct them in accordance with a specific protocol. I have seen the "good laboratory practices". However, you are saying that GLPs are not sufficient for the type of test described. Can you be more explicit? I simply want to understand, I do not claim to have any expertise in this area, as you can well imagine.

● (1200)

**Mr. Denis Choinière:** It is not that they are insufficient; as I mentioned, the "good laboratory practices" were developed in a pre-market context. For example, you have a drug that will work within a certain context or in a certain part of the body, and the tests that you will have to do will have to be adapted to the part of the body where the treatment will work. The same is true for pesticides. So we need some leeway in doing these tests.

The Tobacco Act provides quite a different legislative framework, one that is not pre-market, but one that enables us to require post-market information. The tests that we present are tests that we could call routine tests, that do not require variation to be carried out. For this kind of routine tests, there is another framework that enables us to verify if the tests were carried out in the prescribed way, and that is the ISO 17025 accreditation.

**Mr. Réal Ménard:** The industry was asking for two more years to obtain that accreditation.

**Mr. Denis Choinière:** That is correct, yes.

**Mr. Réal Ménard:** You offered a compromise, with the deadlines we are aware of and which you feel are reasonable for conducting the three tests you are requiring.

**Mr. Denis Choinière:** In fact, the deadlines should enable some labs that already have their accreditation for GLPs to obtain ISO 17025 accreditation.

**Mr. Réal Ménard:** Okay. Once the industry data—that we hope will be as conclusive as possible—has been sent to you, you are going to assess it yourselves as the department. In previous practices, this data was not public data. You had to assess it, but it was not made available to the general public. Am I correct in saying that?

**Mr. Denis Choinière:** We often made that information public. We have to combine the information so that it is not possible to tell where it comes from. For example, we made public data on advertising at the retail level or elsewhere, and by combining the data, we can make it public, because we are not betraying any secrets.

**Mr. Réal Ménard:** The results of the tests that you are requiring the industry to carry out will be made public if it is not possible to identify where they come from. Can I put it that way?

**Mr. Denis Choinière:** Yes. The approach that we have used to date has been to combine the information and to present the data at a conference, a convention, or a meeting, or sometimes on our Website. I think that NGOs want to have the original data that indicates where it comes from, from which manufacturer, and which product that deals with.

**Mr. Réal Ménard:** I am asking this question in a non-political context, to gain an understanding, and I hope I am not making you uncomfortable: Do you think that the trade secret argument is at all relevant?

**Mr. Denis Choinière:** We must work in accordance with the Access to Information Act, and as mentioned earlier, we must consider some requirements imposed upon us. As for whether, for example, we can make the raw data public, or whether we must combine it before we make it public, the final decision is not mine, but the department's.

**Mr. Réal Ménard:** For the purposes of good...

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Savage is next, for five minutes.

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Thank you very much.

Mr. Choinière, is the purpose of these regulations to provide information, or is the purpose to reduce people's smoking?

**Mr. Denis Choinière:** The whole purpose of the Tobacco Act is to help us reduce the burden of disease and disabilities related to tobacco use in Canada. That entails a variety of measures.

One of these measures, in the case that we have here, is to try to reduce the fire risk from cigarettes so that fewer people will die from injuries that result from house fires, residential fires. So you could place these regulations as a complement to the cigarette ignition propensity regulations, which are the regulations that hopefully will help us to reduce fire risk from cigarettes and will allow us to deal with the issue of possible or potential increase in toxicity.

● (1205)

**Mr. Michael Savage:** Imperial Tobacco had submitted that Health Canada has no expectation of gathering any reliable toxicological data. Is it your response that this is not true?

**Mr. Denis Choinière:** We disagree to some extent with what the industry thinks we think.

We tried to be responsive to the concern expressed by some members of the industry. When we did the analysis of documentation from the U.S. where the issue was first studied in the early 1980s, it was clear that issue of toxicity was brought up regularly, so we had to consider this. We didn't want to go ahead, either, with regulations without having some sense that there would be no increase in toxicity. Luckily there was some research we could find that showed the likelihood of increased toxicity would be very, very low. I referred to two studies earlier from the industry, and both were comforting in this area.

It's a measured uncertainty. We have some degree of uncertainty about the toxicity, and these regulations will help us in the longer term to be able to answer that question maybe with more certainty.

**Mr. Michael Savage:** Mr. Collishaw, have you any comment on that?

**Mr. Neil Collishaw:** No.

**Mr. Michael Savage:** Let me ask about the ISO 17025 accreditation. How many labs in Canada do you expect would have that accreditation? These aren't going to be done in the manufacturers' facilities themselves, are they?

**Mr. Denis Choinière:** I'm not so sure. I know some industry labs are already ISO 17025 accredited for chemical analysis. I'm not sure if there are any measures being taken to be accredited for toxicology tests as well. That's unknown to me.

As for private labs, we know there is at least one private lab and two others have indicated interest. We know there is another lab in the U.S., and there are probably company labs as well in other countries, companies that export to Canada that have the capability of achieving that accreditation. I'm not sure if they will, but they have the capability.

**Mr. Michael Savage:** But these would not be labs that Health Canada would operate.

**Mr. Denis Choinière:** No, we try not to offer or to be in a situation where we would be the laboratory for the industry. We'd like them to get third-party labs or private labs to do that work, or their own lab.

**Mr. Michael Savage:** When you talked, Ms. Tunstall, of the industry costs being $34 million to $53 million, would that include the cost of the labs?

**Ms. Victoria Tunstall:** It includes the annual cost of the toxicological testing.

**Mr. Michael Savage:** Was that an annual cost?

**Ms. Victoria Tunstall:** The $34 million to $53 million is the annual cost.

**Mr. Michael Savage:** Hence the NPV of whatever you said, of $1 billion.

**Ms. Victoria Tunstall:** Yes, it's $1.14 billion to $1.8 billion, depending on whose estimates you are looking at.

**Mr. Michael Savage:** How many manufacturers of cigarettes are there in Canada?

**Mr. Denis Choinière:** We have about 10 to 12 manufacturers of cigarettes in Canada and a few, two or three, from abroad, depending on the year. Sometimes there are a few more.

Most of that number, though, are smaller operations. Of large operations, or what we can qualify as large operations, there are three companies in Canada; there are two or three that could qualify as middle-sized, although they're really small when you look at market share; and all the others are pretty small operations.

**Mr. Michael Savage:** Do you think these regulations would be significant enough to close some of them?

**Mr. Denis Choinière:** We did not look at the exact impact on smaller operations. It's a possibility that the cost to operate will be quite high. We know that could be a deterrent for new companies that may want to enter the market. I am not sure, though, that it would cause existing companies to close.

I think when we look at the price per carton, it comes to a 25¢ increase, so it's not something that is—

● (1210)

**Mr. Michael Savage:** Thank you.

**The Vice-Chair (Mr. Rob Merrifield):** Okay, thank you.

Mrs. Crowder.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** I'd like to thank you both for your presentations.

I have a couple of questions. You indicated that the testing protocols right now look at approximately 40 chemicals. Is there going to be any change in that testing protocol to include a broader range of chemicals?

**Mr. Denis Choinière:** We're looking into this, yes. I think a few nitrate compounds, for example—protein-based types of compounds.

**Ms. Jean Crowder:** But 40 to 4,000—there's a huge range that don't get tested, then?

**Mr. Denis Choinière:** Yes.

**Mr. Neil Collishaw:** Perhaps I could add a further comment about the 4,000 chemicals. Yes, those have been identified in tobacco, but of course the ones of greatest concern are the ones known to be poisonous to humans. There are about 100 in that category; and of those, I think the latest estimate is that 69 are known carcinogens—they cause cancer.

**Ms. Jean Crowder:** So a broad range are still not being tested, then, even under this new regulation?

**Mr. Neil Collishaw:** That's right. There's a lot of scope for testing more known poisons.

**Ms. Jean Crowder:** I want to come back to my colleague's comments around accessibility of information. I want to be really clear about my understanding of it.

The information comes into Health Canada. Health Canada amalgamates the information, or presents an amalgamated amount of information to the public. That's publicly accessible, but the raw data is not available, and the reason it's not available is that it's protected under the Access to Information Act. Is that the case?

**Mr. Denis Choinière:** Roughly, yes.

**Ms. Jean Crowder:** Roughly. So if we are talking about something in the public interest, something that's a public health issue, is it within the purview of Health Canada to make a recommendation, under the regulation that was noted, that this information, the raw data, be available to the public in a broader sense?

**Mr. Denis Choinière:** You're looking at two different pieces of legislation. The Access to Information Act is the one that regulates that issue. It's not the Tobacco Act. So unless the House and Senate change the Tobacco Act, it doesn't have anything to do right now with the release of information.

**Ms. Jean Crowder:** But if this committee made a recommendation around having the information more accessible and more available in order to protect the public health, is that possible?

**Mr. Denis Choinière:** That's really more a question for you to answer than for me. I'm sure we would consider your recommendation. At the end of the day we are still under the regime put in place by the Access to Information Act, so we have to operate under that scope.

**Ms. Jean Crowder:** Maybe I could ask Mr. Collishaw to comment on that. I think I'm not understanding something here.

**Mr. Neil Collishaw:** Okay. It may be helpful to members of the committee when considering this question to actually look at the Access to Information Act, particularly section 20. I have some copies here, in English and French, that I can leave with the clerk, and that might help you even today, but I can briefly summarize section 20.

There is a requirement that the head of the institutions "shall refuse to disclose"—that's what it actually says in a law that's entitled Access to Information Act—"trade secrets"; "financial, commercial, scientific...information that is confidential" of a third party; "information the disclosure of which could reasonably be expected to result in material financial loss or gain"; and "information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations".

So those are four different things that the head of the institutions shall refuse to disclose. Now, the one I mentioned, subsection 20(6), gives an override to three of those four things. I'll just read exactly what it says:

> The head of a government institution may disclose any record requested under this Act, or any part thereof, that contains information described in paragraph (1)(b), (c) or (d)

Going back, that was the financial, commercial, scientific information; material financial loss or gain; and interfering with contracts. If it's a trade secret, however, that's it. It stays locked up with Denis Choinière. He and Victoria are the only ones who know, and something bad happens to them if they tell me. So I never even ask them for trade secrets.

● (1215)

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Collishaw, your time is gone.

Ms. Demers, you're up next.

[*Translation*]

**Ms. Nicole Demers (Laval, BQ):** Thank you, Mr. Chairman.

Thank you for coming. It is the new year, and I am happy to see you again.

I'm going to go back to the concerns raised by my colleague, Mr. Fletcher. I think that he raised a very important point earlier when he talked about the terms “manipulation” and “manipulate”. At present, there are dozens of influential businessmen in the United States who are in prison for having manipulated results. I would not want legislation that we will have to live with for several years to enable a minister to do such a thing. That would make me very angry.

I have full confidence in our current minister, Mr. Dosanjh. However, a minister whose intentions might be a little less honest could attempt, after the fact, to justify his actions by saying that the act enabled him to manipulate the results. I would be very disappointed if a decision is made to include a term that can have a connotation that is different from the one we intended. We must make sure that we use only those terms that have a very specific connotation. I do not know if the expression “to use the results” would be appropriate. At any rate, we should come up with a different wording: what we have now is, believe me, very broad and very vague. I find that very worrisome.

I am also very troubled to find out that the toxicity of only 40 toxic products is being assessed, when we know that a cigarette contains 4,000 substances that may be health risks. Mr. Choinière and Ms. Tunstall, knowing that, I wonder how you can actually keep the data that you were given to yourself and carry on. That must be terrible. Knowing that data proving to what extent tobacco is toxic could encourage people to stop smoking is fraught with terrible consequences. I am not saying that pejoratively. I am putting myself in your shoes. As for me, I smoke, but familiarizing myself with this data could perhaps help me stop.

Can you explain to me how it is possible to amend this act which enables companies whose values are not very honest, let's say it, to encourage people to smoke? We have known for several years, and it has been proven, that cigarettes are highly addictive. We have known that for a long time, but we still continue to use products that are addictive. What can we do to stop that? How can we force you to share the real data with us?

**Mr. Denis Choinière:** If I may, I would like to say a few brief words about the term “manipulate”. As I said earlier, that term gave us a lot of headaches. We are reassured by the context. A provision is not interpreted without taking the context into account. In this case, the inclusion of this term is designed to enable us to extract data from the software, in other words the electronic format in which we received the data, and to play with it, so as to speak. That way, we will be able to include it in one calculation or another, in an equation, and so on. We have discussed that with many experts, and while I do know that there are several connotations to the word “manipulate”, the fact remains that there is consensus on that term, more than on any other.

Now, as regards the 40-odd chemical substances, we are asking companies to submit annual reports that cover quantities of these substances contained in smoke. It must be clear that cigarettes and tobacco products are, from the outset, dangerous products that are and continue to be on the market. For the time being, we are not asking for information on the chemical substances to decide which ones are more toxic than others and which ones we must take off the market. The information that we are asking manufacturers to provide will help us to better understand the product and its variations over the years, and to determine more specifically if there are links between the various ways of making cigarettes and what is being measured in the smoke.

Having said that, this is information that we do pass on to smokers. If you look at the side of a cigarette package, you will see that 6 out of the 40 some odd components are listed. The measures that are specified are data that have been transmitted to us. We also include this information in documents that we publish. Just yesterday, I was looking at a document on second-hand smoke. It was possible to include the information in that document, because we had verified its accuracy using information received from the companies. Moreover, when it is appropriate, we sometimes publish information on products on our Website.

This is the context in which we work. We know that it is not definitive. With the regulation on the reports from 2000, we went from 3 chemical components to 40. We are even considering the possibility of increasing the number, but the fact remains that it is a very long-term project.

● (1220)

**Ms. Nicole Demers:** Finally, could you tell me...?

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Excuse me, the time is gone. Actually, you were a little over.

Mr. Carrie is next.

**Mr. Colin Carrie (Oshawa, CPC):** Thank you very much, Mr. Chair.

I'd like to thank you for being here, especially Mr. Collishaw. I do like the fact that you gave us this draft amendment; but like my colleagues, I'm concerned about the process here. Mr. Sabbah rightfully brought forth some information about how as far back as the eighties companies were aware of the dangers of the product, but we as the public had no information on that.

I know, Mr. Choinière, that you are not Health Canada, but you brought up that Health Canada is under the Access to Information Act. Is this a Health Canada policy for all products, that we, as the public, may not be getting information about the dangerous products because material gain or loss could be suffered by the company?

**Mr. Denis Choinière:** In this case it's a regulation, so companies and individuals are forced to give information to Health Canada. It's not information that Health Canada generates on its own.

When we are receiving information, it's often sensitive information—or at least it is considered to be sensitive information on the part of the party who has submitted it. The Access to Information Act sets the regime under which this information must be protected and when it can be released.

There is information that sometimes is easier to release. For example, the case for public health is more easily made when you expect that a product is safe and you learn it's not safe. That is a big help for Health Canada to determine there is public health interest.

Again, in the case of tobacco products, it's quite different. We all know that tobacco products are hazardous. The fact that we release the information that they are hazardous is not on its own something very new or very useful. You have to look into the details of the kind of information. I would agree with my colleague here from Physicians for a Smoke-Free Canada. For public health, it's a benefit when information can be shared.

Sometimes because of the degree of uniqueness of the data or other sensitivities, we cannot release it in its original format. We have to aggregate it. That's what we do, for example, for expenses related to promotional activities. The information is still communicated but in an aggregate fashion.

**Mr. Colin Carrie:** My bigger concern is the whole process. We all know of cases...there was an interesting case with the COX-2 inhibitor Vioxx recently that was found to have dangerous effects, and I believe it was the manufacturer who ultimately came out on this product.

I view Health Canada as an organization protecting the Canadian public. I just wonder if there needs to be something looked at in the process. That's why I commend you for bringing this forward. As a Canadian citizen, I worry that you may have information that, because of these regulations put on you, you may not be divulging to the public in a timely manner, information that could be of benefit to the public.

Could you comment on my statement?

**Mr. Denis Choinière:** I'm not a designated spokesperson for the issue of drugs and products regulated under the Food and Drugs Act, so I will not comment on the case you've brought forward. I would caution that you have to look at the product you are dealing with. That's how you apply the Access to Information Act.

As I said, in our case tobacco products are hazardous. The submission of data on the fact that they are hazardous takes place on a yearly basis; there's nothing new per se in terms of public health interest. But we realize that sometimes for research purposes having access to the original data may be useful. It is something we keep looking into. Where we can, though, at least we release it in an aggregate format so people can use the data.

● (1225)

**Mr. Colin Carrie:** Are there things you think we should be doing right now as legislators and regulators to improve the system? Mr. Collishaw brought this forward.

**Mr. Denis Choinière:** I'd rather not comment on what legislators must do or must not do. I'd rather let an NGO answer that.

**The Vice-Chair (Mr. Rob Merrifield):** You have fifteen seconds left, Mr. Carrie. There's time for a very quick response from Mr. Collishaw.

**Mr. Neil Collishaw:** Yes. It is indeed very liberating to not be in government anymore and to be an NGO. Yes, I can comment.

I believe that subsection 20(6) is not used nearly enough. To me this seems a clear case of things in the public interest, and who better to arbitrate what the public interest is than the Standing Committee on Health and the Parliament. With those bodies behind him, I'm sure the Minister of Health would feel much more comfortable in saying, yes, I'm going to implement this measure.

[*Translation*]

May I make one last comment, Mr. Chairman?

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Actually, he's over his time.

Mr. Thibault.

**Hon. Robert Thibault:** Thank you. I'll try to be brief.

Mr. Collishaw, I also have concern with your suggested report, but not with the content or the intent. We've brought forward this set of regulations, which we're studying, and we've invited the industry to appear and they chose not to. You can draw whatever conclusion you want from that.

Now you're adding another dimension to it that we haven't consulted on. If we agree with you on the one-sided pitch, because we haven't heard from the other side.... I don't know whether some of those other elements would be detrimental to competition between companies. I haven't got a clue. I'd like to hear that before making that sort of decision.

You made a comment that made me nervous, though. Like Madame Demers, I have struggled with cigarettes, and it will be a year next month, having experienced only a few problems during the year. You said that this test would tell us whether they were mutagenic or carcinogenic. I always assumed that all cigarettes were, and that's why I dropped them. If there are some out there that aren't, I want to know.

**Some hon. members:** Oh, oh!

**Mr. Neil Collishaw:** On your last comment, you're absolutely right, they're all mutagenic and they're all carcinogenic. I think these tests will confirm that and will give us real data to demonstrate that. If by chance one or two were not, that would be newsworthy, and we wouldn't want to talk about that. That is indeed something we would look for.

[*Translation*]

I feel compelled to talk a little about the report. I accept the comments made by Mr. Ménard earlier on. I sincerely regret the assumption made by some that we wanted to present a ready-made report. That was not my intention at all. As we stated, it is simply a draft, to help you get the discussion started.

I completely agree with you. If the discussion on the recommendation to make to the minister regarding the Access to Information Act is ongoing, all the better. It is here, in Parliament, that we expect to see debates, discussions, in other words, democracy. This is only a document that should serve as a starting point for discussion, it is not meant to force you to accept the point of view of an NGO. It is strictly information at your disposal.

● (1230)

[*English*]

**Hon. Robert Thibault:** As a point of information for the committee, the House leaders are now discussing the question of voting on both of the regulations concurrently. You might want to discuss that among your colleagues.

**The Vice-Chair (Mr. Rob Merrifield):** Okay. Fair enough.

Mr. Carrie, you have a short question.

**Mr. Colin Carrie:** I have a question on compliance with the new reporting requirements. Who reviews the reports now, and have they been of a very high standard?

**Mr. Denis Choinière:** Within the tobacco control program at Health Canada, we receive the reports and we review them. For some companies the compliance level has been very good, but for others it has not. We think that overall compliance is between 10% and 20%. So right now a lot of companies are not in compliance.

**Mr. Colin Carrie:** How are the inspections undertaken to verify the accuracy of the reporting, and do you have the resources to do that? The figure of 10% or 20% isn't a great number.

**Mr. Denis Choinière:** No, it's very poor compliance. It's probably the poorest compliance for all the areas under the Tobacco Act and the regulations. We have about 60 field staff across the country. Most of the manufacturers and importers are located in the Ontario and Quebec regions. That's where most of our inspectors are located, and they do visit on a regular basis those places that import and manufacture.

**Mr. Colin Carrie:** Are these employees of Health Canada? Do you work with provincial and municipal authorities?

**Mr. Denis Choinière:** Under the tobacco reporting regulations, it's only the federal tobacco inspectors who do the work.

**Mr. Colin Carrie:** Okay. You have 60.

**Mr. Denis Choinière:** About 60, yes.

**Mr. Colin Carrie:** All right. Thank you.

**The Vice-Chair (Mr. Rob Merrifield):** I want to thank you for coming and sharing your wisdom with regard to the regulations, both the Physicians for a Smoke-Free Canada, as well as Health Canada.

I have a little follow-up, if the committee will allow me one question. You said there was only 20% compliance on the reporting side of it. What's the penalty for non-compliance?

**Mr. Denis Choinière:** It varies. In some places, we can issue tickets of $500 plus administrative fees. If we lay charges under criminal proceedings, then it can be much higher. If you give me a few minutes, I could find it.

**The Vice-Chair (Mr. Rob Merrifield):** That's fine.

**Mr. Denis Choinière:** I think it's $50,000, but it could be higher.

**The Vice-Chair (Mr. Rob Merrifield):** Okay. Thank you very much.

I want to thank you for coming. As a committee, we'll take a look at your comments with regard to a motion moving this forward, as far as the regulations in the House go.

Thank you very much.

I think we'll entertain a motion at the present time. I'll read the motion that we have here, but I think we'd want to amend it. The motion is that the chair report the proposed regulations amending the tobacco reporting regulations to the House of Commons, as proposed, and without amendment.

I actually believe there should be some amendments in light of some of the testimony. I'll open the floor up to that.

[*Translation*]

**Mr. Réal Ménard:** We may not have to adopt it right now, unless we can come to an agreement immediately. I think that we should include two amendments.

First, instead of using the word “manipulate”, I think we should say, as Ms. Demers suggested, “use” or “*utiliser*”.

Second, I'd like it if we could receive wording to the effect that, if at all possible, in consideration of business competitive pressures within the industry, the department be invited to make public as much information as possible. There is some wording I wouldn't be comfortable with. However, I would like us to request that toxicity studies be made public. Our research staff could perhaps come up with a proposal.

[*English*]

**Hon. Robert Thibault:** *La première—*

**The Vice-Chair (Mr. Rob Merrifield):** Are you on the same line?

**Hon. Robert Thibault:** Yes.

**The Vice-Chair (Mr. Rob Merrifield):** Okay.

[*Translation*]

**Hon. Robert Thibault:** I agree with the first part of your suggestion, to use another word than “manipulate”. I have no problem with that, so long as we all agree.

I have some difficulty when it comes to the second part of your suggestion. I'm wondering whether this aspect of regulations falls under our mandate. In fact, the minister is being asked to interpret the bill while using a loophole, like clause 20, part of another bill, to include that in the regulations. I think that it is prohibited to use regulation to go beyond the scope of privacy legislation.

● (1235)

**Mr. Réal Ménard:** That is not what I meant. I would like to see something that does not breach regulations nor legislation, including the Interpretation Act. In adopting a report, we can specify that whenever practical, while respecting legislation and regulations, information be made public as much as possible.

**Hon. Robert Thibault:** Outside of regulations.

**Mr. Réal Ménard:** What I find unrealistic in the wording, is that we seem to be denying the existence of competition between the industries. I would not wish for anyone to be a smoker. I personally have never smoked. I have other faults, but I've never smoked. However, one cannot deny that there are competitive requirements in the industry. We have to bear that in mind as well.

I don't know if the Chair wants us to adopt the motion straight away. Perhaps it has to be done. If not, the researcher could, for our next meeting, draft a list of proposals.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** This is what I was going to propose. If our legal staff could actually give us some indication as to the change in the wording, we could bring it to the next meeting so that we would all be clear on exactly what we were voting on. That would maybe be the appropriate thing to do. I think we need to come up with a consensus, if that's what we want to do, to give direction.

**Hon. Robert Thibault:** If I understand correctly, there's no question of the privacy of the information using clause 20 or whatever. That would then be part of the regulation. That would be an additional paragraph within our report where we'd ask the minister to use that clause.

**The Vice-Chair (Mr. Rob Merrifield):** I'll ask.

Is that the way we're seeing it?

**A voice:** That's what I heard.

**The Chair:** That's what you heard. Are we okay with that?

Mr. Fletcher had a comment as well.

**Mr. Steven Fletcher:** Yes. I support my colleague from the Bloc on this and I agree with the chair.

**The Vice-Chair (Mr. Rob Merrifield):** So I think everybody's clear on what is to come forward. We'll bring it forward at the beginning of the next meeting. We'll have a quick vote on it, and away we go. Does that sound fair?

No, I don't think we need to go in camera for the committee business. No, I don't see any point in that.

I think there is one more issue.

Réal, you have the floor.

[*Translation*]

**Mr. Réal Ménard:** I would like to ask the committee for its understanding and indulgence, its camaraderie in fact. The meeting scheduled for Wednesday at 3:30 p.m. is a problem for me. However, I am available Thursday at eleven or Tuesday between 5:30 and 7:30 p.m.. Moreover, Wednesdays, at least until mid-April, will be difficult for me, not to mention the fact that the government will be striking an ad hoc committee, it may not be wise to discuss this now, but there will be an increase in the number of committees and in committee business. I know that Mr. Robert Thibault wanted to consult with the chair and her other two colleagues.

Can we decide to find another time slot than Wednesdays? Could we agree right now on moving next Wednesday's meeting to Thursday at 11 a.m.? We will then be able to make a final decision, both witnesses are able to travel, since they are public servants. It isn't a problem. Mr. Thibault can consult with his colleagues and we will not make a final decision right now. We won't meet Wednesday, but rather Thursday at 11 a.m. and, following Mr. Thibault's consultations with his colleagues, we will find a more permanent solution for our meetings.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** I think the next meeting is scheduled for one o'clock, or for Monday at 3:30.

[*Translation*]

**Mr. Réal Ménard:** Mondays are not a problem for me. Wednesdays are.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** No problem. We can talk more fully about it at that time, if you want, but I want the clerk to explain to the committee why we are set at these times and the difficulties in changing them. That may help us in whether we want to proceed with it or not.

● (1240)

[*Translation*]

**Mr. Réal Ménard:** That's what we were told last time. The Chair had changed the date because she didn't want to take the plane at 5:30 p.m. Complications will always arise. However, we always manage to find a room. I wouldn't want the argument to be that it isn't our time slot.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** No, I understand that, Réal.

**Mr. Steven Fletcher:** Mr. Chair, I value the Bloc's contribution to this committee. There may be difficulties in rescheduling, with logistics and so on, but I think participation of all members is more important and we'll work out the logistics, whatever they may be.

**The Vice-Chair (Mr. Rob Merrifield):** Okay.

Let's have the clerk explain what the schedule is for at least this next month, and maybe the complexities of what we're looking at here.

**The Clerk:** On the calendar I gave you, all the witnesses for February are confirmed. For example, on February 9 we'll have four people. They've all agreed for February 9, which is the Wednesday. For the one with the Auditor General, it's Madam Fraser herself who has agreed to come for those two days.

I can try to change it. The difficulty with that is rescheduling the witnesses. For example, on February 9 there are two witnesses coming from Calgary and two from Toronto. If I book another room on the Thursday and I get bumped Wednesday, I can't do anything, because it's not our time slot.

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Thibault wants to comment.

Réal, is it a conflict in your schedule or is it just a busy day? If we kept it on Wednesday, is it just impossible for you to come?

[*Translation*]

**Mr. Réal Ménard:** Last time, we changed the schedule because the chair didn't want to take the plane. When it comes to witnesses, you call them and they appear when they are available. I am Vice-Chair of the Standing Committee on Health, I don't want to impose it on anyone. We will find the rooms. We always managed to do so during the last session when there was a scheduling change. We have to be able to agree amongst ourselves. It's the auditor's duty to be available to Parliament.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** The clerk is just explaining that one of the problems—well, it's not a problem—one of the challenges, let's say, is that there are only four rooms where we actually have wheelchair accessibility for Mr. Fletcher, so that is another consideration we have.

[*Translation*]

**Mr. Réal Ménard:** Did Mr. Fletcher have any difficulty in coming today?

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** There are only four, and two of them are in the Centre Block, so that becomes a bit of a problem.

[*Translation*]

**Mr. Réal Ménard:** Let's give it a try. Let's not assume that it won't work. Let's try it. We were all here Thursday at 11 o'clock.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Thibault.

[*Translation*]

**Hon. Robert Thibault:** Mr. Chairman, we could ask the committee clerk to see if it is possible to set aside a room on a regular basis. If so, and if she doesn't mind, she could contact a member from each party, and we could check with our colleagues if we agree to change the schedule. We cannot commit today.

For your information, I would like to raise another point regarding our schedule.

[*English*]

Yesterday I went to the public accounts committee, where we dealt with these points specifically, that the Auditor General would be dealing with—

**The Vice-Chair (Mr. Rob Merrifield):** Were they approached to make a decision on money?

**Hon. Robert Thibault:** No, it was on the management of the federal drug program.

I would suggest to my colleagues that you discuss with your colleagues who were at that meeting whether you think it's worthwhile that we repeat that exercise. I think the answers that were given there were very good and that they answered the questions of all parties. We might not want to use two meeting days on the question of the Auditor General. I'd ask you to have those consultations with your colleagues.

**The Vice-Chair (Mr. Rob Merrifield):** Mr. Fletcher.

**Mr. Steven Fletcher:** My gut reaction to that is that I would like to have the Auditor General here, and there are many issues I'd like to talk with her about.

**Hon. Robert Thibault:** The Auditor General would be coming only for Health Canada. She wouldn't be coming for Gomery or things like that.

**Mr. Steven Fletcher:** Oh, no. I understand that.

**Hon. Robert Thibault:** I'm just suggesting that you talk with your colleagues, who might not think it's worthwhile.

**Mr. Steven Fletcher:** I wouldn't mind asking her about Gomery.

**Some hon. members:** Oh, oh!

**The Vice-Chair (Mr. Rob Merrifield):** Ms. Crowder.

**Ms. Jean Crowder:** I'm going back to the scheduling. I support Mr. Ménard's request. I have a challenge with Thursday morning at 11 o'clock because the Standing Committee on the Status of Women has already requested a move to that time slot and I'm on that parliamentary standing committee.

**The Vice-Chair (Mr. Rob Merrifield):** Our normal dates are Monday and Wednesday.

**Ms. Jean Crowder:** Absolutely, but I understand that the request was to change it to Thursday morning at 11, and I'm off on another standing committee at that time.

**The Vice-Chair (Mr. Rob Merrifield):** Yes, this is going to be difficult, but nonetheless we can talk about it on Monday and see what the clerk can come up with. Is that fair?

Now, there's one other motion we need to make with regard to the funding for the February 9 meeting. We have some witnesses coming in and there's a proposed budget in the amount of $9,100 for the meeting with the Patient Safety Institute and the author of “The Canadian Adverse Events Study”. We're asking that it be adopted and that we send this budget to the Liaison Committee's subcommittee on budgets.

So it's a motion, moved by Réal and seconded by Mr. Thibault.

(Motion agreed to)

● (1245)

**The Vice-Chair (Mr. Rob Merrifield):** We can adjourn at this present time, I think. Everything is done.

[*Translation*]

**Mr. Réal Ménard:** We said we would try to find a room for Thursday. Is it a problem for us to meet at 9 o'clock this week?

**Hon. Robert Thibault:** I can't answer that before having spoken to my colleagues, I don't know what their schedule is for Thursday. Perhaps some have the same problem as Ms. Crowder.

**Mr. Réal Ménard:** No, she's free on Thursday mornings at 9 a.m..

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Wednesday might be a tough one. We have these four coming in from out of town, so they've probably booked their flights already.

[*Translation*]

**Mr. Réal Ménard:** I want us to be clear on this. We said that the clerk was going to check to see if it was possible to find a room. It isn't an issue when the chair wants to change the schedule, but when we do, it is. We could stick to the rules as well, if we wanted to.

Today is Thursday. Let's remember that when it comes to witnesses, Toronto is not Sub-Sahara in Africa. They'll call back. I understand we have asked the clerk to check if Thursday was suitable. She will call you and check if it suits you.

[*English*]

**The Vice-Chair (Mr. Rob Merrifield):** Actually, we made changes for this meeting at your request. It wasn't the chair who requested the change today; it was actually you. I just want to clear that up.

**M. Réal Ménard:** But in another session we changed all the meetings for the chairperson because she didn't want to take the flight at 5:30. We have to remember that.

She has to check.

**The Vice-Chair (Mr. Rob Merrifield):** For the one on Wednesday, she's saying that she might be able to find another room, but the problem becomes the difficulty of having witnesses coming from—

**Mr. Réal Ménard:** Don't assume. We have to check.

**The Vice-Chair (Mr. Rob Merrifield):** Fair enough.

The meeting is adjourned.

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