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Mr. Brent St. Denis

Standing Committee on Industry, Natural Resources, Science and Technology

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● (0905)

[*English*]

The Chair (Mr. Brent St. Denis (Algoma—Manitoulin—Kapuskasing, Lib.)): *Bonjour, tout le monde*. Good morning, everyone.

I'd like to call to order this October 25 meeting of the Standing Committee on Industry, Natural Resources, Science and Technology.

We're pleased and honoured to have with us this morning the Honourable John McCallum, Minister of National Resources and Minister of National Revenue.

I've let the minister know that just before we get to his presentation, we'll need a couple of minutes to deal with a motion that was properly tabled by Michael Chong, having to do with TPC. You should all have a copy of his motion. I have asked Michael to consider a friendly amendment of two words in the motion, and he can explain whether he agrees or not.

This is a motion with respect to TPC. In the second line he uses the word “demand”, and I've asked if he could use the word “request” or “strongly request”. He'll agree or disagree with me. In the last line he uses the words “illegal payments”, and I've asked him to consider the use of the word “improper payments”.

With that, Michael, I'll let you speak to your motion. Hopefully, we can then dispense with it fairly quickly.

Mr. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Mr. Chair.

I've already made the request numerous times that the minister release this information, and he has not been amenable to that request, so I'd like to keep the word “demand” in there. As far as the second word is concerned—changing the word “illegal” to “improper”—I would consider doing that if my honourable colleagues across the way here would then vote for the motion.

The Chair: I think it's a chance you have to take.

Mr. Michael Chong: If that word change would make it amenable to voting for the motion, then I would change it. Otherwise, I think it should just stand as it is.

The Chair: Well, then, we'll have to leave it the way it is. I don't think we can...Brian?

Mr. Brian Masse (Windsor West, NDP): Could I get a copy of the motion, please? It's my fault; I came in a few minutes late.

The Chair: Yes, we'll get you one.

Mr. Brian Masse: Thanks, I've got it, Mr. Chair.

The Chair: Okay.

Are there any comments on Michael's motion?

Mr. Lynn Myers (Kitchener—Conestoga, Lib.): What were the changes?

The Chair: There's no change in the motion. I just talked to Michael about a couple of words, changing the word “demand” in the second line to “request”, and changing the word “illegal” in the last line to “improper”. Michael has spoken to that. He wants to leave it the way it is, with the words “demand” and “illegal” in there.

Did you want to speak to the motion at all, Lynn? Does anybody else want to speak to the motion?

Jerry.

Hon. Jerry Pickard (Chatham-Kent—Essex, Lib.): I didn't have a chance to read it.

The Chair: We'll give Jerry a chance to read it.

We'll keep Jerry on the list. Does anybody else want to speak to it?

Jerry.

Hon. Jerry Pickard: I think the motion is out of order, Mr. Chair, and I would ask you to rule it out of order on the basis that there is no reason to say anything illegal has occurred. It's absolutely ludicrous that they would put a motion on the floor to say actions were illegal when they have no proof of illegality.

The Chair: Michael, do you want to deal with that?

Mr. Michael Chong: Yes, Mr. Chairman. This is not conjecture here, this is fact.

Hon. Jerry Pickard: Proof of illegal activity?

The Chair: Jerry, let Michael deal with it, please.

Mr. Michael Chong: Raymond Chabot Grant Thornton was engaged by the government to conduct an audit of some 47 companies. The audits of 33 of those companies were completed. Eleven of those audits were found to be in breach of contract, in the opinion of Raymond Chabot Grant Thornton, and were referred to Industry Canada's legal services group and their audit and evaluation branch for review.

Both those branches, both those arms of the department, have certified that these five companies were indeed in breach of contract. The five companies have been sent demand letters requesting that the money be repaid. A breach of contract in this country is illegal.

That was in the testimony given by the executive director of Technology Partnerships Canada and the head of AEB in committee last week.

The Chair: Jerry, do you have any further comment?

Hon. Jerry Pickard: Mr. Chair, I would reiterate what I just said. Someone in a contractual situation may be in breach of contract; this does not make the action illegal. I think any kind of contract could be breached in many different ways for many different reasons. When we start talking about illegal activity, I think we're going over the edge on this one, quite far. Quite frankly, I think the wording is inappropriate, and I think that we as a committee must take the position that if circumstances were not as they should have been, requests should be made to correct any contractual problems that are there. For this committee to accept the motion, we also have to accept the premise that there were illegal activities, and I think, quite frankly, that's out of order.

The Chair: Michael.

Mr. Michael Chong: Thank you, Mr. Chair.

First of all, the wording is not “illegal activities”, but “illegal payments”. Secondly, in this country, as in many other countries, the law of contracts, both in common law and statute law, is one of the most fundamental structures of the rule of law, and a breach of contract is illegal. I don't understand how my colleague across the way can state in committee that a breach of contract is not illegal. A breach of contract is illegal.

The Chair: Colleagues, I find myself trying to arbitrate some semantics.

As much as I'm not happy with the word “illegal”, Michael, I do think the motion is in order. But just to go back to my request, though you're not obligated to do this, would you again consider the word “improper” instead of “illegal”, just to make everybody feel more comfortable? It still gets your point across.

Mr. Michael Chong: Mr. Chair, I'd rather leave the wording as it is, and I would ask that you put the question. We've had this question for a week now, and I think everybody has had ample time to consider it.

● (0910)

The Chair: Well, based on my knowledge of the rules, the motion is in order. I will put the question.

Hon. Jerry Pickard: Mr. Chair, I would ask that we seek legal advice before we accept that motion as is.

The Chair: I was going to say that I'll put the question, with the proviso that I will seek the advice of the Clerk, and we'll reserve the right, if the Clerk of the House gives advice to the contrary, to bring it back. Okay, Michael?

Just so that we can go on to Mr. McCallum, I'm going to call the question as put, but with the provision that I will seek the advice of the Clerk of the House on it and bring it back if necessary.

All in favour of the motion? Seven....

Yes, Denis.

Hon. Denis Coderre (Bourassa, Lib.): How can you seek legal advice after a vote? Their game is to have a vote, no matter what, so I would say that we should wait for the legal advice and then have the vote.

Mr. Michael Chong: I have a point of order. My understanding of the rules is that questions that have been put cannot be interrupted.

Hon. Denis Coderre: I asked for a point of clarification.

Mr. Michael Chong: There's no such as as a point of clarification.

Hon. Denis Coderre: Come on, Michael.

The Chair: Denis, my knowledge of the rules is not perfect, but based on what I do know, even though I'm not happy with the word “illegal” in there, the motion is in order. Anyway, the motion has been available to members for a while. I have no information to the contrary, except the opinions of members, which I happily accept.

Based on what I know, the motion is in order, and I've called the question. I can recall it, but basically I saw that it passed, because we had members on this side, over to my left, who supported it. But just for clarification, I'm going to call the question once more—

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): We should have a recorded vote.

The Chair: Okay, a recorded vote on Mr. Chong's motion, so I'll turn this over to clerk.

(Motion agreed to: yeas 7, nays 4)

The Chair: If there's any other business, we'll do it at the beginning of the next hour.

I want to say thank you again to Minister McCallum, the Minister of Natural Resources and Minister of National Revenue, for being here this morning in response to the committee's motion on gas prices. We've lost a little bit of time, and as always, I want to get as many members as possible in, or all of them in, so I'm going to have to be very tight with the time, Mr. Minister, and I hope your opening remarks are five minutes, give or take.

With that, we'll invite you to start.

Hon. John McCallum (Minister of National Revenue): Thank you very much, Mr. Chair.

It's a great pleasure for me to appear here for the first time as Minister of Natural Resources. I believe that copies of my remarks have been distributed in both languages, and I will heed your suggestion to not talk for too long.

[*Translation*]

Many factors have led to the recent run-up of crude oil and gasoline prices. These include hurricanes in the Gulf of Mexico, uncertainty about future oil supplies and concern about insufficient production and refinery capacity which is operating at close to maximum utilization rates worldwide. There has also been an unprecedented jump in oil demand, mainly in China and India, coupled with speculation by investors.

Canadian gasoline and distillate prices have already started to recede, but prices remain vulnerable to upward pressures. I want to reassure this committee that, even though consumers may well face higher prices in the near term, we do not have supply problems in Canada. In a nation that depends as much on energy as Canada does, this is a very important reassurance.

[*English*]

Mr. Chairman, I think the committee will agree there's little scope for a made-in-Canada solution to a challenge that is profoundly international. Nevertheless, there are three things we can do to influence energy prices indirectly. We can help to increase supply, decrease demand, and change the market environment in a way that influences both supply and demand. My department's programs adjust these challenges for the long, medium, and short run.

For the long run, as an example, we're consulting with industry, the provinces and territories, and concerned Canadians to address energy challenges facing Canada. A new sustainable energy science and technology strategy is being developed that will lay the groundwork for transformative technologies for the production and use of conventional and alternative energy. So I think in the longer term, a critical component is a program to harness technology to increase our energy efficiency and allow energy production to continue, while at the same time reducing adverse environmental effects.

For the medium term, we wish to create market framework laws that encourage sustainable development of energy resources. Smart regulation will create a more effective environment in which business can make investment decisions.

In the short term, Mr. Chairman, many of our policies and programs emphasize ways to reduce the demand side of the equation. We encourage Canadians and provide them with incentives to reduce energy consumption.

In the interest of brevity, let me just conclude with the five main components of the package the government announced on October 6.

First, there is $170 million over the next five years to expand the already successful EnerGuide for Houses retrofit incentive program. This is in addition to $225 million we announced for the program as part of budget 2005. As a consequence, we expect 750,000 homes to be retrofitted, rather than 500,000, as had originally been announced.

Related to this—and I believe very importantly—we are working with CMHC to provide free audits of homes of low-income Canadians, and we will pay the full cost of resulting energy efficiency improvements that are made, up to $3,500 in southern Canada and $5,000 in the north. To me, this is a really important program because it's focused on lower-income Canadians, who suffer much more than middle- and higher-income Canadians from high energy prices, in the sense that they spend three or four times as much of their income on energy as do higher-income Canadians. This program will provide free audits and free assistance in terms of upgrading the energy efficiency of their homes.

Third, we are providing additional financial incentives to encourage Canadians to install modern efficient heating systems, and we are providing a corresponding top-up incentive for households heating with electricity that invest in renovation that reduces energy consumption.

The fourth involves hospitals, schools, universities, and other levels of government. These institutions have limited budgets, and we have programs that will assist them in improving their energy efficiency.

Finally, as recommended by this committee, we're creating the office of petroleum pricing information, which will give Canadians access to timely and relevant information on energy prices. They will also be able to gain a better understanding of exactly how the petroleum markets work and why the prices are at the level we see today.

I'd like to just conclude, Mr. Chairman, by commenting on a G-20 meeting in China I recently attended. I was the only energy minister in a room full of finance ministers. I made the point—and I think it was well received—that governments should refrain from the temptation of doing the easiest thing, which is to reduce the tax on the price at the pump. I think few governments have done that, and I think that is commendable.

● (0915)

I think the way to go is to focus on the medium term and to adopt measures to increase energy efficiency, especially for lower-income people. That is indeed what we have done. By focusing on energy efficiency, we save money for Canadians through reducing their heating costs while respecting our environmental objectives. We are reducing our dependence on fossil fuels rather than increasing it, as would be the case if we lowered prices through tax reductions. So I believe this is the right way to go. I believe there was a consensus at the G-20, among countries representing a majority of the people on this globe, that this was the right way to go.

I'll leave it at that, Mr. Chair, and welcome any questions from the members of the committee.

● (0920)

The Chair: Thank you, Mr. Minister.

We're going to start with John, please, for four minutes.

Mr. John Duncan (Vancouver Island North, CPC): Thank you very much.

Thank you, Minister. I would like to beg to differ a little bit on your take, from the standpoint that we do have supply problems in Canada. We certainly have some supply problems within Ontario. We have a major problem in the Mackenzie Valley with that project.

The 2005 federal budget contained an additional $150 million over four years to improve the regulatory process for the Mackenzie Valley pipeline. This pipeline project would benefit everyone. Right now the federal government in Canada is allowing the State of Alaska to progress at rapid speed. This is threatening to overtake the Mackenzie Valley project, which could push it back for 20 years or more.

Why have you let this happen? Why has the government not declared the pipeline to be in our national interest? Why did your predecessor promise to clarify the regulatory framework nine months ago, and eight months ago the Prime Minister promised the same thing to the Governor of Alaska in terms of the Alaska-Canada pipeline? We've done nothing on any of those fronts. This is becoming a national embarrassment. Where are we going? Why are we allowing our Mackenzie Valley project to lapse into a black hole?

The Chair: Thank you, John.

Minister.

Hon. John McCallum: Thank you.

First of all, with all due respect, I did not say Canada faced supply problems. It's quite the contrary. In the text—-

Mr. John Duncan: We do not have a supply problem, sir.

Hon. John McCallum: That's right.

Mr. John Duncan: I beg to differ.

Hon. John McCallum: I thought you said we did. In my text, just to clarify, I said, “I want to reassure this Committee that, even though consumers may well face higher prices in the near term, we do not have supply problems in Canada”. I am seized of the Mackenzie Valley pipeline. As you said, it is in Canada's national interest that this proceed. It is in our national interest in particular that it proceed before the Alaska pipeline. Otherwise, if the two projects happen at the same time, the demand for labour, steel, and other materials would be overwhelming. So it is fundamentally in our interest to have this proceed expeditiously and prior to the Alaska pipeline.

We are working on this. Only yesterday I met with the three major producers behind the Alaska pipeline. This evening we're having a meeting of the cabinet committee on the pipeline. So we are definitely seized of the matter, and I'm informed that the scheduling is still such that the Mackenzie Valley pipeline is well ahead of the Alaska pipeline.

But there are complex issues involving large numbers of aboriginal peoples, and their interests must be respected and accommodated. It is a delicate matter of negotiation, and one cannot negotiate in public. But I am saying that I certainly agree with you fully that it is in Canada's national interest that the Mackenzie Valley pipeline proceed. The government is seized of that issue.

● (0925)

The Chair: Thank you very much.

Mr. John Duncan: Is my time up?

The Chair: With everybody's indulgence, I want to try to keep it really tight to get everybody in. It's a little over four minutes.

Mr. John Duncan: I just want to ask a simple question. Have you finished formal consultations with the governments of the Yukon, British Columbia, and Alberta on the Alaska-Canada line?

Hon. John McCallum: Those consultations will not be over until the deal is done. They are ongoing.

The Chair: Thank you for your indulgence, colleagues.

Serge.

[*Translation*]

Mr. Serge Cardin (Sherbrooke, BQ): Good morning, Mr. Minister. As regards energy as such, you mentioned programs, including some that already exist. Let's look at the EnerGuide, which is a concrete example.

I have received several complaints about the EnerGuide program. I really wonder about the relevancy of the program, which was launched on October 21, 2003. I would like to know what amounts were earmarked for the program, what the status is, and if the program is really meeting the expectations of people who want to save as much energy as possible.

Hon. John McCallum: I find the program very relevant. As I said, efficient energy consumption is crucial in economic terms. It helps people save money, and environmentally, it's good for the planet. The amounts we have just announced under this program are considerable: $170 million for the base program. It will cover 750,000 people or homes, instead of 500,000.

Mr. Serge Cardin: I apologize for interrupting you, Mr. Minister. The advantage of committees is that we can interrupt when we realize that a minister is not really answering our question.

I want to know the results of the EnerGuide program to date. What are they? I am questioning the relevancy of the program. People are not able to obtain the services they want. Even if you were to inject $200 or $300 million into the program, if it is not spent, it will have no effect on energy savings. Perhaps the people from the department have the figures for the program.

To date, what are the results of this program, which has existed now for almost two years?

Hon. John McCallum: I apologize, I was not trying to dodge the question. I am going to tell you something, then I will ask the officials to continue.

A year or two ago, there were problems in Quebec. For example, participation in the evaluations was low; it represented perhaps just 10 per cent of the population. We have taken steps to improve the situation. The most recent figures show that in Quebec, participation in the evaluations is now more than 20 per cent. That means that at least the people of Quebec are now participating.

Now, if you would like additional details, I will ask Ms. McCuaig-Johnston to continue.

Mrs. Margaret McCuaig-Johnston (Assistant Deputy Minister, Energy Technology and Programs Sector, Department of Natural Resources): Thank you very much. Since the launch of the program, 22,000 people in Quebec have used it. I will introduce Louis Marmen, who can explain the recent changes in how the program is managed in Quebec. Mr. Marmen is director of the EnerGuide program.

Mr. Louis Marmen (Director, Housing and Equipment, Office of Energy Efficiency, Department of Natural Resources): Good morning. As Ms. McCuaig-Johnston just said, program utilization in Quebec has increased significantly. In the first few years, the percentage of evaluations in Quebec was quite low, and it took some time for demand to increase by about 5 per cent. Last year, it was about 15 per cent. This year, 25 per cent of the evaluations are being done in Quebec, whereas 22 per cent of the stock is there. So Quebec is now up to speed in terms of evaluations.

Since October 2003, we have conducted 130,000 evaluations as part of the EnerGuide program. We have provided about 30,000 grants totalling $20 million. At present, in all of the large populated areas of the country, it takes between three and five days to obtain this service.

● (0930)

[*English*]

The Chair: Continue, but please it wrap up there.

[*Translation*]

Mr. Louis Marmen: In conclusion, the program is working very well. The demand for it is increasing. As I said, there have been 130,000 evaluations conducted since October 2003, and this year, we anticipate at least 90,000 evaluations, possibly 100,000. So demand is increasing very quickly.

The Chair: Thank you, Mr. Marmen.

Thank you, Serge.

[*English*]

We're going to keep it short.

Denis.

[*Translation*]

Hon. Denis Coderre: Thank you, Mr. Chairman.

Mr. Minister, you also have the advantage of being an economist. You said earlier that there cannot be a made-in-Canada solution.

Canada has a very large energy capacity. We could, of course, talk about renewable energy, wind energy, and all of the options. Nevertheless, let's stick strictly to the issue of the day: fuel.

Although we do not have storage problems, according to some, we have problems with refining. In fact, the price is based to a larger extent on refining than it is on storage, I would say, since we have the capacity.

Now, we have learned that there will be an additional refinery in Alberta, costing approximately $7 billion.

For the average Canadian—because I think that is also important—if we answer these questions and, despite everything, the price of fuel is high, do you not think, if we focus strictly on supply and demand—and I fully agree with you that the medium and long term are both very important, because we must ensure that we are responsible in terms of our consumption, pollution, etc.—that we could have done things differently, and that basically, we kind of have the feeling that with all of our wealth, as a producer country, there is something fundamentally unfair about the price as such, and that perhaps we should look at the refinery side? There may be something that we can do on that side.

That is the first part of the question.

The second part of my question is as follows: I agree that we must help the most disadvantaged people, and that being in government means making choices. But what are you going to say to people in the regions who are working in very specific industries that will have a major problem? I'm thinking about truckers, about taxi drivers, and so on. Basically, this is a major economic issue, because it will have an impact. We agree about working in the medium term, but in the short term, there are situations that we must respond to.

So do you not agree that we should target—"target" is a bad word, but you see what I mean—petroleum companies, their refining capacity, and their production capacity in light of the current situation? In short, could something not be done, without necessarily talking about a made-in-Canada solution?

Hon. John McCallum: Thank you very much. When I said that we could not have a made-in-Canada policy, I meant that the idea was not to control prices directly. At the same time, as I said earlier, there are many things we can do. For example, in the short term, we will soon be providing money to low-income Canadians, which will help them.

As for the behaviour of the petroleum companies, the office of petroleum pricing information will enable people to obtain information. They will be able to know why gas prices have changed. Information is power. So if people have the information, they will be able to act. Consumers and the media will be able to expose cases where people have not behaved properly. The Competition Bureau will have more authority to act. So we will have more ammunition and more information to target people who are not behaving properly. The measures that we have taken will also help people to reduce the costs of heating their homes. We have implemented very concrete measures.

Have we eliminated everyone's problems? No. There are budget constraints, and there are other government priorities. However, I think that this package of measures will considerably help a large number of Canadians, especially those with a low income.

● (0935)

[*English*]

The Chair: Merci.

Brian, Brad, and Lynn are next.

Brian, please.

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

Thank you, Mr. Minister, for appearing here today.

I think I'd like to start with some comments from you with regard to your trip to China, as mentioned in your commentary. What was the motivation for that?

Second, what would Canada's supplying of gas and petroleum products to China do for their industrial development?

Hon. John McCallum: Thank you for that question.

I went in a double capacity. I was representing Ralph Goodale at G-20 meetings for two days, and the other two days I spent in my capacity as energy minister. I spoke to many Chinese officials and the heads of the two major Chinese oil companies. This was in the context of the strategic partnership Canada recently signed with China. I was putting meat on the bones of that partnership.

What I learned, not surprisingly, is that China has a voracious appetite for energy around the world. It was indicated to me that it would not be an unreasonable target for the Chinese companies to import from Canada as much as 400,000 barrels of oil per day within seven years. This was their prediction. I think it's fundamentally in the national interest of Canada to expand our markets and not necessarily put all our eggs in one basket. That was the purpose of my trip.

I worked very closely with the provinces. I was in contact with my Alberta counterpart before I left; after I came back, I think we were on the same page, and the energy companies—four or five of the CEOs of Canada's biggest energy companies—will be in Beijing next month talking to the Chinese.

I think this is a national effort involving federal and provincial governments and the private sector, each working in their appropriate jurisdictions to pursue this diversification industry initiative, which is definitely in the national interests of Canada.

Mr. Brian Masse: Has there been any work done in terms of the consequences to Canadian manufacturing from this, if we're actually going to be providing a supply to their industries, and perhaps a reduced petroleum product?

I come from a region of Windsor where, for example, automobile manufacturing will go back between Michigan and Ontario several times to be constructed. On top of that, we're losing thousands upon thousands of jobs to China and we're slipping in terms of our world production for auto manufacturing. In fact, many of the companies are relocating into China. They're using subsidized labour and subsidized environmental degradation; they're doing incentives so that the government procures those plants, versus that.

What has been done on this government's side to look at manufacturing? Once we lose our manufacturing base, we can't get that back, whereas a petroleum influence.... For example, where the dollar is right now has also brought our competitiveness a very difficult strategy, as it's over 85¢ on a regular basis now. We're losing our tool and die industry; all the way from Ohio to Windsor, it has been going to China related to that. What is being done on the government side for the consequences of becoming a supplier to fuel the beast that's taking our jobs from this country?

Hon. John McCallum: The reason I focused on energy and other resources when I was in China is that I'm the Minister of Natural Resources. As a government, our objective with China, this emerging global super-economy, is to broaden and deepen our economic relationships across the board—not just in resources, but I tend to stick to my portfolio, which is why I was focusing on resources.

In general, the Prime Minister has indicated that the emergence of India and China is one of two major challenges and opportunities facing this country, the other being an aging population. Yes, the emergence of those countries poses challenges for manufacturing sectors of industrial countries around the world, but it also represents opportunities. I think the response of Canada is to have a competitive economy and to provide strong support for post-secondary education, because we're going to compete with China not on the basis of wages but on the basis of a highly qualified workforce.

Many measures are being undertaken by the government to situate our companies well in response to this global challenge. Most of those, in terms of manufacturing, are not in my department, but I would also say that although the export of 400,000 barrels a day is a lot, it's a small amount compared with China's total needs. That will have no significant effect on China as an emerging world industrial power.

● (0940)

The Chair: Thank you, Brian, Mr. Minister.

We'll go to Brad, Lynn, and Marc.

Mr. Bradley Trost (Saskatoon—Humboldt, CPC): Thank you.

Mr. Minister, in your statement, you talked about the national energy framework being updated. When will that update be done? What will the scope of the update be?

Hon. John McCallum: We have no timelines. This is ongoing work to update our approach. There are absolutely no timelines on that. What I am doing is working in various areas that I think are important, notably energy efficiency and the harnessing of technology. But there are no plans for any announcement in this area.

Mr. Bradley Trost: Okay.

You said governments were good to resist the call for tax cuts. I had also noted that your cabinet colleague, the Minister of the Environment, Minister Dion, had said high prices were good for Canada on this. Is it the position of the government that high gasoline prices are good and that high home fuel feeding prices are good? Since Minister Dion has indicated that's the policy, does the government then support keeping prices high through artificial means once the supply and demand situation eases somewhat?

Hon. John McCallum: Absolutely not. When I said tax cuts were not a good idea, I meant that given the alternatives we have before us and the funds we have available to assist Canadians in coping with the higher energy prices, we're better off to focus on measures such as we have adopted—i.e., improving energy efficiency and cash supplements for lower-income Canadians—than to put those same resources into lower taxes.

Mr. Bradley Trost: So you disagree with the Minister of the Environment? High prices are bad.

Hon. John McCallum: That's not what I said. I said given the resources we have, it's more helpful to Canadians—and more rational given our environment objectives—to focus on the medium term, as well as on some financial assistance to lower-income Canadians. Certainly the government is not averse to tax cuts. In general, we are the government that brought in the biggest tax cuts in Canadian history in the year 2000.

Mr. Bradley Trost: I'm well aware of the accounting of its—

Hon. John McCallum: There's a possibility of further tax cuts in the future, but focusing on other kinds of taxes like income tax, rather than on taxes on the price of gas at the pump.

Mr. Bradley Trost: I'm well aware the government counts a lack of a tax hike as a tax cut.

There's been no specific provision to help agriculture and truckers in the groups that are specifically hard hit. My other question is, will the government be taking anything to help farmers or truckers, or will they be leaving those groups out so they are paying a disproportionate percentage of the burden?

Hon. John McCallum: The first point I would make is we do have ongoing programs to help industries, including the ones you mentioned, to become more energy efficient. As I said in response to an earlier question, we have to focus the resources we have. I think we are putting cash out to the lowest-income Canadians. We are helping all Canadians to have more energy-efficient homes. We are providing particularly strong assistance to lower-income Canadians to reduce their energy heating costs in the winter. We've established this office to monitor prices, which will give very powerful ammunition to the media, to provincial governments that are the regulators, to individual consumers, and to parliamentarians in the event that abusive price behaviour occurs. That information will also allow a beefed-up Competition Bureau to take action.

I think our package is responsible.

● (0945)

Mr. Bradley Trost: So there's nothing for agriculture?

Hon. John McCallum: As I said, we have programs for agriculture.

The Chair: Thank you, Brad and Mr. Minister, very good.

We'll go to Lynn, Serge, and Marlene.

Mr. Lynn Myers: Thank you very much, Mr. Chairman.

Mr. Minister, thanks for appearing today. I think you have outlined and will continue during the course of this hour to outline some of the challenges we're faced with and obviously some of the solutions we could put into place.

I want to go back to China for a minute. When you spoke of 400,000 barrels per day in seven years and you talked briefly about that being minuscule for the Chinese economy, I just wondered, as a technical question, how much that would represent for our economy.

More importantly, in terms of China and maybe even India as another market to look at, what would we as a country have to do in terms of putting together the infrastructure in order to accommodate that kind of movement of oil to, let's say, China in the first instance and perhaps India in the second? I don't know a lot about this, but I would think that refineries or pipelines or ports or something would have to be built or upgraded or constructed or whatever to enable that to happen.

In the great scheme of things—I'll be upfront in terms of my preference—it seems to me incumbent on us as a government to look at these emerging markets and see what we can do in terms of selling supplies and natural products—and other things, for that matter. It seems to me only prudent to at least look at it and, hopefully, actually act on it.

I'd be interested in your comments.

Hon. John McCallum: Thank you very much, Mr. Myers.

To answer your first question, I can say 400,000 barrels a day would represent approximately one-quarter of what we currently export to the United States. This doesn't represent, I should emphasize, a diversion of exports from the United States. This is based on new production in the oil sands. So it's significant: one-quarter of what we currently export to the United States is a non-trivial sum.

On your second question, the proposal is to build a pipeline from Alberta to Kitimat in British Columbia and to ship from there the oil to China—or perhaps to third-point destinations. None of this is set in stone, but that is the plan, where they are saying that within seven years 400,000 barrels a day could be sent to China.

I should emphasize that these are the Chinese offering that prediction based on their own commercial relationships and expectations and hopes. This is not the Government of Canada saying that in seven years we will be exporting this amount, because there are all sorts of environmental reviews that would have to be done and other regulatory hurdles that would have to be cleared. I'm saying that this is what the Chinese are projecting, and it's subject to those hurdles being cleared.

Certainly, as you've just intimated...I agree with you, and the government is firmly of the view that it is in our national interest to deepen and broaden our economic relationships with China. This initiative is a part of that.

Mr. Lynn Myers: Let's assume the environmental assessments were successful, etc. Do you have any idea of the costs to put in place the pipeline and the Kitimat facility?

Hon. John McCallum: I don't have a figure for that, but it certainly would not be a cost borne by the taxpayer; this would be a cost borne by the companies. I believe Enbridge is involved. It's a joint operation between Canadian and Chinese companies; the cost will be for them to determine. There will be some tax revenue accruing to the government, so it's a net revenue generator for the Government of Canada, and for the taxpayer it's not a net cost.

The Chair: Thank you very much, Lynn.

Serge, please.

[*Translation*]

Mr. Serge Cardin: Thank you, Mr. Chairman. Time is just flying by, and I have a number of short questions I would like to ask. I will ask them all at once. You can jot them down, and if we do not have time to continue, perhaps you could provide your answers later.

The first question deals with the EnerGuide program and the certified inspectors. I have been told that it was insufficient and that the delays were extremely long, particularly in the Centre-du-Québec region. I would like to know if the situation will be corrected as quickly as possible in response to those who are affected.

In addition, under your various programs, organizations that help people who are facing financial difficulties have made representations in my office. At present, most companies that distribute heating oil have increased minimum amounts for deliveries, which means that people are virtually unable to purchase a lesser amount, because the total bill is too high. They are receiving no direct assistance, even if they receive a cheque later on.

The freezing temperatures of winter will soon be upon us, and there are people who do not have the means to fill their tanks. They must have the strict minimum delivered. However, given the fact that this is starting to be costly, companies will only deliver larger quantities. People are already facing a problem, and it is not the cheque that they will receive in a few weeks or a few months that will help them.

On the ground, even the organizations that sometimes pay a portion of the heating oil costs so that these people have as much as they need to make it through the winter or at least start the winter, can no longer do so today.

There are organizations that would be prepared to support you if they were given money to help people facing problems today and who will undoubtedly face problems once winter starts. People in these conditions often live in poorly insulated homes, they control virtually nothing, and they are living in misery.

Therefore, I would strongly suggest that if money were to be available, you allocate it to these organizations so that they can help the people facing these problems on a day-to-day basis and who will continue to face these problems throughout the winter.

● (0950)

Hon. John McCallum: Thank you. I think that my colleague, Mr. Marmen, would be in a better position to answer that question.

Mr. Louis Marmen: I can certainly answer the first question with regard to EnerGuide's evaluators.

Recently, this summer, the Agence de l'efficacité énergétique du Québec, who was our main agent in Quebec, told us it would stop delivery services, for strategic reasons within its organization. So we put out a call for public tenders for the delivery of the service in Quebec.

We recently awarded about 20 contracts for the service, including in the Centre-du-Québec region. I know that today there are delivery agents available. There should not be any problem delivering the service in every region of Quebec over the coming months.

We will put in another call for tenders at the beginning of next year in order to strengthen delivery across Canada.

As for the price of fuel oil, the question was whether it was possible to subsidize the price...

Mr. Serge Cardin: For instance, in Sherbrooke, there is the ACEF which helps people who have day-to-day problems. The organization writes cheques for people who otherwise cannot afford to buy fuel oil.

As it now stands, oil companies have increased the minimum amount required for the delivery of fuel oil, and therefore the minimum delivery price. Some people could afford to pay for a smaller quantity of fuel oil, but they can't afford to pay for the minimum amount imposed by the oil companies. So instead of writing a cheque for everyone, even for those who don't really need it, we could perhaps try to help the organizations who help people on a day-to-day basis.

Mr. Louis Marmen: What I can say is that we are currently working with Hydro Quebec, which is working with these types of organizations in order to help them. We are trying, in cooperation with our Quebec partners, to provide support. But the program you talked about would be a new program we would have to consider.

The Chair: Thank you.

Marlene.

● (0955)

Hon. Marlene Jennings: Thank you, Mr. Chairman.

Thank you, Mr. Minister, for your presentation. I have several questions for you.

The first question concerns the community and institutional buildings program. I would like to know what the definition is of a community building. In the list contained in your brief, non-profit organizations which offer community services and which may own their buildings are not mentioned. In my riding, several organizations have created a corporation to buy a building and to share costs.

Does that meet the definition of a community building?

Second, under the EnerGuide Program, an evaluation is free for low-income families. However, families who have a modest income, not low-income families, must spend the money. If a family wanted to remove their old furnace and replace it with one running on fuel oil, oil or natural gas, which is much more efficient, it would have to spend several thousand dollars. But these families just manage to make ends meet. They are unable to set money aside. The lucky ones can save $1,000 or $1500 by the end of the year, but that money is often spent on soccer sessions for their children, because they want their kids to be physically active.

Has any thought been given to creating a program for families and individuals with modest incomes, who cannot afford to make renovations or the type of changes contained in the EnerGuide Program?

Third, can you tell us how many seniors will receive financial support under the program, and tell us how many low-income families will also receive help? What percentage of all seniors are eligible for help, given the fact, for instance, that 20 per cent of seniors have low incomes? Do you have any figures?

[*English*]

The Chair: Thank you, Marlene.

There were a good number of questions there, good questions.

Mr. Minister.

[*Translation*]

Hon. John McCallum: I will try to be brief.

In response to an earlier question, 400 barrels per day equals 5 per cent of Chinese consumption.

The answer to your first question is yes. It includes non-profit organizations.

In response to your second question on modest-income people, to my mind, resources must target the most vulnerable, especially since energy costs for low-income people represent a percentage of their income that is four or five times higher than it is for other people. We have, indeed, focused resources on low-income people. At the same time, we have provided significant assistance to people with a modest income.

Finally, in response to your third question, I do not have the figures relating to the number of seniors or other low-income people.

Do you have those figures, Ms. McCuaig-Johnston?

Ms. Margaret McCuaig-Johnston: Yes. One hundred and thirty thousand people participate in the program. I can provide you with greater detail on family incomes for each level.

[*English*]

In Hamilton a low-income household is considered to be a four-person household with an income of $44,500 or less. In Kamloops, for example, it would be a family of four with an income of $34,000 or less. That reflects the different costs of housing in those markets. I don't have the numbers for Montreal, but we could get them for you.

This is through the CMHC residential rehabilitation assistance program, which has an income test for people accessing that program for general repairs to their houses to keep them in proper repair and for emergency repairs. We would develop this new program along with the EnerGuide assessments to have the two programs working together.

But those are examples of the income level we're talking about. It's not a low-income—

● (1000)

Hon. Marlene Jennings: For the changes to the heating system?

Mrs. Margaret McCuaig-Johnston: For the EnerGuide and residential changes in general for energy efficiency, not just heating systems.

In addition to those costs that would be covered, of up to $3,500 in southern Canada or $5,000 in northern Canada, we also have coverage for gas furnaces, of an average of $150 per furnace and $300 maximum.

Hon. Marlene Jennings: Can you provide me, through the chair, with the answers to my first question, which was on the total number of seniors who will benefit from the financial assistance and the total number of low-income families that will benefit?

Hon. John McCallum: I will undertake to get that information.

Hon. Marlene Jennings: Thank you.

The Chair: Thank you, Mr. Minister.

My apologies to Michael and Jerry. I know you have to leave at 11, and we do have another session on Bill C-19. We're finished at 11 o'clock, when we have another committee coming in. So with that we're going to suspend this first hour.

Thank you, Mr. Minister, for taking the time to be with us this morning.

So in one minute, colleagues, we'll be back on Bill C-19.

The Chair: I'd like to call our October 25th meeting back to order.

We're continuing now with Bill C-19, and just before I welcome our witnesses, I would point out that John Duncan had a message from the Canadian Restaurant and Foodservices Association, expressing concern about the timing of the bill vis-à-vis their litigation. That letter's been distributed.

I received this letter just in time for this meeting, but I have asked for legal advice from Andrew Kitching. So Andrew will give us his advice. However, it is my preliminary opinion—though John is not here at the present—that there's no issue here. If they've started litigation under a current bill, it will continue under that bill, and any changes to Bill C-19 would have no impact on it. If it were the case that they were right, then Parliament could effectively be hamstrung, because there's always something going on in a court somewhere that is relevant to some federal legislation. So I think their point, while an interesting one, really is not relevant to our committee's work—but we'll let Andrew double-check that for us.

I would also point out that we passed the motion on Minister Emerson, did we not Brian? Yes. So Minister Emerson has offered to come on November 15, the same day as we have Minister Dion. So if it's acceptable to the committee, we'll have an hour with Minister Dion and an hour with Minister Emerson. Is that acceptable?

Then if you want to follow up with Minister Emerson, I suppose we could go from there. But I think it would be helpful to get those two ministers' visits on the 15th.

So with that, we're going to move right to the business of the day. We're pleased to have with us Diane Brisebois, president and chief executive officer of the Retail Council of Canada. Along with her is Peter Woolford, vice-president, and I believe you also have with you Professor Peter Hogg.

Ms. Brisebois, are you going to start out?

● (1005)

[*Translation*]

Ms. Diane Brisebois (President and Chief Executive Officer, Retail Council of Canada): Yes, thank you.

[*English*]

The Chair: Okay. We invite you to speak for five, six, or seven minutes tops, if you would; we'll then have time for as many members as possible.

[*Translation*]

Ms. Diane Brisebois: Thank you.

My name is Diane Brisebois, and I am President and Chief Executive Officer of the Retail Council of Canada.

[*English*]

Thank you for the opportunity to present the views of our members on Bill C-19.

Founded in 1963, the Retail Council of Canada, the RCC, is the voice of retail. We are a not-for-profit association, whose more than 9,000 members represent all retail formats, including national and regional department stores, mass merchants, specialty chains, independent stores, and online merchants. Ninety percent of our members are independent retailers who own their own stores.

[*Translation*]

The mission of the Retail Council of Canada is to enhance, represent and promote the distribution and retail sector in Canada and the retailers who are part of it, in order to ensure the sound development and prosperity of the sector.

The RCC represents more than 9,000 retailers, including more than 30,000 commercial establishments throughout the country.

[*English*]

Our brief, and Mr. Peter Hogg's opinion, were circulated to you in advance in both official languages.

As you know, we have serious concerns with the huge penalties proposed for the bureau. In addition to believing that it is wrong to impose huge penalties for breach of reviewable practices that are so vaguely defined that they do not set a clear standard that persons can confidently obey, the new administrative monetary policies, which we refer to as AMPs, with the civil sanction of an AMP, carry a far more severe penalty than knowing and reckless criminal behaviour. They are completely disproportionate to the offences being investigated and will give the Competition Bureau overwhelming power.

It is important to emphasize that the retailers who join the RCC tend to be the responsible retailers who have a strong interest in a fair and competitive marketplace. They are concerned about these powers as they relate to both abuses of dominance and misleading practice, but their primary concern is their impact with respect to misleading practices, because these are the offences that the bureau investigates most commonly in the retail trade.

The RCC appreciates the fact that the committee is interested in Mr. Hogg's opinion, so I'll make a few key points and then, with your permission, I will ask Mr. Hogg to introduce his constitutional opinion.

[*Translation*]

Attached to our brief is the legal opinion provided by Mr. Peter Hogg, scholar in residence at Blake, Cassels & Graydon, in which he indicates that the proposed penalties are unconstitutional because they are criminal penalties that would be imposed for offences of a civil nature but without the guarantees provided by the Charter. Mr. Hogg will present his opinion shortly.

[*English*]

Let me quickly talk about small versus large. It appears to be of great concern to committee members. Some believe that Bill C-19 will help small businesses compete with larger companies. In fact, small retailers will be subject to the same heavy penalties. We reviewed the misleading practice cases reported on the bureau's website that identified the companies and found that in the period from 1998 to 2003, more than half of these cases appeared to involve small companies.

Let's say a new retailer opens in a mid-sized city like Moncton, Sherbrooke, or Saskatoon. To get noticed in the market, the retailer boasts that its prices are the lowest in town, and shows its prices with “compare at” prices based on what competitors have been selling their merchandise at. Competitors respond to the new competition and lower their prices, but the retailer does not change its comparisons. The retailer is very successful in building a market position, expanding rapidly to four stores, and selling $3 million a year. When the bureau investigates, it will be able to threaten the following: criminal charges against the company; personal criminal charges against the owner; an AMP of up to $10 million; restitution equal to the value of the merchandise the retailer has sold under its “compare at” offer, even though consumers have suffered no loss; the cost of administering the disbursement of the restitution; a cease and desist order stopping the merchant from using the practice, even if others in the trade continue to do so; the embarrassment and cost of publishing corrective notices; and finally, an injunction freezing the company's assets including its merchandise.

This is frightening—

● (1010)

The Chair: Excuse me. Could Mr. Hogg have a little bit of time, because we're running over.

Ms. Diane Brisebois: Yes, in fact I'm just wrapping up now.

This is a frightening set of threats. Bureau officials will tell you they would never get these penalties. That is not the point. Their existence gives the bureau a powerful set of threats that they can use to force consent agreements on their terms, especially with less sophisticated companies.

They do this with the powers they have already, and they have today, I should say.

So in conclusion, the RCC recommends that Bill C-19 be withdrawn and that the committee instruct the bureau to provide clear guidelines and standards that individuals and firms can confidently obey within the current framework of the existing legislation.

With your permission, I'd now like to turn to Mr. Hogg to present his opinion, obviously, and we will keep track of your time since it seems to be a sensitive issue.

The Chair: It is, Ms. Brisebois, only because we just have an hour and we want to get as many members in as possible.

So we'll ask you to get right to the point, Mr. Hogg.

Thank you.

Professor Peter Hogg (Scholar in Residence, Blake, Cassels & Graydon LLP, Retail Council of Canada): Thank you, Mr. Chair.

The committee has my opinion dated October 12. It deals with only one aspect of Bill C-19, and that is the increase in the level of administrative monetary penalties—which I'll keep referring to as AMPs—that are provided for by the Competition Act.

What Bill C-19 does, as members will know, is increase the levels of AMPs that can be awarded for deceptive marketing practices from a maximum of $200,000—that's for a second or subsequent occurrence—to a maximum of $15 million, with $10 million for a first occurrence. The bill creates a new AMP for abuse of dominant position, and that also has an AMP of $10 million, with $15 million for a second or subsequent occurrence.

In my letter of opinion to the Retail Council of Canada, I have advised the council that those penalties are unconstitutional. The basis for the opinion is this. Parliament has the power to impose whatever penalties it sees fit for breach of federal laws, and so the high numbers by themselves are not unconstitutional. The constitutional problem is that the bill ignores the safeguards that are guaranteed by section 11 of the Charter of Rights and Freedoms for any person charged with an offence.

It is the view, I believe, of the Government of Canada that the charter does not apply to AMPs because the word “fine” is never used, either in the Competition Act or in Bill C-19, and the Competition Act even goes so far as to claim that the purpose of an AMP is not to punish, but to promote conformity with the act.

What the Supreme Court of Canada has said, in a case called Wigglesworth, which is talked about in the opinion, is that any proceeding that may lead to a “true penal consequence” is subject to the safeguards of section 11. The Wigglesworth case involved a penalty of imprisonment, but the court also said that a very large fine —a fine, they said, that by its magnitude indicated an intention to pursue the public interest—would also be a true penal consequence, which would attract the guarantees of section 11 of the Charter of Rights and Freedoms.

I believe that ruling would probably catch the AMPs that are now in the Competition Act—I can talk some more about that, if people would like to discuss it. But the magnitude of the new penalty of $15 million is unheard of, even in statutes that are avowedly criminal. Indeed, the Competition Act itself limits the fines for conspiracy and bid-rigging, which are two deliberate, serious criminal offences, to $10 million. So the most serious fine is less than the AMPs. I see the government is proposing to add an amendment that would increase the fine for conspiracy to $25 million, but these numbers are enormous.

Let me make just a few more points, Mr. Chair, before I stop.

It's also important that the AMP in each case is assessed by the Competition Tribunal after taking into account a series of factors, mitigating and aggravating, that bear on the blameworthiness of the defendant. Those are the kinds of factors that would be considered by a criminal court in imposing a sentence on a convicted accused. In contrast, administrative penalties—for example, in the Income Tax Act or in the Customs Act—are typically assessed simply by a mathematical formula related to the amount of tax evaded or the goods that have been improperly imported.

● (1015)

The Chair: You'll have to wrap up, Mr. Hogg. I'm sure these points are very valid and good points, and I'm sure they'll come up in the questions, too, so could we get you to wrap up, please, sir?

Prof. Peter Hogg: I will wrap up, Mr. Chair. Thank you.

There are three ways—and I will be very quick—in which the Competition Act fails to meet the charter standards. One is the presumption of innocence. These AMPs are simply proved on the balance of probability; criminal offences must be proved beyond a reasonable doubt.

A second problem is the disclosure of evidence. In criminal cases there must be full disclosure to the defence, and the defence has a right of silence. Those guarantees are ignored by the act.

And the third problem—and Ms. Brisebois referred to it briefly—is the vagueness of the reviewable practices that are the subject of the act. There is not a clear standard set upon which retailers can rely. For example, deceptive marketing that is neither knowing nor reckless is subject to a higher penalty under the AMPs than deceptive marketing that is knowing or reckless and that is the subject of a criminal charge.

Let me stop there, Mr. Chair.

The Chair: Thank you, Mr. Hogg.

Werner, please.

Again, we'll try to get everybody in, so try to get to your points quickly, as you always do.

Thank you.

Mr. Werner Schmidt (Kelowna—Lake Country, CPC): Thank you very much, Mr. Chairman.

Thank you very much for appearing before the committee and making your points very clear and very unequivocal as to where you stand. There's no doubt about that.

I want to start with the question of the mathematical formula as it applies to Income Tax Act deviations that might exist. Would it be your opinion, then—both Ms. Brisebois and Professor Hogg—that for the way the penalties ought to be assessed, whatever the penalty might be, it would be better to assess that on the basis of the revenue generated by the particular business in question?

Prof. Peter Hogg: Under Bill C-19 there is also a new restitution remedy, so a retailer who engages in a deceptive marketing practice can be ordered to repay the full amount of the money he or she or it made through the sale of the product. At the same time, the consumer who purchased the product does not have to return the product. That's already in the act; it's not classified as an AMP but as a remedy of restitution, even though in many cases the consumer may not have even seen the advertising. So the act already contains that feature and the AMPs are on top of that.

● (1020)

Mr. Werner Schmidt: Yes, but that wasn't my question. Could you answer my question?

Prof. Peter Hogg: Is the question, should the restitution remedy be replaced and—

Mr. Werner Schmidt: No, my question is, do you take exception to the AMPs because they're a set figure that is arrived at by the administrator? The question is, since that is some sort of arbitrary thing, would you suggest, then...because I think the indication you had was with regard to disclosure.

When it comes to the administration of the Income Tax Act, it is done on the basis of a mathematical formula. If you have this much income and you have this much in the way of expenses, this is your net income; therefore, this is the tax you should have paid. You didn't pay it, so there it is. Now, if it can be shown this is the revenue you had and so on—and I don't want to go through all the details; you know what they are.

Would that be a fairer position, as far as you're concerned, than simply to administer an AMP?

The Chair: Thank you, Werner.

Ms. Diane Brisebois: Let me say that it would actually make no sense to take a percentage of sales, simply because in a misleading advertising case, for example, we may be talking about one product, not the entire line of products the retailer is selling.

In fact, our position is that at this time the AMPs that are in the current act are quite sufficient. If you look at the cases or certainly the decisions within the retail sector, you'll see we're talking about some substantial amount in fines, which in fact, it could be argued, are reflective of the action itself. Our position is that we really don't support or understand why the fines, the so-called AMPs, need to be increased, especially in the deceptive marketing area.

Mr. Werner Schmidt: So based on that answer, Mr. Chairman, the other countries that do use the suggestion I just made a minute ago are not working.

Ms. Diane Brisebois: I'm not even aware of other countries that are using that system.

Mr. Werner Schmidt: Australia is.

Mr. Peter Woolford (Vice-President, Policy Development and Research, Retail Council of Canada): In our view, the bureau has adequate power today to provide oversight in the marketplace and to correct any misleading practices or abuses of dominance that exist there. We've seen that they've been quite successful in negotiating consent agreements. They've been successful in taking cases forward before the tribunal, and in those cases they've been able to get very substantial penalties for the firms involved. We see no reason to give them an enormous club of this nature.

Prof. Peter Hogg: Could I make a further point? Australia is the analogue, but Australia does not have a charter of rights with constitutional guarantees for criminal defendants. It's on that basis we say these provisions are unconstitutional.

The Chair: I have Marc, Marlene, and Brian.

[*Translation*]

Mr. Marc Boulianne (Mégantic—L'Érable, BQ): Thank you, Mr. Chairman.

I want to welcome you and your team, Ms. Brisebois.

We make laws and legislate in the interest of the public, to protect consumers. I want to draw a parallel with Bill C-37, An Act to amend the Telecommunications Act, that we adopted unanimously yesterday. It also contained monetary penalties. We noted that in several regards, the penalties weren't harsh enough for unsolicited telemarketing, namely telemarketing fraud. That is the way it was in the Criminal Code, and we realized that it was an incentive to reoffend. It was not enough of a deterrent.

You say that the administrative monetary penalties, the AMPs, are ill-defined, disproportionate and unconstitutional. How can we be strict enough in our regulations to prevent illegal practices if the penalties are not high enough? Without going into figures, where is the limit?

Ms. Diane Brisebois: What you must retain, above all, from our brief is that we feel that the proposed penalties are unconstitutional. That is very important. Secondly, it is difficult to believe that the Competition Bureau is powerless, when certain retailers in Canada would be liable to a $1.5 million fine for deceptive trade practices.

Peter, do you want to give your opinion?

● (1025)

Mr. Peter Woolford: I would add that many cases are civil, not criminal. Under the current act, there are penalties for criminal and civil offences. We feel that the Competition Bureau has sufficient power to deal with both types of cases. What you are talking about are criminal cases.

Mr. Marc Boulianne: You suggest amending the clauses of the bill dealing with restitution. How could that work, in concrete terms?

Ms. Diane Brisebois: Indeed, it's hard to understand how that would work. Imagine going into a store. The seller tells you that the same T-shirt sells for $10.99 in that neighbourhood, but that his price is $7.99. So you pay $7.99 for that T-shirt. There is no harm.

However, the Competition Bureau feels that this trade practice is deceptive. There is a provision which provides for compensation, but what kind of compensation? This is where the bill scares us. It doesn't make sense. The consumer has not lost any money. How has the consumer been harmed? The seller told the consumer that the product normally sells for $10.99, but that he would sell it for $7.99. Whether the consumer saw the ads or not, he paid $7.99. If the Competition Bureau decrees that this is a deceptive trade practice, the consumer has to be compensated in some way. But how, exactly? The worst thing is that no provision in the bill indicates that the consumer has to return the merchandise. It really doesn't make any sense.

Mr. Marc Boulianne: You nevertheless admit that the consumer may have been adversely affected.

Ms. Diane Brisebois: He may have been adversely affected, but don't you think that the injury should be defined in a bill? After all, that's very important and the role of the committee is to ensure that there are parameters.

[*English*]

The Chair: Merci, Madame Brisebois. Merci, Marc.

Marlene, Brian Masse, and then Brian Jean.

Hon. Marlene Jennings: Thank you, Chair.

Thank you very much for your presentation.

Professor Hogg, when I was in law school, we did have to study some of your writings, particularly in the area of administrative law, obviously, and constitutional law.

I have a couple of questions. Some of them are for you, Ms. Brisebois.

You talked about the composition of RCC, and you mentioned that 90% of your members are independent retailers owning their own store. So I would have to assume that they're small-business people.

Ms. Diane Brisebois: Absolutely.

Hon. Marlene Jennings: Okay.

In the submission, which I read very carefully, except for when you reach the issue of decriminalization of the pricing provisions, almost all of your submission deals with or is focused on the deceptive marketing practices issue and the amendments that the government wishes to bring through Bill C-19 in that area, and very little about the abuse of dominant position. I would assume that if 90% of your membership are independent retailers, small-business people, the issue of abuse of dominant position would be of great concern to them.

Correct me if I'm wrong, but the only piece I find where you talk about it is that you recommend not decriminalizing the pricing provisions for a variety of reasons, one of which is because you say it's an important and expedient tool for small retailers to get fair trading terms from their suppliers. Is that the only reason you don't want to see it decriminalized, or are there other reasons?

Ms. Diane Brisebois: There are several other reasons, and I'll ask Mr. Woolford to address that.

Hon. Marlene Jennings: I have only how many minutes?

The Chair: You have two and a half minutes left.

Hon. Marlene Jennings: Okay, so I'm going to be very brief.

Professor Hogg, you talked about the reasons you are opposed to the amendments with regard to the AMPs. You talked about the mitigating and aggravating factors being normally criminal, and concerns about presumption of innocence, disclosure of evidence, and vagueness of reviewable standards. And I agree with you, those are in the criminal domain.

What are the standards in the administrative domain if in fact the AMPs and the amendments that are being brought forward are in fact deemed to be administrative, regulatory, and not criminal? What would you expect to see, given other legislative acts, administrative acts, and so on?

If you don't have a chance to answer all of my questions, you can also do so in writing, through the chair to me.

Thank you.

● (1030)

The Chair: You can both answer—Ms. Brisebois, the first part, and then Mr. Hogg the second.

Ms. Diane Brisebois: I'll let Mr. Woolford answer very quickly.

Mr. Peter Woolford: Thank you, Mr. Chair.

First of all, I think the point is that in the retail trade there is so much competition today that we think abuse of dominance is not a major phenomenon in the industry. To reach the thresholds that the bureau uses as rough rules of thumb would be very difficult in retail trade.

With respect to the pricing provisions, we recognize that the bureau has opted not to prosecute or act under those portions of the act. We believe they do have some residual benefit, particularly for small retailers, and because we represent so many, we think it's useful just to keep them there as a tool that a small retailer can use just to keep a supplier in line through the simple expedient of writing a letter to them saying, “Listen, you know, there is this provision of the act.” That simple action by the retailer can often give them some relief.

But with respect to the rest, we focus on misleading practices because it hits retailers of all sizes—large, mid-sized, and small.

Prof. Peter Hogg: In answer to your question, Madame Jennings, if the AMPs were a truly civil consequence, I don't think the procedural issues or even the vagueness issue would be nearly so serious. For example, initially the reviewable practices, of which deceptive marketing is the one of principal concern, simply gave rise to a power in the bureau to attempt to get a cease and desist order and/or the publication of a corrective notice by the person who was guilty of the deceptive marketing.

I see no reason why that would need to be proved beyond the civil standard of proof; I see no reason why there shouldn't be normal disclosure of documentation there such as you would find in a civil proceeding rather than a criminal proceeding; and even the vagueness of the standards is less of a concern when the only penalty is that you have to stop doing what you were doing.

It may be, too, that a small AMP could be added to that, although it's very difficult to define a "small" AMP, because the bureau takes the view that if, for example, a company is selling tires, it's a separate incident every time a different tire is sold. So, for example, in the recent Sears case, where the AMP was the current limit of $100,000, the bureau sought an AMP of $500,000, because they said five kinds of tires were sold.

It's when you add these large penalties to what were otherwise civil consequences that the procedural safeguards of a criminal law need, in my view, to be added.

The Chair: We'll probably have time to get you back on, I think, because Jerry has to go to a flight. So Brian Masse, Brian Jean, and then Lynn.

Mr. Brian Masse: Thank you, Mr. Chair. I'd allow the witnesses, if they want to expand on those answers, to go ahead. They were good questions, so if you want to complete, go right ahead.

Hon. Marlene Jennings: You actually said that a Liberal asked a good question?

I'm just teasing.

Ms. Diane Brisebois: Thank you very much. I think it's important, because we were asked questions about protection towards consumers, which we certainly, as an industry, have always been concerned about.

The key here for the committee is to understand that the size of the proposed AMPs—we're talking here about $10 million plus—is clearly within the criminal field. You have to understand that if a retailer is charged with misleading advertising, and if these AMPs go through, the retailer has actually no idea at the beginning of the investigation whether the bureau will use a civil track or a criminal track and may, to protect his brand or her brand, just decide to agree with the bureau and pay some of the penalties, without the chance of being able to defend himself or herself.

I think the key here is between civil and criminal; that is key, in our opinion.

● (1035)

Mr. Brian Masse: You're calling for the status quo. I guess the counter-argument is that for some businesses this could be the cost of operating, quite frankly; they could absorb it. There are many industries that can absorb large penalties like this. It's nothing; it's a hiccup in the system—the drug or pharmaceutical industry; I remember a number of cases there.

Maybe I should point to your membership. Do you have any experiences with the bureau where it has been unfair? The language in the legislation is "up to". It's not a definite fine of that level; it's discretionary. Do you have cases where you feel the bureau has been unfair, such that it shouldn't be approved for these powers?

Second, what's your membership's relationship with AMPs? How many of your members have had these imposed upon them, and what are their feelings on this?

Mr. Peter Woolford: I don't think we're here to debate what's fair or unfair. What we can observe is just the facts, which are that with the current maximum of $100,000, in one case involving one company the bureau was able to obtain a consent agreement involving $1 million, and in a second a consent agreement involving a payment of $1.7 million. Clearly, those maxima that are in the law today are not constraining the ability of the bureau to get very hefty fines for offences.

If it's the case with a maximum of $100,000, what would they get with $10 million?

The second point, then, is that even when they do go to the tribunal, as Peter pointed out, they look at the company's practices with respect to a number of brands or models of merchandise and can produce multiple offences. So even when they take it before the tribunal, they're able to exceed the $100,000 maximum by multiplying it by the number of instances. Again, they have the tools available to them today to get to a quantum that's significantly greater than the maximum that parliamentarians put in there.

Our concern is primarily with the ability, for what is an enforcement agency, in the course of their investigations to lever the threats they have to extract what they want from the company. They have this enormous current set of threats, which they're going to be able to build upon with what's in Bill C-19.

If I'm a small retailer, relatively unsophisticated, without access to competition-experienced legal advice, I'm at a very significant disadvantage, and with my not knowing whether I'm going to be criminally charged or my company will be criminally charged, or whether I will be facing both AMPs and a demand for restitution, the bureau has an enormous amount of power to frighten the bejeebers out of me. At that point I'm prepared to settle and just move on with my business, because the damage that is threatened to my business and to the brand is so great that I will sign a deal and cop a plea, as it were.

The Chair: Is that it, Brian? Thank you.

Brian Jean, Lynn, and then Paul Crête.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

I have some questions and comments, actually.

I would suggest, first of all, seeing what the effect of this act has been in the past, in essence, that what's being attempted here is to send a clear message that government is out to protect the little guy, and many of your members, of whom I'm one, would appreciate that, because it's been so inefficient and unsuccessful in the past, as you know. That's one of the reasons the fines are so high.

My question is actually for Professor Hogg, concerning particulars in disclosure. I'm familiar with some of it, but would they not be able, in these types of situations, to file a demand for particulars or a notice to disclose on the government in relation to the specifics of the fine?

Prof. Peter Hogg: Under the Competition Tribunal rules there are obligations of disclosure on the commissioner, but it's not full disclosure, and people appearing before the tribunal complain that they do not get full disclosure even when the rules are fully obeyed.

Then on the other side of the coin, there are obligations of disclosure on the person who is charged with the AMP, and of course in a criminal trial the defence has a right of silence and does not have to make any disclosure at all. So once again, civil concepts of evidence and disclosure that are perfectly appropriate in a civil proceeding are being carried forward into these AMP cases, which we say are essentially criminal proceedings.

● (1040)

Mr. Brian Jean: Wouldn't you suggest that with the burden of proof being the balance of probabilities, instead of "beyond reasonable doubt", you actually might have a conviction? With large companies, the chance of a conviction on the basis of "beyond reasonable doubt" seems to be minuscule at best. I've seen it time and time again in environmental cases and other cases. Good lawyers, which some of us are notorious to be, can be very effective in situations where the burden of proof is so high.

Prof. Peter Hogg: I think, with respect, that's a comment that could be made across the whole category of the criminal law. It would be easier to convict offenders if the burden of proof were only the balance of probabilities. But in order to provide proper civil libertarian safeguards, we require that it be beyond a reasonable doubt. It seems to me it would be a very serious mistake to lower the burden of proof just to make it easier to convict companies.

Mr. Brian Jean: But the evidence itself, and in particular in these kinds of cases compared to criminal cases, is very difficult to get, and most of it is circumstantial.

Prof. Peter Hogg: That, to me, is all the more reason to be concerned about convicting people on the basis of inadequate evidence. There may be differences of opinion about whether a statement was misleading. There may be differences of opinion about whether a position of a retailer in the market is dominant. It may depend on complex economic evidence. Those are the very reasons we should not impose a serious penalty.

If I could draw a distinction between the pharmaceutical company that deliberately misleads people about the safety of its drugs, that's a criminal matter that should obviously be dealt with under criminal proceedings; but the retailer of the kind that the Retail Council of Canada represents, who unwittingly falls offside while conducting some kind of aggressive marketing campaign, simply shouldn't be subject to these kinds of penalties.

Mr. Brian Jean: Do I have any more time?

The Chair: Very briefly, Brian.

Mr. Brian Jean: All I was going to comment was that in essence what we're proposing with this bill, or what the bill is proposing as far as burden of proof goes, is the same burden that is used in personal injury cases throughout this land and has been for many years and seems to be quite effective. But the option, from my perspective, seems that you're not going to be very effective and not going to get any convictions, and in essence, not safeguard what this bill is trying to do—that is, the little guy who doesn't have the opportunity to really have his voice heard very often except through you and other organizations.

The Chair: Do you have any quick comment?

Prof. Peter Hogg: My quick comment would be that it seems to me the little guy is the person who should be, as we have been emphasizing, most concerned about the vagueness of these standards and the severity of the penalties that go with them.

The Chair: Thank you.

Lynn, Paul, and Marlene, and if we have a minute or two, we'll try to get Werner to finish up his time.

Okay, Lynn.

Mr. Lynn Myers: Thanks, Mr. Chairman.

Thanks for appearing.

You mentioned the Sears case back in April 2005, I believe it was. When I look at that, it seems to me that's like a slap on the wrist and sort of the cost of doing business. So I wonder how you can claim that AMPs are too high when $100,000 doesn't seem like a lot of money for a company of that size.

Prof. Peter Hogg: The AMP that was claimed in that case was $500,000. There has been an award, I think, has there not, Mr. Woolford? There was an award of $400,000 in that case.

Mr. Peter Woolford: I think the actual decision was four counts at $100,000 apiece. But let's remember that in an average Sears store, there are 80,000 stock-keeping units or more. So this is a business carrying 80,000 different products; they've been found guilty on four, and they've paid a fine of $500,000. In our view, that's a fairly substantial penalty.

Mr. Lynn Myers: Okay, thank you.

I wonder if you would agree with me—I'm just trying to get a feeling for this information—with respect to misleading advertising. If retailers exercise due diligence, the court will not impose an AMP for restitution. Is that a fair statement?

Prof. Peter Hogg: Yes. There can't be an AMP for misleading advertising if the retailer exercised due diligence. But in the case of abuse of dominant position, there is no defence even of exercise of due diligence. So that's another fault in the bill, which we point out in our brief and in my opinion.

● (1045)

Mr. Lynn Myers: Let's go to due diligence for a minute. Surely that's not too much to ask of a retailer. It's my understanding that the Commissioner of Competition, for example, has issued guidelines and that there is a possibility of obtaining a written opinion from the bureau. The Sears case evidently also shed light on the interpretation of some of these provisions. My point is, that's not too much to ask of a retailer, to exercise due diligence to avoid restitution or imposition of AMPs.

Mr. Peter Woolford: We would never suggest that companies not be diligent in their practices. The fact of the matter is that this is a law of general application. In an active, aggressive, vigorous market like retail, you cannot expect companies to run to the bureau every time they come up with a new invention or a new innovation in terms of advertising.

What keeps retail active and aggressive and very healthy in serving the customer effectively is precisely that high level of competition. We are strongly opposed to a regulation of our industry, and what we're concerned about with this bill is that what it turns the bureau into is not an enforcement agency, but a regulatory agency. You would be creating essentially a regulated market for retail. In our view, that's not appropriate.

Retail has served Canadian citizens very well. It has been lively; it has been noisy; it's messy. Certainly people do at times get overenthusiastic. They make claims they should not make. Let's catch them, let's stop them, and let's move on. That was the original conception behind moving to a civil process. Let's remember, these are civil offences. They are intended to be offences where you find out that somebody is doing something wrong in the marketplace, you fix it, and you move on. That way, you keep the market lively, you keep it active, you keep it noisy, and you keep it messy, but at the end of the day, that serves Canadians very well, in our view.

Mr. Lynn Myers: I couldn't agree more about competition. I'm a huge fan myself.

That said, it seems to me that competition can also be part and parcel of exercising due diligence.

Mr. Peter Woolford: We wouldn't question that at all. The fact of the matter is that it's the responsible players who belong to trade associations.

Mr. Lynn Myers: Let me talk about restitution briefly.

Presumably a number of your members—at least some of them, I would think—do business in the United States, where restitution is in fact ordered when it comes to deceptive advertising. So are clients—for example, Wal-Mart—unable, then, to advertise in the United States? And a more pertinent question, in my view, is that Canadian consumers are subject to the same advertising as American consumers; why not then the same remedy?

Mr. Peter Woolford: The answer is that in the United States you have to prove harm.

This is not restitution; this is simply another penalty. There is no requirement to prove harm. All you need to do is show up with a receipt, show you bought the product, and you get your money back. You don't even have to return the product.

So in the example we give in our brief, for example, I'm a merchant who breaks the law; I claim that my jewellery is 14-karat gold, but it's 10-karat gold. When the customer comes back for restitution, they get their money back, but I don't get my 10-karat gold back. The customer keeps that piece of gold jewellery and they get their money back.

Any money in the States that is not returned to the customers comes back to the firm that committed the offence. In this case, the money goes to a third party. So it's a very, very different regime than what we have in the United States.

Mr. Lynn Myers: Thank you very much.

The Chair: Thank you, Lynn.

Paul, and then Marlene, and we'll try to get to Werner.

Paul, please.

[*Translation*]

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Thank you, Mr. Chairman.

Ms. Brisebois, I may be comparing apples and oranges, but let's take the system of demerit points and fines in the area of driving. If I exceeded the speed limit by 50 kilometres an hour and was given a $25-fine, that would not be right, but it would certainly bother me less.

I have two questions for you with regard to the way the retail market currently operates in a given area. My problem does not lie with the fact that small neighbourhood retailers may make a mistake once in a while. However, if very large multinationals, such as Wal-Mart, make a mistake, or if they engage in unacceptable behaviour, they should have to pay a price proportionate to their size.

First, do you have any statistics on the number of complaints which were filed relating to the size of a company, in other words, whether small retailers were found guilty in the past and what their fine was? My question has to do with the means at a company's disposal and large economic players.

My second question is as follows: for big companies, shouldn't there be a zero tolerance policy, that is a policy whereby the amount of the fine would serve as a deterrent, since it would go against a business's interests?

● (1050)

Ms. Diane Brisebois: Those are several interesting questions. I like the driving analogy. I would say to you, Mr. Crête, that if you are stopped because you are driving 50 kilometres an hour in a 30-kilometre-an-hour zone, you have the right to know why you are being fined and for how much.

We are saying that this bill does not confer that right. In fact, you would be arrested and would then have to negotiate. But you would not be told why you are getting a fine. That's the problem with this bill. We are not saying that we are encouraging people or companies to do false advertising, we are saying that the current law is open to interpretation, and most members of our council don't even understand it. It's vague. There are already sanctions in the order of 1.6 million dollars, and that figure could increase depending on the number of products.

We have some serious issues. First of all, we are saying that today it is the police which, in fact, is applying the law. It's as if the commissioner told you that the law had to be administered this way.

Mr. Paul Crête: Your view may stem from your being a victim of the system. In terms of the oil market, however, the problem is actually that the reverse is true. We find ourselves grappling with legislation which does not provide us with sufficient investigative powers to fully examine the situation. We are limited only to cases which are brought before the courts. It is imperative that conclusive evidence of collusion be provided before any investigation can be carried out. Obviously, we want to avoid this catch-22 recurring in other consumer sectors.

Ms. Diane Brisebois: It is therefore very important that you understand that, in our view, both the current and the proposed legislation pose substantial problems. We are talking about a piece of legislation which is general in nature. If the committee members and the government feel that there is a problem with oil companies in Canada, specific legislation concerning oil companies should be drafted.

Mr. Paul Crête: That is not what we are saying. We want investigative powers to be introduced in order that more general inquiries can be initiated and information accessed. We do not wish to find ourselves in a situation whereby we are the juniors in the major league. At the moment, our impression is not that government is in the major league and business in the junior league.

Certain industry actors have extraordinary purchasing power. In a market context, as they stand at the moment, fines can come across as a drop in the ocean. For example, were a multinational to misrepresent a major product, should we not ensure that, were the company found guilty, the penalty would exceed the revenue generated by misleading the public?

Ms. Diane Brisebois: Firstly, it is essential that we differentiate between criminal law and civil law. Sanctions already exist under the criminal justice system to counter monopolies.

In response to your first question on complaints lodged with the Competition Bureau, I would encourage you to visit the bureau's webpage where you will see that more than 50 per cent of fines and sanctions are imposed upon small businesses.

It is important to ensure that any legislation is applied equally to small and large businesses. That is the point that I wanted to make, but perhaps Mr. Hogg would like to add something.

[*English*]

The Chair: Very briefly, Mr. Hogg, if you do.

Prof. Peter Hogg: I would only add that even oil companies are protected by the Charter of Rights, and if they're innocent, they shouldn't be found guilty. I think we have to remember there are constitutional standards at play here that I know Parliament will want to respect.

The Chair: Thank you, Mr. Hogg.

Marlene, please, and we'll try to keep you to the four minutes.

Hon. Marlene Jennings: I was not on this committee in 2002, but it did issue a report, "A Plan to Modernize Canada's Competition Regime", and I'd just like to quote a piece of text that appears on page 49:

> Administrative penalties, in order to have any effect, would have to be large enough to deter anticompetitive behaviour. In fact, to deter the conduct in the future, the penalty must be greater than the profit that the abusive firm might realize as a result of its anticompetitive conduct.

That was in the context of abuse of dominance. I'd like your opinion, your view, on that particular quote.

● (1055)

Mr. Peter Woolford: We would argue that the evidence of the cases the bureau has resolved, either through the tribunal or through the process of consent agreement, is that the results produced are completely in line with that.

Hon. Marlene Jennings: Do you have an opinion, Professor Hogg?

Prof. Peter Hogg: The administrative penalties that are in, for example, the Income Tax Act and the Customs Act are calibrated entirely to the degree of evasion. That's one thing, but these penalties are not calibrated in any way; at least there's nothing in the act to insist that they be calibrated in any way other than according to the guilt or innocence of the person who's engaged in the practice. That's why we say we have moved into the criminal sphere, and the recommendation the committee made before is perhaps more appropriately represented in the restitution provision. We also have a lot of problems with that, but at least it's calibrated to the amount of money that was actually involved in the case.

Hon. Marlene Jennings: Thank you.

The Chair: Thank you, Marlene.

If there are amendments to Bill C-19—there's no obligation, obviously—you can bring them to the meeting on Thursday. I know Jerry has undertaken to try to provide them to the critics beforehand, likewise the opposition. It's only because at the meeting Thursday, if we can make the package ahead of time, it'll make it that much easier to get started. We won't finish the Bill C-19 clause-by-clause on Thursday, I can assure you, but at least we'll get started and get a sense of where we can go.

On Bill C-55, the bankruptcy and insolvency legislation, suggestions on witnesses would be helpful.

Werner, we'll let you take it to home plate.

Mr. Werner Schmidt: Thank you very much, Mr. Chairman.

I have to commend the presentation that was made. I don't necessarily agree with all of the positions, but that's not the point. I think you've done an extremely competent job of presenting the case, and you have given us much food for thought. I would love to have had the benefit of listening to Professor Hogg as an instructor; I think you have a lot to offer.

Now, in the last paragraph of your letter there's a statement something like this: as a matter of policy, it is surely wrong to impose a policy on the breach of reviewable practices where they are so vaguely defined that they do not set a clear standard a person can confidently obey. I'm asking you, Professor Hogg, if the standards were clearly set, would that satisfy you?

Prof. Peter Hogg: Yes, if the standards were clearly set, that would solve that particular problem. We would still have the problem of burden of proof and evidentiary standards. I think abuse of dominance is perhaps the clearest example of something that depends on the inherently controversial economic evidence. It's very difficult for a retailer to know whether it is in a dominant position in the market or not.

Mr. Werner Schmidt: There are two sides to that; that's a good answer.

Now, the question is, can those kinds of standards be established? That's really for Madam Brisebois.

Ms. Diane Brisebois: It is difficult; it would be difficult.

I know that Mr. Woolford worked on the committee that reviewed, not the standards as much as the guidelines, in 1999. He might want to add something.

Our concern, Mr. Schmidt, is that regardless of the standards.... Again, in closing, we believe that the AMPs that are proposed right now are unconstitutional. I have a final concern, which is that you are accepting the recommendations of what is in fact an enforcement agency. As I mentioned earlier on, it's like the police commissioner setting the rules versus the committee and the government setting the rules on behalf of consumers and constituents, and that in itself is quite worrisome.

The Chair: Is that helpful, Werner?

Mr. Werner Schmidt: It certainly sets the parameters.

The Chair: Thank you, colleagues.

Thank you very much to the Retail Council representatives and Professor Hogg and colleagues for your cooperation. It was wonderful again. Thank you very much.

We're adjourned until Thursday at nine.

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