



House of Commons
CANADA

Standing Committee on Industry, Science and Technology

INDU • NUMBER 021 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, October 19, 2006

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Chair

Mr. James Rajotte

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• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): Good afternoon, ladies and gentlemen. We are having the 21st meeting of the Standing Committee on Industry, Science and Technology pursuant to Standing Order 108(2), a study on the policy direction to the CRTC.

We have three different panels before us today and about two hours and fifteen minutes, which is a very tight timeline. We're going to try to keep to the timelines as much as possible. I encourage all of our witnesses and members to be brief in their statements, questions, and answers. This will certainly help things proceed better.

We have in the first panel before us here today all the incumbent local exchange carriers. We have four representatives, and I understand there's been agreement on who will be presenting first, second, third, and fourth, and I'll go in that order.

From Bell Canada we have Lawson Hunter, executive vice-president and chief corporate officer. Presenting second will be Michael Roberts, vice-president, regulatory and government affairs for Bell Aliant Regional Communications. Presenting third will be John Meldrum, vice-president, corporate counsel and regulatory affairs for SaskTel. Fourth, from TELUS, we have Janet Yale, executive vice-president, corporate affairs.

I understand that you've all been told that there will be three-minute maximum opening statements from each of you, and then we'll go directly to questions from the members.

Mr. Hunter, would you like to start us off, please?

Mr. Lawson Hunter (Executive Vice-President and Chief Corporate Officer, Bell Canada): Thank you, Mr. Chairman, and good afternoon, members of the committee.

I am happy to be here today to express Bell Canada's support for the proposed policy direction to the CRTC. The urgent need to reform Canada's telecom policy framework was well established in the landmark report of the telecommunications policy review panel, which reported last spring. This expert panel identified the paradox that while "Canada has one of the most competitive telecommunications markets in the world, we continue to have one of the most detailed, prescriptive and costly regulatory frameworks". That's a quote from the panel.

Their assessment that our telecom sector has fallen behind internationally lent urgency to their recommendation to begin reform through policy direction grounded in three principles.

First, place more reliance on market forces to achieve the CRTC's policy objectives, allowing Canadians to finally derive the full benefits of competitive markets where, in the panel's words, "service providers have incentives to reduce costs and prices and to innovate services in order to increase their profits or simply remain in business".

Second, where regulation remains necessary, or where market forces are unlikely to achieve a policy objective, be streamlined and efficient. Fewer regulatory proceedings and minimally intrusive regulations that rely, as the panel recommended, on simple rules enforced through after-the-fact remedies rather than on prior approvals would free service providers to better respond to customer needs.

Third, reform the CRTC's existing wholesale access regime, which the panel found actually undermines the commission's—and by the way, the panel's—goal of increased facilities-based competition in this sector.

These are sound principles based on extensive analysis by the TPR panel and they are widely accepted in other jurisdictions.

The Telecommunications Act dates from 1993, when few of us had even heard of the Internet and when those of us with wireless phones carried them in briefcases. Today, companies like Canada's own RIM sell the BlackBerry—which most of us thought was a berry back in those days—that weighs no more than a couple of ounces, yet uses the Internet to provide voice, e-mail, web access, TV, video recording, and digital photography. That is the norm.

This technological revolution has opened the door to vigorous facilities-based competitors: cable companies like Rogers, Shaw, Vidéotron, Cogeco, and EastLink, with market capitalizations in the billions, multiple service offerings, and millions of subscribers; and global giants like eBay's Skype, with a market capitalization of over \$40 billion U.S. and access to over 200 million registered users of their voice-over-Internet service. Their results have exceeded most expectations, and they will not stop simply because we are allowed or encouraged to engage in normal marketing practices. Rather, they will have, as will we, every incentive to innovate faster, providing more and better services.

The policy direction, in our view, is a necessary first step in making Canadian telecommunications policy, once again, a world leader in this sector. Other countries are eliminating *ex ante* price controls and marketing restrictions—CRTC staples—in favour of market forces. Indeed, the United Kingdom recently, just last July, ended retail price controls, or price caps, in an industry where cable reaches only 25% of all households, in contrast to Canada, where it reaches 98%. In contrast, the CRTC concluded hearings on its next multi-year price cap regime just this week.

I will leave the last word to Canadians themselves. According to research conducted by Decima on behalf of TELUS, us, and the Public Interest Advocacy Centre, and submitted to the TPR panel, the vast majority of consumers—in fact, 89%—believe that the same rules should apply to telephone companies and cable companies when it comes to local phone service. That is why we have urged the government to proceed with implementing the policy direction as recommended by the TPR panel.

Thank you.

• (1535)

The Chair: Thank you, Mr. Hunter.

We'll go right to Mr. Roberts.

Mr. Michael Roberts (Vice-President, Regulatory and Government Affairs, Bell Aliant Regional Communications): Thank you, Mr. Chair and members of the committee.

I represent Bell Aliant Regional Communications. Bell Aliant is the successor to the companies that for many years were the telephone service providers in the four Atlantic provinces. As of July this year, we also became the service provider for large territories in Ontario and Quebec. Our serving territory includes some of the most rural and remote territories in Canada—Labrador, rural Newfoundland, and areas of northern Quebec and Ontario. Bell Aliant was created to focus on regional markets. We have achieved a lot in providing state-of-the-art communications to our customers in the Atlantic region, and we intend to continue to do the same for our new territories in Ontario and Quebec.

I want to tell you why we believe the proposed direction of the CRTC is important to us, to our customers, and to all Canadians. We believe that competition brings a number of benefits to customers and that restriction of competition limits those benefits and stifles investment and innovation. In case anyone tells you that the direction is unnecessary because the current regulatory approach promotes competition, we are here to tell you that this has not been our experience. In our view, the CRTC must change its approach and welcome rather than restrict competition for the benefit of new competitors.

Let me tell you a bit about our experience. It may surprise you that our territory includes the most competitive telecommunications market in Canada. The CRTC's most recent monitoring report shows that at the end of 2005, of the 86 markets across Canada, three of the six most competitive residential service markets are in our territory in Atlantic Canada. The Halifax market was the most competitive of all, with a competitor share of just under 35%.

Now keep in mind that the markets defined by the CRTC are large and include areas where the new entrants choose not to offer service.

The market share of our competitors in those areas, such as Metro Halifax, where they're actually operating, was much higher than that.

By any reasonable assessment, those markets, particularly Metro Halifax, are vigorously competitive and have been for years. Nevertheless, Aliant's application for forbearance or deregulation took two years to be processed by the CRTC. At the end of that, our application was refused because the CRTC created new rules that made it more difficult to be deregulated.

The result is that the competitor continues to grow, but customers are denied the benefits of having all players freely competing for their business. We are restricted from bundling our services and restricted in offering promotions, restrictions that our competitors do not face. This means that customers are not getting the benefits of our competitive response, benefits they would receive if the regulatory restrictions were removed and market forces were allowed to prevail. That is why we strongly support the work of the telecommunications policy review panel and the proposed direction to the CRTC.

Thank you.

The Chair: Thank you, Mr. Roberts.

We will go to Mr. Meldrum, please.

Mr. John Meldrum (Vice-President, Corporate Counsel and Regulatory Affairs, SaskTel): Thank you for the opportunity to provide the committee with SaskTel's opinion on what the policy direction means to us.

First of all, for those of you who may not be familiar with us, SaskTel is the incumbent telephone company in the province of Saskatchewan. In terms of size, SaskTel is less than one-half the size of Shaw Cable, one-eighth the size of TELUS, and about one-fifteenth the size of Bell.

In our view, the policy direction is a positive step for the telecommunications industry in Canada and, more particularly, for Canadian consumers. Paramount in that view is the direction for the CRTC to rely on market forces to the maximum extent feasible.

Today, CRTC decisions are often designed to curtail market forces, with the goal of forcing artificial market share losses on SaskTel and the other incumbent phone companies. An unlevel playing field in telecommunications has been created to achieve this objective. Let me bring this unlevel playing field concept to life for you with an example.

SaskTel and Shaw compete against each other in Internet and cable television and will soon compete in local telephone service. As competitors, we are both faced with the prospect of winning back lost customers, but the rules each one of us faces are totally different.

When SaskTel loses a telephone customer to Shaw, we will be unable to contact that customer for a period of three months to try to win them back. Even when we do contact the customer to try to regain them, we will have virtually no pricing flexibility or opportunities to offer them a promotion, waive installation charges, or bundle their local service with other SaskTel services. Those are the CRTC-imposed rules.

On the other hand, when Shaw loses a cable television customer to SaskTel, 75% of the time Shaw can contact that customer immediately, often before we even complete our installation. They can and do offer those customers various incentives to return to Shaw, such as reduced monthly charges and free months of service. They are also free to bundle their television service with high-speed Internet or any other services they provide in the market.

For customers, curtailing market forces means less competition, less innovation, and ultimately higher prices than would otherwise be the case. Today, the fiercest competitive battles are fought in front of the CRTC rather than in the marketplace. The time has come for this culture of regulation to end.

In our experience, you don't need regulatory assistance to successfully compete. With partners, SaskTel successfully built and operated a local telephone and cable company in both Leicester, England, and Wellington, New Zealand, in the 1980s and the 1990s. In New Zealand, there was not even a formal regulator in place when we took on Telecom New Zealand, yet we succeeded, and customers benefited from the unbridled competition that occurred.

In closing, the telecom policy review panel report recommended major regulatory reform in Canada: rely on market forces; let consumers decide; and assure fairness among competitors. We believe the proposed policy directive is consistent with those fundamental principles, and we fully support it.

● (1540)

The Chair: Thank you very much, Mr. Meldrum.

We'll go to Ms. Yale.

Ms. Janet Yale (Executive Vice-President, Corporate Affairs, TELUS Communications): Thank you, Mr. Chairman and members of the committee.

When Parliament enacted section 8 of the Telecommunications Act, it intended to permit the Minister of Industry and the cabinet to take responsibility for a matter that should clearly be their responsibility, and that is the fundamental policy of the government in this critical sector of telecommunication.

[*Translation*]

The proposed policy direction is a means to allow the minister and the Cabinet to take the leadership role in regard to policy. It will provide guidance from the government to the CRTC regarding how it should exercise its day-to-day mandate as a regulatory agency.

[*English*]

TELUS supports the proposed policy direction and urges the government to proceed with finalization and formal issuance of the direction. In our view, the direction is both necessary and timely. It's necessary because the CRTC's actions in recent years have made it

clear that without such a policy direction, the CRTC will not adopt a more market-based approach to implementing the Telecommunications Act.

Secondly, the direction is timely because it represents an important first step in the reform of Canada's telecommunications regulatory framework as set out in the TPR report.

[*Translation*]

As I mentioned, the CRTC has clearly demonstrated over the last few years that it would prefer to continue to regulate rather than moving forward with the reforms that most other advanced industrialized economies have adopted.

[*English*]

A couple of recent examples. In the spring of this year, the cabinet asked the CRTC to reconsider its decision to regulate voice-over-Internet services as if they were identical to traditional wire-line local telephone service. The cabinet noted the recommendations of the TPR report, which favoured no regulation of such services. Surprisingly, on September 1 of this year, the CRTC reported to cabinet that it would not change its policy of regulating voice-over-Internet services. Having been invited by the government to adopt a more modern approach, the CRTC refused.

Another illustration of the CRTC's reluctance to recognize and accept change is its policy regarding wireless or mobile telephone services. As you know, wireless services have been enormously successful in Canada and elsewhere, and there are now about 17 million wireless phone customers in Canada.

Many people now regard the wireless phone as their primary and most important phone service, and an increasing number of Canadians adopt wireless as their only form of phone service, giving up their wire-line service altogether. In our service area, in our largest urban market, greater Vancouver, Stats Can reports that 10% of households are now wireless only, and that number is growing every year. In spite of this, only in the last few months has the CRTC been willing to acknowledge that wireless phone services might be a substitute for and competitive with traditional wire-line service.

These examples, in our view, illustrate the clear need for policy direction by the government to the CRTC, and that proposed direction is well drafted; there's no question it's legally valid and falls squarely within what Parliament intended when it enacted section 8 of the Telecommunications Act.

So, in closing, I'd like to draw your attention to what the minister himself said on the day he released the proposed direction:

We want to ensure that Canada's telecommunications industry is internationally competitive and successful, and is shaped to best support our ever-evolving and rapidly changing telecommunications needs.

A critical first step in the fulfillment of that objective is to finalize that policy direction, and we urge the government to do it as quickly as possible.

• (1545)

[Translation]

Thank you, Mr. Chair and members of the committee, for inviting Telus to provide you with its views on this important matter.

[English]

The Chair: Thank you very much, Ms. Yale.

We'll now go directly to questions. I just want to remind members to be as brief as possible with questions and to keep them relevant to the policy directive sent to the CRTC.

I have Mr. McTeague on the list. Is that correct?

Mr. McTeague, for six minutes.

Hon. Dan McTeague (Pickering—Scarborough East, Lib.): Mr. Chair, thank you.

Thank you for being here on such short notice. I know this issue is of immense importance to all in the telecommunications industry, as it is to this committee. We are dealing, however, with the issue of manufacturing, and if time were to permit, perhaps down the road...

Very quickly to the questions. I would leave this to any one of you, but perhaps you, Mr. Hunter, can start first. Does the direction overrule the Telecommunications Act in any way, shape, or form, as you read it?

Mr. Lawson Hunter: No, in my view it does not. As Janet said, I think it falls squarely within the power given by Parliament to the government in section 8 of the act. In fact, it is slightly modified from what the TPR panel themselves recommended, but I think it falls squarely within the powers the government is given in section 8.

Hon. Dan McTeague: We could argue that the direction contains a number of very broad principles, and I'm sure there'd be others who would argue that point. How, in your view, will the CRTC know if they're complying with the direction?

Mr. Lawson Hunter: Others can answer, but that's a good question. I've mentioned to the chair of the CRTC that we're going to have to operationalize this general policy direction. Then, of course, that's why we think it is within the powers of section 8, because it only allows the government to make general directions to the commission; it can't decide individual cases.

It obviously has to find a minimally intrusive way of operationalizing the principles that are set out, using the type of regulation that's most efficient. So they're going to have to take this and come up with some tests or some standards to make sure they're complying with the government's wishes.

Hon. Dan McTeague: Obviously, the committee is interested in the concepts of market dominance, market power, and who has those. There have been some questions as to the experiences south of the border with respect to recent rulings there on the dearth of competition and, more importantly, whether or not VoIP or wireless serves as a substitute in many homes. The question of the evolution of the technology is not there.

In your estimation, Ms. Yale, you had talked a little bit about the increase of 10%, you cited, in some markets—that's developed over a period of time. Do you see that growing, or do you continue to see the distinct possibility that market is tapped out, that there will continue to be a very large and dominant market for wire-based technology, of which you are the incumbents?

More importantly, to all four of you on the subject of business, what is the competition picture like as far as the business penetration by some of the CLECs?

• (1550)

Ms. Janet Yale: Maybe I can start.

Certainly our experience in western Canada has been the explosion of wireless as an actual substitute for local telephone service. As I said in my opening remarks, we're in a situation now where 10% of households in the Vancouver area do not have a wire-line telephone service, notwithstanding the obligation of all telephone companies to have a line to every home. I think that's good evidence that wireless is an increasing substitute, in many people's minds, for local telephone service. It doesn't have to be for everybody for it to be meaningful competition. In Alberta, the number is about 8%, on average, and it has almost doubled in the last year. Every year, over the last number of years, we're seeing a virtual doubling—

Hon. Dan McTeague: Of people who use wireless exclusively?

Ms. Janet Yale: —of people who use it exclusively. On top of that, you obviously have the explosive growth in wireless services. It's not to say it's the only form of competition, but it's certainly meaningful competition and broadly available to most consumers in Canada.

It really is important to recognize that in many markets today there are three facilities-based alternatives: the telephone company, the cable company, and at least one, if not multiple, wireless providers who are not affiliated with the telephone company in the marketing question. Our view, obviously, is that it's time to rely on that competition to ensure that the best offers are available to consumers and not have the regulatory handicap in place.

On the business side of the market, we are moving east into Ontario and Quebec in a facilities-based way, and we have been growing that business and taking on Bell and other competitors increasingly.

The Chair: You have about a minute, Mr. McTeague.

Hon. Dan McTeague: What I was really alluding to is that while there may be competition from a consumer point of view, I'm trying to figure out the number at which land lines would dominate. By the numbers you've given me, it still looks as though, between VoIP and wireless, we're still dealing with the old technology—the old land wire—being at least 80% to 90%—

Ms. Janet Yale: You can't look at national averages and draw conclusions about the competitiveness of particular markets.

Hon. Dan McTeague: This may be more in urban centres.

Ms. Janet Yale: In urban centres, obviously, we're at or near the 25% threshold mentioned by the CRTC, in many markets, particularly if you include wireless only. It's our position, as you know from our appeal to the cabinet, that this threshold itself is too high.

Hon. Dan McTeague: My question, though, is more to the issue of whether, as far as business competition is concerned, cable companies can get access to businesses through your landwires.

The Chair: We're out of time.

Does someone want to offer a brief response here?

Mr. Lawson Hunter: Let me quickly comment on the business market. The business market, in our view, is the most competitive market we face.

Mr. McTeague, if you like, I could give you some information about what has happened to prices in those markets.

Certainly under some wholesale access regimes they can. Rogers just announced.... There was an article in the *Globe and Mail* on October 10 saying they intend to aggressively enter the business market. So it's not only the telcos; the cable folks themselves are clearly entering these markets. Vidéotron has announced the same.

It's a very competitive market, and arguably, as I say, the most competitive in the country. It's a struggle for all of us I think to make a reasonable return on investment.

The Chair: Thank you.

We'll go to Monsieur Crête for six minutes.

[Translation]

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

Mr. Hunter, your brief troubles me as much as the minister's direction. Could you explain to me why it doesn't contain the word "consumer" a single time? Is that because it's not a concern for your organization?

[English]

Mr. Lawson Hunter: I was on the wrong channel. I'm sorry, I didn't hear.

[Translation]

Mr. Paul Crête: I'm going to repeat my question.

Your brief troubles me as much as the minister's direction. I read it quickly a few times and it does not contain the word "consumer"; it only refers to competition between companies. It doesn't talk about the consumer. As a member from a region, I find that very disturbing.

What do you say about that?

• (1555)

[English]

Mr. Lawson Hunter: I don't think that is correct. If you look at my statement, I said several times that it's—

[Translation]

Mr. Paul Crête: You're talking about markets, but you're not talking about users.

[English]

Mr. Lawson Hunter: Look at my very last quote, the last word to Canadians themselves, the vast majority of consumers. If it doesn't, in your view, mention that enough, that's an oversight on my part, because from our point of view, the most important thing and what we think is driving the changes in this sector is from the demand side of the market, what's happening with consumers. Clearly, this policy is what's needed to actually offer consumers better prices, better service, and more innovative services. That's what the ultimate objective should be here.

[Translation]

Mr. Paul Crête: Do you agree with me that it would be important to conduct a much broader consultation before assessing the relevance of this regulation? For example, in a region such as the one I represent, if there had not been any subsidies from Industry Canada to introduce the Internet, there wouldn't have been any service.

They called on businesses. In very concrete terms, in the Témiscouata region, they called on five companies, all of which answered that they could not provide cellular service. In the circumstances, the example I have before me, the image I see of that could quite quickly lead, not to a monopoly, but to a duopoly, where there's virtually no competition.

Wouldn't that be the danger with this direction?

[English]

Mr. Lawson Hunter: First of all, I don't think it's necessary to have more consultation. That was what the telecom policy review mandate was, to go out and consult with consumers and with affected parties and use their expertise to make a recommendation to the government, so that was done. It was done over the course of a year, and I think it was done very, very effectively.

On the issue of broadband access—in fact, Mr. Sabia, our CEO, on more than one occasion spoke to this—if you look at our submission to the telecom policy review report, we did significant work on the issue of broadband access. In fact, we recommended, and he recommended in his speech a year ago, that the government should set an objective of universal access for broadband services.

As you may know as well, we recently submitted a proposal to the CRTC to spend \$455 million in rolling out broadband—some in your riding, I might add. Without doubt, it's true that when you get into the less densely populated parts of the country, the cost of providing broadband service gets higher, but we are very, very close in Canada. We already have 92% of households with wire-line access. We, with Rogers, have a joint venture called Inukshuk, where we'll be providing wireless and WiMAX-type access to a very large part of the country. Telesat, which today is a wholly owned subsidiary of Canada, offers a high-speed satellite Internet service, the first in the world.

I don't think we have anything to be ashamed of in this country about how far we've gone with broadband. On the other hand, I don't disagree with you that it is vitally important that we make sure Canadians have access to broadband, and we certainly feel we have gone a long way ourselves. We have more to do, I don't deny that, but we ourselves have been very clear in this whole process that this was a fundamental part of what needed to be done.

[*Translation*]

Mr. Paul Crête: I'd like to know the views of the other speakers.

In your opinion, would there be better service in the regions in three or five years as a result of the implementation of the direction, for the products you're offering, since there won't be any more guardrails? What kind of safeguard would you be prepared to provide consumers to ensure they have some control other than merely their actions as consumers?

Ms. Janet Yale: That's a very important question. The direction will apply more in the regions where there is competition. It's important that there be protection and regulations where there aren't any.

As regards the regions where there is no competition and not yet any broadband service infrastructure, in particular, a way must be found to ensure that all Canadian consumers have access, regardless of where they are in Canada.

• (1600)

[*English*]

The Chair: *Fini?*

We'll go now to Mr. Carrie, for six minutes.

Mr. Colin Carrie (Oshawa, CPC): Wow, that was very fast. Thank you, Mr. Chair.

The Chair: I'm just following the directions set for me by the members.

Some hon. members: Oh, oh!

Mr. Colin Carrie: Well, thank you, Mr. Chair. I'll get right to it.

I just wanted to point out to the members that the policy direction mentions Canadian consumers four times. I think everybody would agree this is all about the consumers.

This is going to be my first question to the panel. Could you comment on how relying on market forces will actually help consumers?

Ms. Janet Yale: Maybe I can start.

I think the reality, which a number of the panellists have pointed out, is that in the current regulatory environment, we are actually held back in a number of ways from making our best offers to customers. This in turn takes the pressure off our competitors; they don't have to be as sharp in their offers because they know there are certain ways we are unable to respond. One is the three-month rule on trying to win customers back, as Mr. Meldrum pointed out. We're not allowed to approach those customers for three months after they've made their decision, so we don't have the ability to do the point and counterpoint we'd like to be able to do in a competitive market. We're limited in terms of the ways in which we can bundle our services to match the offers of our competitors, who often have a

bundle including local all-year calling features, flat-rated long distance everywhere in North America, and a whole bunch of other things. We have constraints preventing us from doing that.

So from our perspective, relying on market forces is a win-win for consumers. There's no doubt about it.

Mr. John Meldrum: I'll argue the point by analogy. In terms of our cable television service, where we compete with Shaw and Access Communications, every day we spend time and effort working on price, promotion, and innovation. It's the only way we can succeed against Shaw and Access. To me, that's the way it should be in local telephone service as well, where folks are focusing on those things, especially on the innovation end.

Mr. Colin Carrie: Are there any other comments on that?

Mr. Lawson Hunter: I guess I'd just say this is such a fast-moving industry. I think we are fundamentally talking about what the proper role of government here is.

As I pointed out in my remarks, if we thought about it, many of the devices consumers use today that give them freedom, choice, and better service didn't exist before. This is moving so dramatically that the notion that a government agency could predict what the market will produce is, in my view, a thankless task—and, to be honest, a hopeless task.

We really need to rely on the market; the market will produce these benefits. If there are abuses of market power, then obviously we need a way to respond to those. But to restrain competition is the regime we have today, which just won't work for consumers in the short run, let alone the long run.

Mr. Colin Carrie: Okay. You talked about the regulatory issues, so I'd like you to expand on what you think the problems are with the present telecommunications regulatory system. How could it be improved? If you could write the rules, not only for now but also for the next ten years, what would they look like?

Ms. Janet Yale: In three minutes or less?

Some hon. members: Oh, oh!

Mr. Colin Carrie: In three minutes or less.

Mr. Lawson Hunter: Can I start, Janet?

This document here, by the way, is an appendix to the submission we made to the telecom policy review panel. It's 98 pages long. This is a list of all of the regulations we are subject to today; the index is over 10 pages. So we are living in an unbelievably complicated, micromanaged world.

We're moving so quickly that it's impossible for consumers to get the benefits of competition in this world, which basically has as its fundamental premise that everything is regulated until the government says it isn't.

Other jurisdictions have moved the presumption the other way, and that is one of the recommendations of the panel. They say we should change the presumption of regulation; let's not presume we need to regulate in an *ex ante* command and control way, but we should see if there's a problem. That's fundamentally one of the changes we think needs to happen. This is not going to happen by this direction, of course; it would require a legislative change.

But the whole scheme of the act, as the panel articulated quite well, needs to be changed. If you'd like to see an example of this, I'll leave it with you, but this is graphic illustration of the intrusive nature of the current system we have, which the panel has said is just out of step with the rest of the world.

● (1605)

Mr. Colin Carrie: Are there any other comments on that one?

Ms. Janet Yale: I was just going to add that the TPR exercise was really an opportunity to catalogue the issues associated with the current regulatory environment, and we think the direction is an important first step in implementing reform. But I think the comprehensive nature of the recommendations in that report and the legislative package that is associated with it are really kind of the blueprint for addressing the key defects that we see in the current regulatory environment.

Mr. Colin Carrie: Do I have time for one more quick one? Okay.

You mentioned other countries have gone through it. Britain went through it. How did the deregulation of retail services affect consumers over there?

Mr. Lawson Hunter: In July of this year, the U.K. removed all retail price caps. They said there was sufficient competition. They did provide some protection for the disadvantaged or low-income consumers, but they basically said competition will protect consumers. As I mentioned in my remarks, that's in an industry where only 25% of households have cable.

We basically have two ubiquitous networks in Canada. Others have done it too. Australia has done it. The European Union is moving away from this *ex ante* type of price control into more of an *ex post* regime.

It's a little bit like what my mother used to say: everybody is out of step but Johnny. We really are falling behind in Canada. In our view, the telecom policy review panel will leapfrog Canada to the forefront. There has been a lot of international recognition.

The Chair: Okay. Let's go to Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

Thank you for appearing today.

It is a very important issue. I view this as a national infrastructure. We have a lot of knowledge as consumers who are dependent upon these services, but there is also the matter of the way this country is able to respond at a business end, and this is also a security matter to the world around us.

One of the concerns I have is with regard to deregulation, which is seen as the solution to a lot of problems. Why for wireless, for example, do we have higher prices, less broadband coverage, and inferior service compared to other industrialized nations? They are

not being regulated. How can you explain the differences between service in Canada and the service the other countries are experiencing?

Mr. Lawson Hunter: I'm not convinced that wireless prices are out of line with those in the OECD world. It is true that certainly if you look at average minutes of usage per month, we are very competitive with prices in the United States, which arguably is the most important one for us to compare ourselves to.

As you know, when you get to Europe and other countries, their wire-line network may not be so good, and the way in which they bill.... It's a different sort of environment. But compared to prices in the U.S., those in Canada are quite competitive.

This issue as well is regulation. By the way, that is why the United States has moved away. They had deregulated because they were concerned that the regulatory environment they had, particularly on wholesale access, was actually preventing investment that was necessary for the infrastructure you've discussed.

You're absolutely right. We must have leading-edge infrastructure, but if our regulatory environment prevents people from getting a return on that investment, then we won't invest. That is what happened in the United States. That is why they changed.

Mr. Brian Masse: I am concerned, though, looking at the United States, that Canada has a land mass and population that are quite different from those of the United States. That creates different challenges to being able to make a profit in rural and other areas. Urban areas might be very successful, but considering the expense in rural areas, what guarantee can we get that the coverage will roll out to rural and remote areas?

● (1610)

Ms. Janet Yale: The fact of the matter is that nobody is suggesting that deregulation is appropriate where there aren't competitive market forces. So let's draw a clear distinction between where there is and isn't competition. That is the first point.

The second point is to say that where you create cheap access to somebody else's infrastructure, there is no incentive to build your own.

I can speak from a TELUS perspective. When we started moving into Ontario and Quebec, we had infrastructure investment plans that predated the CRTC's decision about some unbundling and mandated access to telco infrastructure. I can tell you that those plans got put on hold because of the CRTC's decision to mandate cheaper access to infrastructure. There was no incentive for us to invest in Ontario and Quebec in infrastructure—this goes back some years—because of the fact that the CRTC made cheap access to other infrastructure possible.

At the end of the day, those rules matter. If you want to encourage investment in infrastructure, the best way to do that is not to require access to somebody else's infrastructure unless those are essential services. That is very consistent with what's in this direction.

Mr. Brian Masse: I'm still concerned that you'd just get one operator in certain areas and wouldn't have competition.

Mr. Lawson Hunter: Could I answer? As I mentioned before, it's very important to actually know what the situation is in Canada. As I said before, the cable plan in Canada reaches 98% of all households. The telephone business is about 99%, so both are roughly ubiquitous—and by the way, we're significantly higher than the United States; the United States is in the range of 95%.

Second, the cable industry has upgraded their plan to provide broadband access, which is how they're going to provide all of these services—including voice—and it is now in over 90% of all households.

We are nowhere near 90%. We're at 85%, and we're all approximately the same.

You have two pipes into the home, and consumers are very fortunate in this country that we do have two industries, let alone what wireless is going to provide, and we have not seen the end of wireless. I think we're in a better situation than you think we are. We have a bit we have to finish—I don't deny that—but we are in a situation in which we can have robust competition here and we should just let it happen.

Mr. Brian Masse: I know the U.S. has a universal access charge to deal with some of their coverage issues, but I think this is important to TELUS and Bell.

I'd like to understand, in terms of your...I know you've already moved to an income trust and you're considering it. How does it affect your ability to add infrastructure in the future, and your business plans, especially as we go through a shift? There are also issues about competition, and I know consumers are concerned about it. There is a survey here from the Public Interest Advocacy Centre, and they note that over 52% of consumers still are concerned about competition.

In your situation, how does changing your actual company structure affect your ability to achieve the goals you're saying you can achieve?

The Chair: We've got twenty seconds.

Ms. Janet Yale: I think it will actually enhance our ability to do that. The tax efficiencies associated with the conversion will actually give us more money to invest.

As we have said many times, we are a capital-intensive industry. We've invested over \$42 billion since 2000 in capital operating expenses and acquisitions. We've announced a three-year, \$600 million program of further broadband infrastructure upgrades, and when you see our 2007 guidance in December, which will indicate our infrastructure plans for 2007 and beyond, you will see that the income trust conversion is expanding, if anything, our ability to continue to make significant capital investments in this country.

The Chair: Mr. Hunter, I'm sorry, we're over time. Is there anything more specific?

Mr. Lawson Hunter: No, I would say there isn't.

The Chair: Okay, great. Thank you.

We'll go to Mr. Bélanger. We have a couple of minutes.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Thank you very much, *mesdames et messieurs*.

I'm not a regular member of the industry committee, but I'm very interested in this matter. I come at it from the heritage point of view, being the heritage critic. My understanding is that in the TPR, they didn't really have a mandate to go into certain areas. They did go into one in particular, which is the matter of foreign ownership and foreign ownership restrictions. Because of convergence, you can imagine that this is causing some elements some reasonable disquiet in other areas. I must admit to some sympathy to the position you're advocating, but I cannot be unaware of these other concerns.

In your comments to the TPR, did you address the matter of foreign ownership? If so, would you share your comments with us?

● (1615)

Mr. Colin Carrie: Mr. Chair, if I could just make a point of order, the idea today, according to the orders of the day, is that pursuant to Standing Order 108(2), this study is to be on the policy direction to the CRTC, not on foreign ownership or anything like that. There are a lot of witnesses today.

Hon. Mauril Bélanger: That policy direction, if I may, Mr. Chairman, was included in the directives. The government has embraced the policy directive, and it's included in the TRP, so I'll just finish my questions.

The Chair: I think it's related enough to the issue of the day—

Hon. Mauril Bélanger: Well, it's convergent, so let's not try to shut off the cultural side.

The Chair: —but if we could put the question—

Hon. Mauril Bélanger: Yes, so it's fortunate—

Mr. Brian Masse: On a point of order, it's also been raised by witnesses and it's part of the actual report, so it's obviously part of these discussions—

The Chair: I'm allowing the question, Mr. Masse.

Hon. Mauril Bélanger: Thank you.

I'll finish the question. If you commented, would you share that? If you haven't, have you commented since they've put out the report, and would you share that? And if you haven't in either case, would you care to comment to us?

Thank you.

The Chair: Ms. Yale, would you like to respond?

Ms. Janet Yale: I can tell you that our position on liberalization of foreign ownership restrictions is that it should be permitted in the case of infrastructure—and that would be telecommunications as well as cable—but not in the area of content; it would be carriage, but not content.

The Chair: Is there anyone else?

Mr. Lawson Hunter: To be honest, I forget if we said in our response to the TPR whether it was relevant there.

Philosophically, we're not opposed to removing the foreign ownership restrictions at the right time. We think that regulatory reform is a precondition to that, because it's very important that we don't expose Canadian companies in weaker positions—there are enough of them being taken over as it is—to foreign takeovers any more than they would otherwise be. That's been our position.

I recognize, however, that the issue of content gets very difficult. By the way, it's going to get more difficult. As you know, the Internet is being used today to carry all kinds of content. We can't separate those things quite so easily.

The Chair: Mr. Meldrum.

Mr. John Meldrum: Our position at SaskTel hasn't changed since we appeared before the Senate committee that looked at it. We don't support foreign ownership changes.

• (1620)

The Chair: Thank you for being here. We are a bit over time, so we want to thank you for your very brief responses and brief opening statements.

I would ask panel two, cable television companies, to come immediately to the table.

We have, from Rogers Communications Inc., Kenneth Engelhart, vice-president of regulatory. We have Yves Mayrand, vice-president of corporate affairs, from COGECO. From Shaw Communications we have Jim Shaw, chief executive officer. From Vidéotron we have Luc Lavoie, executive vice-president of corporate affairs, Quebecor Inc. We will go in that order.

Gentlemen, if you can limit it to three minutes, we'd appreciate that very much.

We'll start with Mr. Engelhart.

Mr. Kenneth Engelhart (Vice-President, Regulatory, Rogers Communications Inc.): Thank you, Mr. Chair.

Competition in Canada has been good for consumers. It has spurred innovation, and we support it thoroughly. I guess much of the debate you'll be hearing today is going to be around how to get to competition and how to get to the benefits for consumers most quickly.

We've done quite a lot already in Canada. Twenty years ago we had a monopoly in the telecommunications sector in almost all areas, and now we have unregulated competition in 70% of the telecom market. The last regulated area is the local telephone market, and that's what a lot of the debate is about.

My main point today is that competition is very different in the consumer market and in the business market for local telephone service. In the residential or consumer market, as you've heard, cable companies have entered with their own networks and are providing services. But most cable networks don't go into the business market. In most business buildings there is no cable infrastructure. Most competition in the business market is not facilities-based. How do carriers compete in the business market? Generally speaking, it's by using access facilities that are mandated by the CRTC—local loops and other networks. Those are hugely important.

Last year Rogers acquired Call-Net, a very large provider of competitive telecommunication services to Canadian businesses. The former Call-Net, along with our wireless and cable business marketing and sales groups, are combined in Rogers Business Solutions, a \$600-million-a-year company. But almost all of our access facilities are dependent on CRTC-mandated access facilities, and less than 5% of those facilities are self-supplied. We are

beginning to build networks into the business market, but it will take an awfully long time. So the business market and the residential market are very different.

We're very concerned about what the direction had to say. The direction specifically told the CRTC to have a hearing and review this. I am concerned that the interpretation the CRTC will take is that they should provide fewer mandated facilities to allow competition in the business market. If that's the way the direction is interpreted, I think the results will be very bad for competition in the business market. Any significant reduction in the availability of tariffed wholesale services and facilities could greatly reduce competition in Canada's business telecommunications market.

The Chair: Thank you very much, Mr. Engelhart.

We'll now move to Monsieur Mayrand.

Mr. Yves Mayrand (Vice-President, Corporate Affairs, COGECO Inc.): Thank you, Mr. Chair and committee members, for this opportunity to provide COGECO Cable's views on the telecommunications policy direction to the CRTC.

Over and above the points covered by my fellow cable panel members today, I'm going to leave you with a few basic thoughts that you and the government will hopefully take into consideration.

First, this policy direction can neither supercede the provisions of the existing Telecommunications Act nor replace the need to reform Canadian telecommunications legislation, as contemplated in the report of the expert panel. Since a new bill on telecom is expected to be tabled soon, the purpose of this policy should be to provide focus and clarity within the four corners of the law as it now stands and only until the law is effectively changed by Parliament. So in legal as well as in practical terms, we all remain subject to the forbearance regime under section 34 of the existing Telecommunications Act until the law is changed, and that includes the government.

The TPRP's version of the proposed text of a policy direction indeed contained an explicit reference to that existing provision of the act, in connection with economic regulation of telecommunications services. The actual policy direction should as well.

•(1625)

[Translation]

Second, a key concept underlying the TPRP Report on economic regulation or deregulation of telecommunications services is the concept of significant market power (SMP). It is a fundamental concept of competition law around the world, whether in telecoms or in any other industry sector. When SMP is found to be present in a relevant market, economic regulation may need to be extended or reinstated. The TPRP's version of the proposed text of a policy direction contained an explicit reference to that concept in connection with economic regulation of telecommunications services. The actual policy direction should as well.

Third, the establishment of an ex post regulatory regime as the new default regulatory framework for telecommunications requires credible and efficient enforcement in situations of anti-competitive behaviour. The TPRP Report contains a full chapter on this critical requirement. At this juncture, in markets where incumbent telephone companies are found to have SMP, ex ante economic regulation is the only credible and efficient deterrent to anti-competitive behaviour, and there is no credible replacement solution at hand.

[English]

Fourth, and finally, while the TPRP report advocates the use of policy directions by the government to the CRTC, it also clearly advocates getting rid of cabinet review of individual CRTC telecommunications decisions. The TPRP report points out that we are alone in the western world with the concurrent availability and use of those two powers under our domestic telecom law. It is fundamentally important to have an independent expert tribunal, rather than politicians, rule on specific files based on detailed evidence and proper procedural safeguards. With the issuance of a policy direction under section 8 of the act, the government should commit to refrain from interfering with specific decisions of the CRTC or its successors henceforth.

Thank you very much.

The Chair: Thank you. We'll go right away to Mr. Shaw.

Mr. Jim Shaw (Chief Executive Officer, Shaw Communications Inc.): Good afternoon, committee members.

Listen, I hope no one asks me about policy 8.2.630, because I think I'm the only one appearing today who's not a lawyer. It's also my pleasure to note that I'm not—thank you—the only Shaw here today.

We're a large provider of cable services, with some three million customers, including our satellite base. We are busy and active in direct-to-home, cable TV, and VoIP. We're the largest Internet provider in western Canada right now. Last week we brought VoIP competition for the first time to a town called Medicine Hat. Today we launched in a town called Lethbridge. Next week we'll launch in a town called Red Deer. All three towns have never seen competition at any time in Canada's telecommunications history and yet have seen a lot of broadcast competition across the board.

We have a couple of ideas of what we think would be good, what I'll call "work ahead" ideas for the committee to consider as we roll forward.

Currently only two million of our customers have the availability of voice-over-Internet phone, or digital phone, as we call it. We have a long way to go and are actively pursuing that competition. We still have competitors—TELUS, SaskTel, Manitoba Tel—that have four million lines, and we're only talking about homes passed, with the 170,000 customers we have to date.

We believe we don't need a lot of time to establish competition; we need just a bit. We're more of the component that one year would be a good timeframe for substantial competition—let you guys pick the date for when it happens—so that small towns in Canada get the competition. Only the big towns have it right now.

At this time, the monopoly telcos totally manage and run the system. It's hard for us to arrange number portability. It's hard for us, as Ken Engelhart pointed out, to access support structures and rights of way. We're told constantly they're full, or will be used for their future facilities down the road. We really need it to be clear that one priority we have is access to provide Canadians....

Shaw is a company that serves a lot of small towns, whether it's in British Columbia or Manitoba, such as Prince Albert or Moose Jaw or Swift Current—I call it "Speedy Creek"—or other places like that. We need access, and if we don't have some kind of ability to ensure that we can bring the competition there, it's going to be really awkward for us. That's all we're saying. So if that's the whole mandate, that's what we'd really like you to consider.

We also think that broadcasting needs a change. We know it's not the mandate here today, but I think any kind of guidance that you or this committee could give to help Canadians have a further choice in Canada would be greatly accepted by all constituents of all parties here today.

As we see everything go down to iPods and digital television, with everything accelerating—get 'em any way you can—Canadians are forced to be limited by restrictions they're not used to. People from western Canada go to California, or Hawaii, and watch a show. They come back. They can't watch the show. They phone me and ask, "Jim, why can't I watch the show?" I say, "Well, have you seen the broadcasting book? It's about that thick, and it has more rules than you've ever seen." I can't even explain it to them. So that's part of the issue.

I think it's the same thing in telecom. We need to boil it down and have a healthy broadcasting system that responds to what Canadians want. It's the same thing on the telecom side. You will always have competition....

Just one second, Mr. Chair. Sorry, but these are important.

If we keep Canadians on our side, we will always win, and these big companies will roll on.

Thank you, Mr. Chair.

• (1630)

The Chair: Thank you, Mr. Shaw.

We'll go to Monsieur Lavoie.

[*Translation*]

Mr. Luc Lavoie (Executive Vice-President, Corporate Affairs, Quebecor Inc., Vidéotron Ltée): Thank you very much.

Mr. Chairman, members of the Standing Committee, ladies and gentlemen, I am Luc Lavoie, Executive Vice-President, Quebecor Inc.

As you know, we control Vidéotron, the largest cable operator in Quebec and the third largest in Canada.

The concept of competition has been set down in Quebecor's genetic code since its creation by Pierre Péladeau more than 50 years ago. Quebecor has always operated in an extremely competitive environment, in newspapers, magazines, printing and television. It goes without saying that we support the minister when he expresses the desire to see the natural free market forces govern the telecommunications industry to a greater degree.

Competition, wherever it is established, benefits consumers, citizens, first and foremost.

We have just witnessed the implementation of a decision made by the Parliament of Canada more than 10 years ago, the decision to open the residential telephone market to competition. For the first time in history, telephone rates have dropped substantially. This is unheard of. It has taken more than 10 years for Parliament's decision to be implemented because our old monopolies, mainly the biggest of them all—obviously I mean Bell Canada—have made every effort to remain monopolies.

Bell Canada has made every effort to prevent the cable companies from providing residential telephone service. It has taken the will of one man, supported by his team—I'm talking about Charles Dalfen, the current Chair of the CRTC—for competition finally to be come a reality. That no doubt explains Bell's vicious public attacks on the CRTC. The monopoly has finally been dismantled, and Bell is having trouble recovering from it.

So I would like to take advantage of my appearance before you to pay tribute to the courage of Charles Dalfen, whose term as Chair of the CRTC is drawing to a close. He leaves Canadians a great legacy: competition in telephone services and all the benefits that result therefrom.

Ladies and gentlemen, I want to warn you against the cajoling approach the old monopolies are taking toward you and the massive lobbying campaign they are now deploying in Ottawa, both with the public service and with you, our elected representatives. The approach they're taking is nothing more than one of sophistry and distraction. Faced with a century-old monopoly, it is impossible for competition to be established if the appropriate conditions are not put in place. That is what the CRTC has done in the case of residential telephone service, and it has worked.

Sooner or later, pure free market rules will have to apply, and we accept that, but we should not precipitate matters and fall once again into the traps set by the old monopolies.

• (1635)

[*English*]

Some of our competitors have been vicious in their condemnation of the CRTC's actions in managing the transition to a competitive situation in the residential telephony sector. But for what cause?

In local telephony, competitors are finally making meaningful inroads after almost a decade of starts and failures. The CRTC has laid out conditions for deregulation that in all likelihood will be satisfied in the large urban areas of the country during the course of 2007. But Bell and TELUS cannot wait that long. They want complete deregulation now while they still hold over a 90% market share.

The CRTC has laid out a plan for local telephone competition and deregulation, and the plan is working. Companies like Vidéotron are providing consumers with new services at lower prices, and consumers are responding.

Indeed, if we are looking for ways to benefit Canadian consumers, I would suggest that we might all be looking in the wrong place. Although the policy directive before us today does not specifically address the case of mobile telephony, I will take advantage of my presence here today to suggest to you parliamentarians that you should begin to be seriously concerned with the prevailing situation in this sector in Canada.

Mobile telephony is currently concentrated in the hands of an oligopoly, and while third-generation technology is rapidly penetrating the U.S.A., as well as countries in Europe and Asia, here in Canada we are lagging farther and farther behind. Beyond just having to support outdated technologies, according to the OECD, Canada is in 29th place among the 30 member countries of the organization in terms of mobile telephone penetration, ahead only of Mexico and behind Turkey. All the while, Canadians pay 60% more than our southern neighbours for inferior mobile telephone services.

This is very worrisome in several regards, in particular because third-generation mobility is much more than telephony. It is the vehicle of the future for culture, whether it be music, film, television, or news.

[*Translation*]

This monopoly must be broken, in the shortest possible time frame. Otherwise, Canadians will find themselves treated like citizens of a developing country.

Thank you.

[*English*]

The Chair: Merci beaucoup.

I'll now go to Mr. St. Denis, a former chairman. Welcome back to the committee. You have six minutes.

Mr. Brent St. Denis (Algoma—Manitoulin—Kapusksing, Lib.): Thank you, Mr. Chair. I'll probably not use all the time, so that'll help you out.

I represent a rural riding, so I'll ask my question on behalf of members here and not here, who have rural constituencies. I'll try not to be biased, but I will mention that in my riding office located in a town of 6,000, when I moved I wasn't able to get high-speed from the incumbent. I had to get high-speed from the cable company. I thought that was kind of interesting. I didn't have a choice, as it turned out.

If I were trying to convince a group of farmers in a rural part of any riding in the country, where they are not in a village but are out on the township roads, where if they have television it's probably satellite television, and if I were trying to make an argument, say, on behalf of the newer entrants to the industry to that kind of front-line retail service, what government directive could I point to that would tell them that it's going to get worse for them, that their prospects of getting high-speed, broadband, or any other of the new and emerging services...? What arguments could you give me to help me convince them that we need to maintain this chance for the new entrants to have a run-up, to have a chance to get some momentum before they face full competition from the incumbents?

I would leave it at that, Mr. Chair. If there are a couple of comments, I'd appreciate it.

Mr. Kenneth Engelhart: Perhaps I'll go first, and I'm sure my colleagues will jump in.

You heard statements from the panel before that no one is suggesting deregulation for the rural markets, but I think this direction is. This direction was built on a direction that was contained in the telecom policy review report, and that draft direction in the report said "deregulate unless there's significant market power". Those words were deleted from this direction, so this direction does not provide any guidance to the CRTC whatsoever on the need to continue to regulate in those rural areas where there is no competition.

One can presume that they're going to look at this thing through the lens of logic, but that is how they're regulating today. This direction is telling them to change the way they're regulating. This direction removes the words "significant market power", and as Mr. Mayrand explained in his opening remarks, that is a state of affairs that I think will increase uncertainty and provide less clarity than the current state of affairs.

• (1640)

The Chair: Who would like to go? Mr. Mayrand or Mr. Shaw.

Mr. Jim Shaw: I only have one comment, Mr. Chairman. Being the only satellite operator of the group here, as far as I know, there are some options on the K-band side. I'm not saying they work really well, but they do provide an option for rural Canadians. I do think, just as they'll have to put more gas in their truck to drive to town, they'll have to put more gas in their truck to get high-speed Internet. Hopefully, the technology advances will allow it to go from 64K to 256 to some kind of broadband, but it's really based on a penetration level and capacity and capital market argument, for either a cable company or a telco.

The Chair: Mr. Mayrand.

Mr. Yves Mayrand: Very briefly, I think one of the big conundrums with the policy direction is, as Ken was pointing out, that some specific references, at least in the draft of the TPRP report,

are not to be found in the version that was published by the government. It all goes to the point that there has to be, somehow, the hard and dirty work of going market—and I mean also geographically speaking—to determine what has to occur in each of those relevant markets, geographically in terms of the actual service, for deregulation to occur.

It's a big concern really for smaller markets where competition is simply not there, and I could give you a number of examples in our cable footprint, of smaller-sized markets where the actual incumbent share is 100% still. That has to be dealt with. Is the commission going to be better equipped under this proposed direction to do that dirty job of setting the criteria? I'm not at all sure.

The Chair: Mr. Lavoie, do you have a comment?

Mr. Luc Lavoie: No.

The Chair: Thank you, Mr. St. Denis.

We'll now go to Monsieur Vincent.

[*Translation*]

Mr. Robert Vincent (Shefford, BQ): Thank you, Mr. Chair. I would like to thank the witnesses for being here today.

My question is for Mr. Mayrand. In your view, what stages will we have to go through before achieving equal competition?

Mr. Yves Mayrand: That's a very broad and, at the same time, quite fundamental question. I'll try to answer it in 30 seconds or so.

The process is essentially the one the CRTC followed in the context of the present act. That act provides for a process before abolishing regulation. In our view, the CRTC did what it had to do, that is to say it held a complicated hearing at which many briefs were submitted, where significant evidence was filed on the way in which you move from a regulated to an unregulated environment for local telecommunications services.

That work is essentially done. We're now seeing the accelerated deployment of competition in a number of markets. We should stick to the game plan and allow the process to take its course. We've practically reached the end of the process.

What is the point in reinventing the wheel and trying to question how we should achieve the final result. The regulatory authorities of the world have asked themselves the same questions, come up against the same problems and, strangely, drawn the same conclusions. There is a concept called dominant market position. We must ensure, market by market, that dominance is no longer a problem, before proceeding with regulation. That's the general principle.

In practice, that means that someone must verify, with supporting evidence, what is going on in each relevant market, whether it's in Saint-Georges-de-Beauce, Sept-Îles or Roberval. That's the heart of the matter.

•(1645)

Mr. Robert Vincent: That's fine, but to get back to competition in isolated regions, how can the CRTC show or ensure that there is a certain amount of competition in those regions? You can have a certain amount of competition in the major centres, but you can only think about competition in the isolated regions. As Mr. Shaw said, you can take a truck, drive it at 70 kilometers an hour and try to catch it, but it's not certain that you'll be able to do that.

How could we manage to get a certain amount of competition in those isolated regions so that they are not dealing with a monopoly?

Mr. Yves Mayrand: There's no absolutely universal solution. There will probably always be specific situations in small markets where competition will take longer than in others, but, in general, what is necessary, first and foremost, are clear rules and assurances that, when a new arrival invests so that there is competition in a local market, it will be able to establish a basic position which is viable and enables it to recover its investment. If the rules aren't clear and new arrivals get the impression that their investments will be at risk, they won't take any risk. That's my answer.

Mr. Robert Vincent: I understand, but you're talking about the possibility that there is really this kind of competition. However, if people have to try to obtain services by turning to the biggest businesses and those businesses charge the same prices as subscribers are paying, what do you do if a new player wants to get established in those regions?

Mr. Yves Mayrand: I think that, in a system like the one that's currently in place, where there are no new players, there is still a control over prices. That's the current state of affairs, when a local market isn't deregulated. When new arrivals penetrate one of those markets, when competition is established and there is every indication that the competition will be sustainable, the market economy takes over, competition is established and consumers benefit from it.

Those are essentially the two aspects of a single reality. You can't have both, everywhere, at the same time. There is inevitably a transition. However, you have to have assurances, in cases where there are no new arrivals in a local market, which has certain guidelines and certain safeguards like those we talked about earlier, that the framework ensures that new arrivals are encouraged to enter as many markets as possible and to stay there when they enter them.

Mr. Robert Vincent: If I understand you correctly, you prefer the current way of changing all that, as the minister intends to do.

Mr. Yves Mayrand: We're in a rapidly changing situation, in which competitive services are being added almost continuously. You only have to read the announcements of the new arrivals, in press releases. Announcements are regularly being made.

We're in an accelerated transition phase. So we can't say that we're in favour of a static situation. On the contrary, we're in favour of expanding competition as quickly and completely as possible, in the best interests of all the markets concerned and of all Canadians who...

[English]

The Chair: Merci. We'll go now to Mr. Arthur.

[Translation]

Mr. André Arthur (Portneuf—Jacques-Cartier, Ind.): Mr. Mayrand, Mr. Lavoie, for how long are you going to ask the CRTC to hold back the telephone companies before the race starts? At what point, how long do you think it will take for the balance necessary for competition to be achieved?

•(1650)

Mr. Luc Lavoie: Mr. Arthur, if I may, right now, the rule isn't a time rule, but a market share percentage rule. You'd be surprised, and you will be surprised, to learn that, in Vidéotron's case, we are deploying our residential telephone service so quickly that we are about to reach the 25% level in some of our areas.

Mr. André Arthur: And our discussions are becoming pointless.

Mr. Luc Lavoie: I would never say anything of the kind, Mr. Arthur. I'm not saying that our discussions are becoming pointless, but that the process is taking its course. We could have a debate. And the CRTC has agreed to engage in that debate. Was 25% the right percentage? Would 20% have been preferable? We can debate that.

Mr. André Arthur: As the rules currently stand, when do you think we can let the telephone companies run after you?

Mr. Luc Lavoie: I don't know, but I'm going to ask Yves to answer that himself.

It would almost be unfair to force me to answer that question, but I would say that we're not completely opposed to the idea of setting a time limit. We're ready to live with a time limit. However, Mr. Arthur, we aren't ready for all these conditions to be lifted tomorrow morning. I can imagine what our favourite big monopoly would do: it would make sure we got out of the way, if you will.

Mr. André Arthur: Mr. Mayrand, what do you think?

Mr. Yves Mayrand: I don't think we can set a deadline, and I'll tell you why. What's always important—this is a fundamental concept of competition—is what's happening in the relevant market. What's a relevant market? Let's take an example. Let's take the case of a place like Roberval. What's important for the inhabitants of Roberval is not an artificial date for the country as a whole, but that there be competition in their market.

So, we agree...

Mr. André Arthur: I believe my question was misunderstood.

Mr. Luc Lavoie: You'd like us to make a prediction.

Mr. André Arthur: What's your forecast, in terms of time?

Mr. Luc Lavoie: There's no clear answer to that question. I'd say that, in the Montérégie region, for example, it would be less than a year.

Mr. Yves Mayrand: It varies, but we're talking about a period of time that is limited in practice. It can probably be stated in terms of a certain number of months or, perhaps in some cases, a few years.

[English]

Mr. André Arthur: Mr. Shaw, a few minutes ago you talked about one year, and most of your colleagues looked a little shaken by that.

Mr. Jim Shaw: I was not.

Mr. André Arthur: You were not?

Mr. Jim Shaw: No.

Mr. André Arthur: Mr. Shaw, if it is going to take one more year to give you people a chance to compete with Bell Canada, how much money will that have cost the Canadian consumer?

Mr. Jim Shaw: How much will it cost to wait an extra year?

Mr. André Arthur: Yes, for the consumer.

Mr. Jim Shaw: We're bringing great value now, and that's why Canadians are moving over. They're the telco's customers to lose. If they were to come with a great offer to all Canadians right now, there would be no competitive business. But that's not the case. If their service levels were high and Canadians were happy, they wouldn't come and sign up with me or COGECO, Rogers, or Vidéotron.

Mr. André Arthur: But there will be an answer from the federal level when you—

Mr. Jim Shaw: There will. What you're asking me—

Mr. André Arthur: At that point, the price will come down, and the difference will have been an enormous cost in the meantime for the Canadian consumer.

Mr. Jim Shaw: Right.

Then what you're asking us is to commit a large number of capital dollars to deploy in markets that will never, ever have competition if the prices drop. If you take a small town in any province in Canada, with prices dropped under deregulation we will not be able to afford to go in to spend the capital money, because we have shareholders too; we will not be able to afford it.

There is a timeframe from the start to the finish. I'm saying a shorter timeframe; my colleagues probably would like a little longer timeframe. But I think one year is the minimum and that it's very reasonable. I think it's a good approach for the committee.

Do you agree with that?

[Translation]

Mr. Luc Lavoie: But, Mr. Arthur, we can reverse the argument. I recognize the talented interviewer that you have always been. First, for 125 years, consumers have not received much for their money. Second, the act we're interested in was passed in 1993. Until very recently, two years ago in fact, 98.5% of the market in our areas was served by a monopoly. And the third argument I'm going to give you is that the biggest drop in cost to the consumer in the telephone world occurred when we entered the market. It's as simple as that. So the argument can be...

•(1655)

Mr. André Arthur: And the next drop will be even bigger when we deregulate telephone services. The companies will cut their prices to compete with you and we as consumers will benefit from that. So, in your opinion, we should wait until you say you're satisfied with what you have before we consumers can get a price cut.

[English]

The Chair: We're out of time, so make just a very small comment.

[Translation]

Mr. Luc Lavoie: I don't think the word "satisfied" is appropriate. It's not a matter of satisfaction, Mr. Arthur.

Mr. André Arthur: Thank you, Mr. Lavoie.

[English]

The Chair: Thank you. We'll go to Mr. Masse.

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

Mr. Mayrand, you mentioned—and I don't blame you for feeling skittish on this—political interference or decision-making as part of the process, given that the minister tried to reverse or suggested reversal of CRTC's advice over the Internet protocol decision. Unfortunately, since those appointments of a panel would be political themselves, I'm not sure we'd escape that trap.

I would like to start by asking, though, about the current process. What gives me a little concern is if this goes through as currently.... If it goes through without a piece of legislation, do you believe—and this is to the rest of your colleagues—Canadians will have a full say about deregulation of the industry, and also your shareholders?

Mr. Yves Mayrand: Well, let me react in this way.

The big concern we would have at COGECO with this direction is that it's not going to be very obvious, whether to Canadians in general or even to the commission itself, that it has more clarity and focused guidance on how to implement this transition from regulation to complete deregulation of local services. I really have difficulty seeing how, through this exercise, which obviously, as you suggested in your question, has a very limited lifespan, because we're all headed for a new telecom act.... And we support that. We support the effort of the TPRP report and totally acknowledge that the law has to be reformed.

Whether Canadians will get a better sense out of this direction about what has to occur and how their interests are better fulfilled in the meantime is certainly up for debate, but I wouldn't vouch for it.

Mr. Brian Masse: We heard the suggestion that the strategy of switching as a corporation to an income trust can lead to increased availability of resources for infrastructure, and a series of things. But also, among the concerns I hear from consumers is that it also could be that you'd have further purchasing of companies and further vertical integration of the industry.

I throw this out to you. If this were to happen very soon, what would happen if we lost a couple of the major players in the market? Would competition increase or would it decrease?

Mr. Jim Shaw: I've been pretty vocal on income trusts. While it looks right for a telco scenario, it does not look correct for a cable or a growth-economy company. We have to use most of our capital to redeploy, to do telephone, business telephone, HD, VOD, SVS, PD, pay-per-view, everything. We continue to bear that load, so it'll be a long time before we get into what I'll call a TELUS or BCE situation. I don't see that happening.

The one thing that might happen is this. They have a currency now that's valued high, based on the monthly dividends, so they could use their currency, which is their shares, to go and buy other companies. But other than the two of them going together, there's probably not a lot they could buy. Buying Manitoba Tel or MTS or SaskTel probably wouldn't make a big difference in the Canadian landscape. I think you're talking across the table to the only major competitor in telephony that's going to be serious on the business and residential side. It's these four companies.

• (1700)

The Chair: Does anyone else want to comment?

Mr. Brian Masse: What's your position on foreign ownership?

Mr. Jim Shaw: Sure, I'll go first.

Mr. Brian Masse: I might as well get you guys on the record, too.

Mr. Jim Shaw: We'll just get it on the record. We're not for sale, but we need access to capital. I was before the committee once before, and some of the members were there. We said that capital gets harder to get all the time in Canada. You could go to a Canadian bank and they'll say, "Oh, yeah, I've got lots of money for you", but then you'll ask, "What's the rate?" Well, if the rate is 10%, we don't want it. But now, with rates a little lower, capital is a little easier. But as things tense up, it gets tighter. So if I go to the investment side of a checklist with, let's say, Fidelity, they could give money to me, someone over here, someone over there. They go, "Foreign ownership? Oh, what's that? Ooh...." So I get Xed off the list.

All I'm saying is we need capital to build and deploy, and I think all the companies here have the same issue all around the world. As COGECO and others expand around the world, it becomes more obvious that we need more capital, not less.

The Chair: Does anyone else want to comment?

Mr. Yves Mayrand: I totally agree with Jim's position. But I should add that we've just purchased a cable telecommunications company in Portugal, and we've been able to do this for the simple reason that throughout Europe it's the policy that there should be no foreign ownership restrictions for wire-line telecommunications. We benefit from that. We're in this world where capital is invested in telecom facilities. It's a very capital-intensive industry, and we think we can't have it both ways.

Mr. Luc Lavoie: We've never taken a position, officially or publicly, on whether we support the idea of lifting foreign ownership restrictions. But we've said publicly several times that we don't oppose it. So I'm playing a little game here...I'm not really playing a little game. We're not for sale. It wouldn't affect our business. We're more diversified than just the cable. Cable is a major business for Quebecor, but we're a company that has annual revenues of \$10 billion, and cable is about \$1.3 billion of it. All in all, we think the foreign ownership restrictions in place are probably outdated, but we

would not be completely fair and honest to take part in this debate. Really, it doesn't affect us.

The Chair: Mr. Engelhart.

Mr. Kenneth Engelhart: In much the same way, we're not advocating foreign ownership liberalization at this time. But if you did liberalize it for telecom, you would have to do it for cable as well.

The Chair: Thank you, panellists, for being with us today and for being so succinct in your responses. We appreciate that.

Sorry, I forgot. We actually have a few more minutes, so if you could stay, we have Mr. Bélanger.

Hon. Mauril Bélanger: *Merci, monsieur le président.*

I've been listening very attentively, and I'm fascinated by the future studies on the impact of deregulation on the companies that have transformed themselves into income trusts. It'll be fun to watch.

I was going to ask about foreign ownership, but that's been put on the record. There's another question.

[*Translation*]

My question is in response to comments by Mr. Shaw and also, in part, by Mr. Lavoie.

I agree with Mr. Arthur when he says that competition was virtually non-existent for a period of 10 years, one year according to Mr. Shaw. You, Mr. Lavoie, say that it took a decade in the telephone sector. Perhaps it will take a decade for wireless.

Mr. Luc Lavoie: No, no, I was misunderstood. I was talking more about...

Hon. Mauril Bélanger: All right, but can we agree on the fact that, when we talk about telecommunications, telephone companies, and when we talk about broadcasting, broadcasters, two different kinds of public policies apply?

Mr. Luc Lavoie: When you talk about broadcasters, what are you referring to?

Hon. Mauril Bélanger: To the broadcasting companies, the television companies.

Mr. Luc Lavoie: The content media.

Hon. Mauril Bélanger: Yes.

These are two different public policy regimes. Telecommunications and broadcasting can have similar problems or challenges, but they definitely also have challenges that are not the same.

Personally, when I hear the suggestion that everything concerning content broadcasters should be deregulated, I'm a bit troubled.

Do you all believe that, if we decide to deregulate the telecommunications industry, we should do it for broadcasters as well?

• (1705)

Mr. Luc Lavoie: If I may, I'll answer first, Mr. Bélanger. Fundamentally, at Quebecor, we think that there's too much regulation and too much of it in virtually all sectors of Canadian society, that there's too much of it in broadcasting, too much of it in telecommunications as well, that there's so much that you don't have any idea of the time we waste and the money we have to invest just to understand what the documents we receive from every direction mean. Fundamentally, we have to agree that regulation has to be reduced virtually everywhere, because we're ultimately going to suffocate.

Mr. Yves Mayrand: To add to Mr. Lavoie's remarks, I think we share the opinion that an effort must be made to simplify matters for the content media and for the regulated media. Furthermore, however, there's this entire and very interesting matter that has been raised—some rightly say, while others believe that was part of the review panel's mandate—that is the matter of the desirable scope of deregulation. In part of its report, the review panel observed that the Europeans observed some time ago. The Europeans conducted an in-depth revision of their telecommunications regulatory framework, but that included all forms of electronic telecommunications. The finding was that media convergence completely changed the situation and that we must review our approach to the way we manage the various services in our telecommunications systems. That necessarily includes content, which represents a large part of the traffic.

Our position at Cogeco is clear: the government must focus on that aspect as well. We're not talking about full deregulation, but the rules that concern us must be reviewed; you have to stop focusing on details that were relevant in 1975 and that are clearly no longer relevant today.

Mr. Luc Lavoie: You have to be vigilant. I referred to cellular telephony...

[English]

The Chair: Very briefly, let's go to Mr. Engelhart. Mr. Shaw will wrap it up.

Mr. Kenneth Engelhart: I'd agree with you that the broadcasting and telecom regimes really have very different purposes. In the telecom regime we're trying to simulate market forces until market forces take over. In broadcasting we're really trying to prevent market forces from fully taking over, because probably in a fully competitive market we wouldn't have Canadian content, so we need Canadian content, and we need market protections to get there.

We support that, but as my colleagues have said, the extent to which the rules micromanage our businesses to try to achieve that end is out of proportion. We can protect Canadian content with much simpler, more market-based rules. In fact, I think some of the rules we have today are having a perverse result, in that they're making a regulated system vulnerable to attack from the unregulated system.

So simplification on the broadcasting side is absolutely critical if we're going to maintain the Canadian content we need.

The Chair: Mr. Shaw.

Mr. Jim Shaw: I'd just like to finish by saying I was able to bring the broadcasting handbook with me. It's a solid 1,000 pages of rules that govern Canada's broadcasting system. We call this the cable handbook, and I'm lucky enough to get to carry it all the time. It grows by about a half an inch a year because one rule has to fix the next rule. I think that makes my point.

The Chair: Thank you, Mr. Shaw.

Thank you, Mr. Bélanger.

Again, thank you very much for being with us and for your succinct answers.

We'll suspend for a few minutes while panel three comes to the table.

• (1705)

(Pause)

• (1710)

The Chair: Members, please take your seats.

We have with us the third panel. It's the largest panel, so I think it will be the toughest for us to get through in the time we're allotted.

This is a panel of new entrants and the public interest. We have with us six representatives here today. From the Public Interest Advocacy Centre, we have Michael Janigan, the executive director and general counsel. From MTS Allstream Inc., we have John MacDonald, who is the president of enterprise solutions. From the Quebec Coalition of Internet Service Providers, we have Sophie Léger as spokeswoman; she is the president of Inter.net and the chief operating officer of Universe Communications Corporation. From the Canadian Cable Systems Alliance, we have John Piercy, chair of the telecom committee and president of Mountain Cablevision. From L'Union des consommateurs, we have Geneviève Duchesne, who is an analyst of telecommunications, broadcasting, and information highway policies and regulation. And finally, from Primus Telecommunications Canada Inc., we have Ted Chislett, who is the president and chief operating officer.

Welcome to all of you.

That's the order I have down on my sheet, so I think that's the order we'll be following. Again, I'd ask that we keep opening remarks to three minutes to allow as much time as possible for questions and answers from the committee.

We'll start with Mr. Janigan, for three minutes.

Mr. Michael Janigan (Executive Director and General Counsel, Public Interest Advocacy Centre): Thank you very much, Mr. Chairman. I believe you've been given some speaking notes from me that set out the substantive and technical objections we have to a proposed direction. I don't propose to read those speaking notes. They're too long to meet the minutes. I'm going to try to compress the main points into my address.

In general, we find the direction to be unnecessary, potentially outside the power of the minister and disruptive to the proper functioning of a regulatory agency. For better or for worse, the commission has set a course for transition to competitive markets where possible and has got out of the business of regulating most telecommunications services. There is enough competition to protect consumers.

The CRTC, by its current legislative mandate and practice, must let go of regulation. The fuss that now comes about is because the big telephone companies think they should be deregulated sooner than the commission does. What deregulation will let them do is what they call one-on-one marketing, and that's to charge rates and give services to a customer, much in the same way the banks do now. If your constituents like that kind of treatment, namely the bigger the customer, the more urban the location, the better the price and the service, then they'll be ecstatic with the plans of the big telephone companies. If you don't want the CRTC to worry about things like whether there is actual competition to protect consumers, then this direction may be very appealing. If your constituents live in a small town, you may wish to ask yourself if they're going to be happy with increases to pay for discounts to customers in denser urban areas, particularly if there's not enough competition to discipline the provider.

I would add that most Canadians don't like this idea of *carte blanche* to telcos. Our survey shows that only 20% back the big telephone company plans, and a majority don't even think the CRTC test of one cable provider is enough.

This direction is supposedly modelled on the recent telecommunications review panel report. It actually only reflects certain sections of that report. It leaves out whole sections of improvements to consumer protection by way of a new agency, a special review of competition-based matters, and more resources to the commission.

As well, we believe the wording of this direction is excessive and potentially biased. With respect, in its current form, this direction reads a little bit like a free enterprise version of Mao Tse-tung's little red book. Look at the language: "Rely on market forces to the maximum extent possible"; "Provide for maximum efficiency"; "Each regulatory measure shall demonstrate compliance with the policy direction", etc. All that's missing is a slogan like "Let 100 flowers bloom", or "The collective must meet its quota". This is ideology, not economics, and from experience, this rarely works.

It's not good policy, and possibly without proper jurisdiction, to jump in on one aspect of the commission's mandate and objectives and try to make everything bend to a view of that one aspect.

I understand why the big telephone companies want to do this, but in my view it's shortsighted. You shouldn't corrupt powers and objectives given by legislation to an independent body by insisting they feature the flavour of the month. What happens if a public outcry about the industry moves a minister to issue a direction that the needs of an average consumer should take precedence over carriers? Is that good regulation? How do you apply something like that to the power set out in the act?

Coming back to this case, why is it reasonable to make everything else in the act, like consumer access, affordability, regional economic

development, and culture subordinate to the deregulate decision in the act? The big problems in the industry don't come from the regulated remnants. They come from the parts that have never been regulated.

• (1715)

The Chair: Mr. Janigan, if we could ask you to conclude....

Mr. Michael Janigan: I've just got about thirty seconds more.

Our wireless lags in penetration and customer discounts. Our broadband is effectively a duopoly with the resultant price parallelism and slowing penetration levels. Why all this attention to the remaining regulatory services, which are delivering high-quality service at acceptable prices to 99% of Canadian households? It can't be the financial performance of the big telephone companies, because they're booming and awash in cash from their recent income trusts. There's no public interest addressed by this direction. It simply takes sides.

To sum up, we don't think this direction is about either being in favour of competition or being in favour of regulation. It's taking a side and cheerleading deregulation regardless of the state of competition. In our view, this direction should be sent back to the minister for retooling or discarding.

The Chair: Okay.

Mr. MacDonald.

Mr. John MacDonald (President, Enterprise Solutions, MTS Allstream Inc.): Good afternoon. My name is John MacDonald, and I'm president of the enterprise solutions division at MTS Allstream.

By the way, my speaking remarks, as well as our whole submission and some interesting observations regarding the competitive situation in the U.S. that might be helpful to the process, are included within this particular document. To ensure that I keep to the timelines you've set for comments, let me get straight to the point.

First, MTS Allstream straddles the divide between the former monopoly incumbent provider, which we are in the province of Manitoba, and the so-called new entrant competitor, which we are in the rest of the country for business, or, as we refer to it, the enterprise customer. In fact, we were the first long-distance competitor, as Unitel, and among the first local competitors, as AT&T Canada. Today, we are the largest national competitor to the incumbents Bell and TELUS, in each of their territories, and we deliver communications solutions to the small, medium, and large enterprise customers.

Typically, the views of incumbents and competitors on matters of policy and regulation are opposing. Some say our personality on both actually makes us a bit schizophrenic. We say it actually makes us an honest broker. We understand that when we pursue policy and regulation that is pro-competitive, there may be short-term implications for our incumbent business in Manitoba that now faces competition from the likes of Shaw. We certainly are aware that when policy or regulation is adopted that allows former monopoly incumbents like Bell or TELUS to leverage their dominant position in terms of control over their respective local network infrastructure, then competitors and the cause of competition are threatened.

With respect to the proposed policy direction, we agree wholeheartedly with the government's goals to ensure our telecommunications regulatory system is more modern, flexible, and efficient, and that our industry is internationally competitive and successful so that Canadian consumers will benefit from a stronger competitive environment that will bring greater choice and even lower prices and better services.

For the most part, we support the language of the proposed direction. However, MTS Allstream believes subparagraph 1(c)(ii) of the proposed direction that deals with access for competitors to the local networks controlled by the historic monopoly companies, as currently drafted, will actively undermine achievement of these laudable goals. It could jeopardize competition, particularly in the critical market for business services.

To be clear, we would ask the committee to carefully scrutinize language, the impact of which could be the elimination of choice for thousands of small and medium-sized business owners across the country, and that could result in costs to Canadian consumers.

The premise of that section, a copy of which is attached to my comments, is that allowing the former monopolies to set high prices for competitors to access the local network they control, often with markups of at least 50% to 300%, will encourage those competitors to build local networks of their own. That premise is frankly wrong. As has been repeatedly demonstrated in the marketplace in Canada, in the United States, and in Europe, experience has proven that the market will not fund, the economics do not support, and competition will not result from policy that seeks to force a replication of the pervasive local network control by the incumbent.

Local networks, whether telco or cable, have been built and maintained in Canada with an effectively guaranteed rate of return. In the business market especially, there is no widespread local network other than the one controlled by the former monopolies. Fair wholesale access to that local network for competitors is therefore critical to competition.

MTS Allstream has invested more than any other company—\$8 billion—in competitive networks nationally. Yet we still require fair access to the local network to offer choice to customers. We propose alternative wording to that section in question, which is also before you. The language we propose is entirely consistent with the goals expressed by the government, but unlike the current language, it recognizes that where a former monopoly exercises significant market power over the network, for competitive market forces to take hold, competitors must have fair access to that network.

Thank you for considering this extremely important issue.

I look forward to your questions.

• (1720)

The Chair: Thank you very much, Mr. MacDonald.

Now we'll go right to Ms. Léger for comments.

[Translation]

Mrs. Sophie Léger (Spokeswoman, President, Inter.net; Chief Operating Officer, Universe Communications Corporation, Quebec Coalition of Internet Service Providers): Thank you, Mr. Chair.

Good afternoon, ladies and gentlemen.

My name is Sophie Léger and I'm here today on behalf of the Quebec Coalition of Internet Service Providers. We represent about 14 companies with about 200,000 customers throughout the country.

[English]

I want to talk about the directive to the CRTC and the strategy behind it. We disagree with some, though not all, of its language, and we think the offensive parts need to be revised.

We refer to what is called mandated access to wholesale facilities. These access arrangements allow us to lease parts of the network of the telcos and the cable companies, and this in turn allows our customers to reach the Internet. The point of the directive is in fact to encourage the CRTC to get rid of such mandated access to third parties.

Why? It seems that the government has bought into the idea that the only real competition is competition based on owning facilities. If you don't own billions worth of outside plants, wires, poles, remote switches, and the like, you are not competing. This means, in effect, that a valid option for getting on the Internet is going to go away. As those who own the facilities will now say and have told us directly, once the directive goes through, there will be no more need to lease us facilities to access the Internet through their equipment.

The government may think it is increasing competition. In fact, it is choosing one particular form of competition to succeed and another to be eliminated. The form of competition it is choosing to succeed is called facilities-based competition. It requires that a company directly own the physical means of getting access to your home or office. Only the largest types of utilities can do this.

The form of competition the government is choosing to eliminate is competition in services that grew up around the leased equipment. The ISP industry can only get access to high-speed DSL and to the facilities of the cable owners at unregulated prices, and, quite naturally, they would like to see us squeezed out.

Through a quirk in the evolution of regulation, the high-speed facilities that are most needed to reach the customers are called non-essential facilities. All these words, like essential and non-essential, came out of the voice telephony era.

Voice telephone service will soon be just another application like Word or PowerPoint. It may even be given away for free. The real competition is in getting access to the Internet. Here the government is thinking of reducing competition while they believe they are expanding it.

The basic argument of the incumbent companies is that they will invest more if they are given more profit and less regulation. However, competitors, by paying a fair price for the use of this infrastructure, do contribute directly to the incumbent's capacity to invest. We ISPs offer a much more needed alternative to consumers.

Incumbents have lobbied the government very successfully here and in the United States to shut down independent ISPs and to expand their Internet revenues as much as possible to make up the shortfall in declining voice services. Getting rid of access to high-speed facilities for competitors will result in less choice for consumers and less competition. Here the government is carrying out the intentions of the incumbents beautifully.

What must be done? First, we need mandated access to facilities, at fair and reasonable prices. Second, the services to which we have access must evolve with time and with advances in technology. Third, the market power of the incumbents must be constrained. What this means is that Canada needs effective regulation in the public interest as long as incumbents exercise market power.

• (1725)

The Chair: Ms. Léger, could we have you conclude?

Mrs. Sophie Léger: I'm done.

The Chair: Okay, thank you very much.

We'll go to Mr. Piercy.

Mr. John Piercy (Chair, Telecom Committee, President, Mountain Cablevision, Canadian Cable Systems Alliance): Thank you. Good afternoon, everybody.

My name is John Piercy and I'm here representing the Canadian Cable Systems Alliance, the CCSA, of which I am a board member and chairman of their telecom regulatory committee. I am also president of Mountain Cablevision, a CCSA member company.

CCSA represents over 90 small, independent cable companies operating in all regions of Canada. Member companies are generally family owned businesses serving small and rural centres. All of these companies favour competition. We compete aggressively with large national companies in the provision of video services as well as in high-speed Internet.

We have taken the risks to make the investment to bring advanced digital and broadband services to our customers. We are also fully prepared to compete in offering local telephony services, the last bastion of monopoly communication services outside of the major urban areas.

One of the key differences in local telephone services is that our competitors currently have 100% of the customers we are seeking to

attract. When we do succeed in attracting a customer to our local telephone service, we have to work with our competitor to transfer the customer to our service. We also have to interconnect with those competitors and rely on them to provide other services. This is not the usual structure of a competitive market.

The CRTC, through the local forbearance decision, has put in place a framework consistent with the Telecommunications Act. This framework will allow competition to develop and incumbents to be deregulated once that competition has reached a certain threshold. It also establishes how the relationship between incumbents and new entrants will be governed and provides recourse in the event of disputes.

This framework was put in place only six months ago. Cable companies, even the small ones, have begun to make investments required to provide competitive local telephone services to their customers. The draft policy direction would undercut this framework. This would put cable investment at risk and probably deter other companies from offering telephone services at all. The transition from monopoly to competitive local markets would be derailed, just as it's getting under way.

The shift to less regulation needs to be supported by enforcement tools, as recommended by the telecom policy review panel. It will not be enough to have the Competition Bureau conduct the post mortem on what went wrong. Our efforts to offer competitive local telephone service would already be dead.

The draft policy direction appears to put regulatory efficiency ahead of effectiveness. It does not recognize the need for regulation where there exists significant market power. It does not provide for enforcement powers and it does not recognize the need for a transition period. These were critical recommendations of the TPR panel itself. We believe that the policy direction should be amended to reflect these recommendations.

Our competitors exercise significant market power; our member companies do not. Sustainable competition, if allowed to develop, would limit our competitors' market power, but in order to get to that point, someone must have the authority to intervene, to impose sanctions, and to do so in a timely manner so that new entrants are not forced out.

Our customers in small-town Canada deserve choice in local telephone service as much as those in the large urban centres. As the only other companies with facilities, we are the best-placed alternatives to compete with the large telephone companies. We simply want a chance to compete, and we guarantee our member companies will rise to the occasion, as they have done in the past.

Thank you.

• (1730)

The Chair: Thank you very much.

We'll go right now to Ms. Duchesne.

[Translation]

Ms. Geneviève Duchesne (Analyst, Telecommunications, Broadcasting and Information Highway Policies and Regulation, L'Union des consommateurs): Good afternoon, my name is Geneviève Duchesne and I'm from the Union des consommateurs.

With the respect to the policy direction, the Union des consommateurs is of the view that the Governor in Council does not have the authority under section 8 of the Telecommunications Act to make directions of the kind provided for in the order. The direction as proposed exceeds the limits set under section 8 on the authority conferred on the Governor in Council because they are not all of general application, do not solely concern Canadian telecommunications policy and affect other provisions of the act.

The direction as proposed seems to disregard the fact that the CRTC is required to administer the Telecommunications Act currently in effect, that the Commission has powers conferred on it under that act and that it is required to exercise only those powers. The proposed direction is irreconcilable with Part III of the act, which requires that the CRTC regulate a given telecommunications service, unless certain conditions set out in section 34 are not met.

For example, in section 34, Parliament has cited only one case in which the CRTC is required to rely on market forces, and that is where competition is adequate to protect the interests of consumers. The requirements stated in section 34 of the act may not be amended by means of the authority conferred on the Governor in Council in section 8 of the Telecommunications Act. It is up to Parliament to amend those requirements of the act establishing the conditions that the CRTC must observe before it can rely on market forces.

Would the government attempt to circumvent the legislative process and associated time periods by proceeding by means of directions? That is what is readily apparent from the summary of the regulatory impact study accompanying the draft direction. That study reveals that directions are a transitional measure designed not to delay changes to the regulatory framework that concern questions—we've been able to see that today—that are complex, will require in-depth analysis and consultations. Regardless of the alleged advantages and benefits associated with an approach requiring the CRTC to rely, as far as possible, on market forces, about which, based on our experience, we may have serious reservations. Those advantages and benefits cannot in any case warrant the executive branch's circumventing the democratic process that characterizes the legislative branch.

As I said, the Union des consommateurs has numerous reservations about the alleged advantages and benefits of a new regulatory framework based more on the market and on the relevance of implementing such a framework. It would recall that the CRTC and the regulatory frameworks it is currently required to administer have made Canada a telecommunications leader. We also wish to recall that the Telecommunications Act provides that the CRTC may refrain from regulating a telecommunications service. It even has an obligation to do so where competition is sufficient to protect the interests of users. We also wish to recall that the CRTC has previously refrained from applying economic regulation to nearly 70% of the present telecommunications market mainly affecting clients with a small number of services offered by the

old monopolies subject to economic regulation. That is the case of local telephone services in which the old monopolies still hold a highly dominant position.

As the review panel's report reveals, the local telephone sector, which is a regulated sector, performs better internationally—particularly as regards prices—than the broadband services and wireless services sectors, which are largely deregulated. The wireless sector, which, I repeat, is a largely deregulated sector, generates new extensive consumer complaints and frustration. I also wish to point out that, according to the review panel's report, the fact that Canada lags behind in wireless service innovation, as well as the low penetration rate and high rates—60% higher than in the United States and 19% higher than in Europe—are attributable to insufficient competition in the Canadian wireless market, which, I recall, is almost entirely deregulated.

In conclusion, I wish to emphasize that the policy direction almost completely contradicts the opinion of Canadian citizens. According to a recent survey, 70% of Canadians reject the idea that telephone companies should set their own prices without CRTC approval.

Thank you for your attention.

• (1735)

[English]

The Chair: Merci.

We'll now go to Mr. Chislett, please.

Mr. Ted Chislett (President and Chief Operating Officer, Primus Telecommunications Canada Inc.): Thank you, Mr. Chair. You all should have a copy of my comments and our submission.

Before I get to the specifics of why I felt it important to appear before you today, I want to take the opportunity to give you a thumbnail sketch of our company, for I fear we may not be as well known as some of the witnesses you've seen in the previous two panels.

Primus Canada is a national, stand-alone Canadian corporation with an all-Canadian management team. We're the largest full-service alternative service provider and one of the few remaining competitors in Canada independent of an ILEC or a cable company. Primus Canada serves about a million Canadians across all regions of the country. Primus Canada provides a full range of high-quality, innovative, and competitive services to Canadians. In our mind, we are what this government wants: competition.

Mr. Chair, Primus supports the objective of ensuring Canadians benefit from a strong, competitive environment that yields innovation, choice, and lower prices. However, Primus is concerned that as the directive is written, it may lead to the opposite: reduced competition. This is because the access networks, that last mile of cable going into Canadian homes, are a natural monopoly, like water, gas, and electricity distribution.

All competitors like Primus Canada need the access networks on which they provide competitive services to Canadians. This is a huge and insurmountable barrier to entry into the telecommunications industry for competitors like Primus. For a competitor, to duplicate the access network has an enormous cost, billions of dollars, and is entirely uneconomic, especially when a network already exists. It just doesn't make sense to duplicate.

For true competition to exist in the Canadian telecommunications industry, we need competitively neutral wholesale access regimes to these bottleneck facilities. These are the access networks that have been built through public rights-of-way over many decades under a monopoly guaranteed rate of return regime.

Otherwise, best case, there would only be two competitors left: the former monopoly telco and the former monopoly cable company, and in many cases only one monopoly access network: in remote regions, areas where the cable network is not two-way, and in most business areas where only the telephone network exists.

For Canadians to receive the benefits of competition in this important industry, we need many vibrant competitors who can innovate and compete, not a monopoly or a duopoly. We understand the cost to build these access networks in the first place and we understand we must pay to access these networks.

With wholesale access at cost plus a reasonable markup, we ensure that, first, a monopoly or duopoly will not persist; second, uneconomic entry will not occur; and third, and most importantly, a vibrant competitive regime can develop an ultimately true choice for Canadians.

With wholesale access, we support the deregulation of retail rates. We believe we will then be able to rely on market forces at the retail level because there would be true competition. But the wholesale regime cannot be left to market forces because it is not competitive.

There is also a need for special ground rules to prevent any competitive behaviour by the former monopolies. Just as it would be anti-competitive for Air Canada, knowing who has reservations on WestJet next week, to contact WestJet's customers individually and offer a special rate or incentive not available to the public at large, we'd have special rules in the telco sector where the competitors' customers can be easily identified to ensure that those with significant market power do not cross the line from competition to anti-competitive behaviour by these former monopoly players.

With a few minor changes to the directive, our concerns can be addressed. We've provided the suggested changes in the brief enclosed in the packages. We strongly believe these minor changes will ensure that viable, competitive entrants like Primus Canada will have what we need to provide competitive service to Canadians and will avoid the unintended consequence of decreasing competition in the telecommunications industry.

Thank you for inviting me today, and I look forward to your questions.

• (1740)

The Chair: Thank you very much, Mr. Chislett.

We'll go right to members. Dan McTeague for six minutes.

Hon. Dan McTeague: Chair, thank you for that, and witnesses, thank you for coming here again today on such short notice. I had a feeling when I asked the indulgence of the committee to look at this issue, even for a few minutes, it would certainly enlist the interest of a lot of the members and then find them in a field of engagement they probably had not anticipated without your presence here, so we thank you. We're deeply indebted to your comments.

On that note as well, considering the comments that have come forward, it seems to me the issue of the policy direction and the comments by the minister may very well provide a heavy hammer of interference with respect to the independence of the CRTC, notwithstanding the fact a regulation allows the minister to do that, but I think the concerns have been raised by some of you here, and they certainly speak to the test of whether or not this even passes the requirements of the Telecommunications Act.

I appreciate the comments you made to point out specifically where sections of the Telecommunications Act may be violated by the first, second, and third sections of this direction.

Mr. MacDonald, you referred a little earlier to the experience south of the border. Was it you who pointed this out?

My understanding now is that with the disappearance of the merger of MCI and AT&T, there is no doubt the Americans have now gone back to a point where they were in 1984 when the whole process of deregulation began, very much not because of the FCC's want. I hear another witness suggest it was because of FCC's decision, but it was because of a court decision that took place there.

I am wondering if you could give us a snapshot of what you would predict might be the future if this thing is rushed ahead and Parliament is not given an opportunity to properly debate this issue.

Mr. John MacDonald: We have included a report that is a fairly detailed analysis, in retrospect, of what's happened in the U.S. in particular with regard to a fairly substantial modification of the regulatory regime as it relates to wholesale access in particular.

What's really important is that we sort of tunnel down through the 10,000-foot view of some of the high-level objectives—you know, if you really want to get access to some of these customers, then why don't you build, why don't you just invest the capital, raise the capital to do it, and so on.

Also, the whole premise that all companies could invest in facilities, by virtue of the fact that some companies actually do invest in facilities, has resulted in an environment that I believe, ultimately, is going to minimize—and is minimizing—competition and competitive entry, particularly for enterprise customers in the U.S.

The environment is a little different when you talk about consumers, because we now have additional facilities-based players with cable entry in particular that have been able to offer additional choice. At least we have two fundamental providers in that regard.

Of course, the other folks, like Ted and his company, continue to fight the good fight in terms of offering a non-facilities-based access arrangement for customers as well.

The bottom line is that in the U.S., some very simple and what on the surface appear to be fairly logical arguments have led to a diminishment of competition. I would be very concerned that if you fast-forward in Canada to have the CRTC implement some of the proposals or the policy framework that's included here, it would result in the same thing. I think that having fewer competitive options is not a good thing for the competitiveness of Canadian business, let alone for the participants who are actually providing those competitive services to those customers.

Hon. Dan McTeague: The original panel had questioned, and sort of bore down on, the issue of significant market power. I think there has been an effective argument made here about the overarching concern as to who really wields it in a number of significant areas across Canada. You might have a different market in one region than in another. But to have a blanket approach that suggests that somehow we can throw these issues back to being a matter of competition, or that with the restrictions unveiled or taken away in the area of local telephone that somehow competition will re-emerge.... I think it's very clear that the examples demonstrate otherwise.

Perhaps I'll go to you, Mr. Janigan, since you deal with a lot of consumer groups in this country. I note that you've done a number of polls in the past. But the one that interested us as a committee—I believe my colleague Mr. Masse referred to it—was the number of Canadians who do not believe that wireless VoIP, whether or not the incumbents themselves may be involved in that business, and cable can in fact impact what local telephone companies can do. Is that a correct perception?

Mr. Michael Janigan: The majority of Canadians in our survey, which was done in September 2006, did not believe, essentially, in the premise of the CRTC test—which the incumbent telephone companies think is far too restrictive—which is that having one competitor, a cable provider, is sufficient competition. The CRTC test more or less boils down to having at least one competitor and a 25% loss of market share. The incumbent telephone companies believe this is far too restrictive.

In our view, this was a fairly liberal kind of decision by the CRTC. There's a whole body of economic literature that shows that in fact you need about four or five competitors of more or less equal size in order to have a workably competitive market.

• (1745)

Hon. Dan McTeague: Mr. Janigan, members in my party are very much concerned about the fact that there seems to be a guillotine date of November 3 coming forth. We believe, fundamentally, that this issue of having the minister make a decision by then, which he's capable of doing, should in fact be extended. I'd like to get the opinion of every one of you here. Do you believe we should extend this?

The Chair: Dan, you have ten seconds left.

Hon. Dan McTeague: Maybe we can have just a yes or no.

Witnesses: Yes.

The Chair: Thank you.

That was very helpful.

Go ahead, Monsieur Crête.

[*Translation*]

Mr. Paul Crête: I'm going to continue in the same vein as Mr. McTeague.

You said that, if the committee requested an additional six-month period to study the direction before giving the minister an opinion, you would all be in agreement, despite the complex nature of the situation.

I'd like each of you to tell me what principal amendment he or she would like to see made to the direction as it is presented by the minister. If you feel it should be completely set aside, tell me that as well. So I'd like to know whether there is a principal element that you would like to see different.

We could begin with Ms. Léger.

Mrs. Sophie Léger: We at the Coalition believe that the general recommendation that there should be free market access is valid for every existing business because we believe that competition ultimately always protects consumers.

However, the documents we've submitted to the committee contain three recommendations.

Core facility suppliers—like us—must have access to infrastructure at fair and reasonable rates as long as there is no competition. A duopoly is not competition, in our view.

We must also have access to services depending on their evolution and technological advancement. Today, we are limited and do not have access to all new very high speed or even very low speed services.

Lastly, regulation will be necessary as long as incumbents—and we include the cable and telephone companies here—do not have equal power and market share.

Mr. Paul Crête: Thank you.

Ms. Duchesne.

Ms. Geneviève Duchesne: I'm looking at paragraph 1(a) of the draft direction, and, as I said earlier, we are reluctant because of certain incompatibilities that subparagraphs 1(a) and 1(a)(ii) could cause with certain other provisions of the Telecommunications Act. So there seems to be some redrafting to be done. In any case, we object to this orientation.

Mr. Paul Crête: Can you read to the committee the text you object to?

Ms. Geneviève Duchesne: It's the part that concerns "the CRTC should". The obligation that the CRTC must meet to rely on market forces is already provided for by Parliament. The Governor in Council tells us that the CRTC should: "1(a)(i) rely on market forces to the maximum extent feasible..."

However, there is subparagraph 1(b)(ii)—and I don't want that to be binding on me with respect to the scope of section 8, which makes it possible to state these provisions—which concerns the CRTC's obligation to clarify the policy objective: "1(b)(ii) economic regulation, when required, should neither deter efficient competitive entry nor promote inefficient entry."

Those are the elements we can't live with.

We also find the part concerning symmetrical implementation of non-economic regulation, that is symmetrical and neutral implementation from the standpoint of competition, very interesting. However, as regards the part clarifying the objective, it is not an obligation for the CRTC, but it's already making it one. In certain cases, it already respects these elements which are not an obligation. But why not clarify it? The possibility of doing that through the proposed direction should be studied, but some elements of its content are already being implemented by the CRTC.

• (1750)

Mr. Paul Crête: Does anyone else have a comment to make or a principal recommendation that they would like corrected?

[English]

Mr. John MacDonald: Specifically, as I've mentioned in my remarks concerning subparagraph 1(c)(ii), where it refers to the direction regarding mandated wholesale access, we're pretty much on board with the overall objectives of the proposed policy changes. We think regulations have to change in keeping with technology changes, the changes in global positioning of customer expectations, in such terms as that things should be predictable and should be efficient.

But this one specifically will have an impact on the industry that is quite significant and we think requires very careful thought.

Mr. Ted Chislett: We have three different areas we'd see...

The first is that we feel paragraph 1(a) of the suggestion should be modified along the lines of section 34 of the Telecommunications Act, which modifies it to the extent that the establishment should not "impair unduly the establishment or continuance of a competitive market".

We also believe that paragraph 1(c) should be changed from the tone it has right now, where it talks about phasing out wholesale access, to one where it ensures that wholesale access is available for critical inputs to competitors.

And lastly, in paragraph 1(b) we would add a comment that it should not deter any competitive behaviour.

Similar suggestions are included in the handout we've given to you.

The Chair: Mr. Piercy.

Mr. John Piercy: I would add that we fully support the recommendations of the telecom policy review. I think if you're

going to look at doing a policy directive to the CRTC, you have to adopt everything that was in the original suggestion. That included a recognition of significant market power. If you're not going to recognize that the telecom companies, the ILS, at 95% to 100% market share, depending on what market you're in, don't have significant market power, you're going to stifle competition right there. You're not going to see competition in a lot of the smaller rural markets that my members serve.

The Chair: Mr. Janigan.

Mr. Michael Janigan: I think the policy directive is a rather awkward instrument to try to effect change in the Telecommunications Act. It's a bit like attempting to thread a needle with boxing gloves on. The kind of thing you're looking at doing is to orient the Telecommunications Act. If you wish to do it in tandem with the results of the TPR panel, that requires legislative change and it requires dealing with it in a substantive manner. What you have here, unfortunately, is a bit of an attempt to slap the CRTC around a bit, and it's not genuinely an attempt at reform. It doesn't incorporate all of the different protections that the TPR report envisioned, including a consumer agency to deal with consumer problems. In my view, I think it's probably best if the directive is withdrawn, rethought, and submitted in an appropriate way.

The Chair: Thank you.

We'll go now to Mr. Arthur for six minutes.

[Translation]

Mr. André Arthur: Ms. Duchesne, I listened to your presentation, which was perhaps more a lawyer's text than a consumer's text. You explained to us that the government was not entitled to issue this kind of direction. I got the impression that, at the end, regarding the survey...

Would you repeat the last sentence of your brief, please?

Ms. Geneviève Duchesne: I can cite it to you from memory.

Mr. André Arthur: Go ahead.

Ms. Geneviève Duchesne: A recent Pollara poll shows that 70% of Canadians reject the idea that telephone companies should set their own rates without the CRTC's approval.

• (1755)

Mr. André Arthur: Do you believe that the purpose of that question that was put to consumers was to ask them whether they had an objection to the telephone companies lowering the cost of their services, or was it instead to ask them whether they would allow the companies to decide themselves, which suggests an increase in their rates? Don't you believe there could be a minor change in meaning in the wording?

Ms. Geneviève Duchesne: I can't presume to know what went on in the minds of consumers.

Mr. André Arthur: Could you cite the question for us?

Ms. Geneviève Duchesne: No, I don't have the text with me.

Mr. André Arthur: Canadian consumers decided to tell you that they objected to a cut in rates?

Ms. Geneviève Duchesne: That's not what I said.

What Canadian consumers want is to ensure that the rates charged for an essential service are fair and reasonable...

Mr. André Arthur: That wasn't the survey question.

You're telling us that more than 60% of people don't want the telephone companies to decide for themselves.

Do you believe that people knew that there might be an implicit reference to a rate cut?

[*English*]

The Chair: Monsieur Arthur, let's allow....

Ms. Duchesne, we'll let you answer the question. Let her answer the question.

[*Translation*]

Ms. Geneviève Duchesne: Consumers are clearly in favour of rate cuts, but it's also clear that they want to be assured that rates will be fair and reasonable.

Where it is sufficient, competition can ensure that rates are fair and reasonable. If necessary, the CRTC will stop regulating businesses, the old monopolies, from an economic standpoint.

Mr. André Arthur: You're stating the argument that the consumers you represent would object to a bigger rate cut?

Ms. Geneviève Duchesne: That's absolutely not what I'm claiming.

Mr. André Arthur: That's what your sentence states.

Ms. Geneviève Duchesne: The sentence states that people want the CRTC to continue exercising control over businesses that are considered as still dominant. They don't want to be left at the mercy...

[*English*]

Mr. André Arthur: Mr. Janigan, whom do you represent?

Mr. Michael Janigan: Our organization represents other consumer groups—for example, the Consumers' Association of Canada, the National Anti-Poverty Organization, Regulatory Proceedings—and have done so for the last thirty years.

There's one point...I wonder if you're clear in your mind that...and I want to make sure, because I think the premise of your questions earlier was that... I think you're under the impression that the telephone company can't lower rates now. Is that your impression?

Mr. André Arthur: I don't think that was the point of my question to you, sir.

My question to you is, whom do you represent?

Mr. Michael Janigan: Well, I've just told you.

Mr. André Arthur: And you've been doing that for thirty years.

Mr. Michael Janigan: Not me personally, but certainly the organization has.

Mr. André Arthur: I'm sure this is what I meant.

How many members were consulted before you wrote this memoir that compares Maxime Bernier to Mao Tse-tung?

Mr. Michael Janigan: I didn't compare Maxime Bernier and Mao Tse-tung; I compared the language that was used to effective language that was used in the context of other, less attractive regimes.

Mr. André Arthur: Who was consulted before you wrote that?

Mr. Michael Janigan: Do you mean these comments today? I wrote this today, sir, because effectively I've been in CRTC proceedings up until yesterday, and this is the only time we've had to compile comments for your benefit.

Mr. André Arthur: You consulted yourself.

Mr. Michael Janigan: I consulted myself, yes.

Mr. André Arthur: How did you become an expert in telecom?

Mr. Michael Janigan: Essentially, one becomes an expert in telecom by effectively being involved in telecom proceedings over a period of time.

Mr. André Arthur: The point we had with the cable people a few minutes ago was that it was maybe not a question of philosophy, but more a question of timing—that in so many months or so many years, the difference of approach with the dominance of market would be obsolete.

Do you agree with that? My question is to all of you who want to answer.

Mr. John Piercy: I'll take a first stab at it. I don't think it's going to be measured in months, days, or years. It's going to be measured, first of all, in what percentage of market needs to be lost before the incumbents can use their market power.

Mr. André Arthur: How long will it take to get there? What is your estimate?

Mr. John Piercy: Well, if you keep changing the rules, we'll never get there. That's the problem. I'm a businessman, not a lawyer. I sit down and ask myself what my economic return will be on making an investment of this type; if you keep changing the rules, I don't know how to model it to figure out whether it's even worth my time or effort to go into it.

That's what a lot of the smaller cable operators are faced with. When they look at the cost of getting into this market, they don't know what the rules are as to when they're going to get played the game of whack-a-mole, as I call it. They stick their head out, an incumbent comes along and whacks them on the head, and they go down again. They need to understand what the rules are.

The commission came up with a set of rules. We started marching to them, and six months later all the rules are changing again. If you're going to change them every six months, I don't think we're ever going to get there.

● (1800)

The Chair: We've got about ten seconds.

Hon. Dan McTeague: I have a point of order, Mr. Chair.

The Chair: Mr. McTeague has a point of order.

Hon. Dan McTeague: In the comments made here by my colleague Monsieur Arthur, there's a suggestion that somehow Mr. Janigan and his organization may speak only for themselves and that no one else may do that.

For the benefit of the committee and yourself, Mr. Chairman, I wanted to give the comment that was left by the representative for Bell Canada in the second-last paragraph of his testimony here earlier today. I'm sure Mr. Arthur was here to hear that.

He quoted the following:

I will leave the last word to Canadians themselves. According to research conducted by Decima on behalf of Bell, TELUS and PIAC and submitted to the TPR panel, the vast majority of consumers—89%—believe the same rules should apply to telephone companies.

The point, Mr. Chair, is simply that if it comes to questions of this organization, clearly several members who have appeared here already use the information provided by PIAC.

The Chair: Mr. McTeague, that's not a point of order. That's a matter for debate. The question was asked by Mr. Arthur. It was answered by Mr. Janigan.

Mr. Arthur, you had ten seconds left. Okay, thank you.

I know we've imposed on your time—we've gone past time—but I would like to finish the first round of questions if it's okay with you. We will finish with Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair. I just have a couple of quick questions. A lot of them have already been answered.

With regard to the issue of income trusts, I believe this is a new part of the equation of what could happen with deregulation. I'd like to have your comments on what you might see with regard to companies moving into income trusts, and the changing nature of their business in terms of how they can use capital assets in the market, whether for infrastructure or for purchasing other companies. How could that complicate things right now?

Mr. Michael Janigan: I'm not certain what the use of an income trust is, specific to actual deregulation. As a matter of fact, this week, in the price cap proceedings, we visited this issue for both TELUS and Bell Canada, and it seems clear that the income trust instrument is capable of being used by them in the context of a price cap that was to be applied to their regulated services. It was essentially an innovation or a productivity enhancement that they chose to use with respect to their company, and they were effectively able to do so.

If the issue of income trusts is to be looked at in terms of an overall public policy—and there are particular elements that are disturbing, particularly the disincentive to invest—then I think it has to be looked at in a tax context and whether, from the standpoint of tax policy, you want to deal with it. I don't necessarily think it's a matter of telecom regulation per se.

Mr. John Piercy: I have two really quick comments. The first is that I'm a little concerned about Janet Yale's response on income trust where she inferred that the tax efficiency they render at TELUS gives them more money to spend on capital, which means it gives them more money to compete with the competition that's trying to come into the market. I'm hoping that's not the case, that it actually might go the other way.

The second is that I can pretty well guarantee that none of my members is going to become an income trust. That's about all I can say.

Mr. Ted Chislett: I think it's a function of how the income trust is structured, what the payout ratios are and how much you retain for capital investment.

Certainly there is a concern that the motivation is to maximize and to continue to increase payout, and over time you may find that the amount available for investment may decrease. I don't think that's an initial step. I don't think the companies that are looking at income trusts would do that if they felt it restricted their flexibility to invest in Canada.

Mr. John MacDonald: I would agree with Ted. I think that's where the cheese will get a little bit binding, when it starts to restrict the investment in capital and keeping networks modern, for example.

Certainly, when you listen to both Bell and TELUS, they are indicating that it's a separate decision from their actual strategy. The strategy continues to be as it is and the investments continue to be as they are.

I find it hard to imagine that the conversion to a trust will result in more capital expenditure, though.

[*Translation*]

Ms. Geneviève Duchesne: I don't know enough about the mechanics of income trusts to be able to say how that might influence the regulatory framework currently applicable to the old monopolies.

Mrs. Sophie Léger: In our minds, the way the companies are structured financially isn't important. The incumbent companies are still investing in infrastructure. In my view, the restrictions on those funds, the way in which these people can make the infrastructure operate in the future are what should be taken into consideration above all. As some of my colleagues have said, neither the Bell people nor the Telus people told us that this would have an impact on their intention to invest in the future.

• (1805)

[*English*]

Mr. Brian Masse: But that substantiates what we don't know. I think the long-term effects are very important, because decisions have to be made about rural and other types of market expansions that require that capital.

Those are all my questions, Mr. Chair.

The Chair: Thank you very much, Mr. Masse. I appreciate that.

Thank you very much for being with us, and I appreciate you responding to the time limits. I know it was very pressurized, but I appreciate that from all of you. Thank you for your comments.

If any of you have any further comments you'd like to make, you can certainly submit them to the clerk and we will ensure that the committee members get them.

I understand I have a couple of issues, a motion and a question to the chair. So I would like to thank you at this point for your time, and then I think we'll continue with our meeting, even though I understand members have to get back to the House.

I've imposed on members' time, so perhaps we could make this very brief.

Mr. Crête gave me notice first.

[*Translation*]

Mr. Paul Crête: I request the committee's unanimous consent to agree to the motion of which you have all received copies, and which reads as follows:

[...] it is proposed that the permanent Committee of Industry, Sciences and Technology recommends to the government to offer a further six months delay to the application of instructions in regards of policies on telecommunications indicating to the CRTC to rely further on free market in order to allow, in respect to the complexity of the subject and its implication, to carry out a thorough study on the impact of this deregulation as well as to hear more witnesses, and that the adoption of this motion be reported to the House as soon as possible.

I know that, failing unanimous consent, 48 hours' notice must be given. I therefore request unanimous consent so that we can debate this motion immediately.

[*English*]

The Chair: Does Mr. Crête have unanimous consent?

An hon. member: No.

The Chair: He does not have unanimous consent.

[*Translation*]

Mr. Paul Crête: So we'll submit it within the 48-hour time period.

[*English*]

The Chair: Thank you.

Mr. Bélanger.

Hon. Mauril Bélanger: Mr. Chairman, if it's in order, I'd be curious to know if the consumer protection branch of the Department of Industry was consulted in the drafting of this direction, and if so, if their advice can be shared with the committee.

The Chair: I'm not aware of that answer, but we can certainly put that question to the department.

Thank you very much. We're going to adjourn until Tuesday.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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