



House of Commons  
CANADA

## **Standing Committee on Transport, Infrastructure and Communities**

---

TRAN



NUMBER 028



1st SESSION



39th PARLIAMENT

---

**EVIDENCE**

**Tuesday, November 28, 2006**

—  
**Chair**

**Mr. Merv Tweed**

Also available on the Parliament of Canada Web Site at the following address:

**<http://www.parl.gc.ca>**

## Standing Committee on Transport, Infrastructure and Communities

Tuesday, November 28, 2006

• (1535)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** Thank you and good afternoon.

This is the Standing Committee on Transport, Infrastructure and Communities, meeting number 28. The orders of the day, pursuant to the order of reference of Thursday, September 21, 2006, are for clause-by-clause consideration of Bill C-11, An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts.

We have our witnesses joining us again today. I don't think I need to introduce everyone. I think everyone is familiar. Welcome again today.

(On clause 11)

**The Chair:** At the end of the last meeting we were doing clause-by-clause consideration of clause 11. We had heard the amendment presented by Mr. Bell, which is in your schedule. It is page 13 of your sheet. We were discussing the amendment proposed by Mr. Bell. We can continue from that point forward.

Mr. Bell, do you want to...?

**Mr. Don Bell (North Vancouver, Lib.):** I'm going to share my time with Mr. McGuinty. There, I've shared it.

**The Chair:** Go ahead, Mr. McGuinty.

**Mr. David McGuinty (Ottawa South, Lib.):** Sorry, Mr. Chairman. I apologize. I wasn't at the last meeting. What's the status?

**The Chair:** Basically, some people have spoken on the bill. We would open the floor if there are any other comments.

**Mr. David McGuinty:** May I?

**The Chair:** Yes, please.

**Mr. David McGuinty:** Thank you, Mr. Chairman, and thank you, colleagues.

I was hoping the committee would be able to consider the amendments on pages 13 and 13.1 in tandem, Mr. Chair, because they are linked to the overall reporting requirements of the department and the minister—well, the minister first and the department second, I suppose.

It is a proposal that we vary the reporting requirements by maintaining the minister's responsibility to keep annual the review of the overall goings-on of the transport sector in the country, as opposed to every three years, which is what is proposed in the bill.

There are a few reasons that I think this is important for us to consider. One is it's clear to all of us as MPs and as Canadians that we're seeing increasing evidence of stressors and evidence of infrastructure deficits right across the country in federal, provincial, and municipal infrastructure settings. In fact, it's becoming a bit of an egregious problem for Canadians.

The second reason I think it's important is that Canada is urbanizing faster than we ever expected it to; in 100 years we've really gone from a 10% urban society to an almost 90% urban society. The transport infrastructure in particular, then, is going to be increasingly put to the test. We're seeing an increased incidence of flights, so much so that many of my neighbours describe our modern airports as modern bus stations. I think it might be helpful for Canadians if there were a yearly opportunity for us as MPs and for Canadians generally to be informed of the overall situation and status of transport in the country.

I'm also proposing here, Mr. Chair, in amendment L-1.1, taking into consideration the onerous nature of this annual report—which I assume is the rationale for moving from one year to three years—that more emphasis be placed on a fifth-year report every five years. Under amendment L-1.1, the minister would expand the scope of the report to look at some longer-term perspectives, some longer-term trends, and take a longer-term look at the transport industry—for example, rail, trucking, and so on and so forth.

It mitigates concerns I think that an annual industry review alone is too focused on yearly changes, Mr. Chair, as opposed to tracking trends. I think I spoke to the same kind of rationale earlier when it came to the Air Travel Complaints Commissioner's role of tracking trends over time, as opposed to reporting on isolated complaints or isolated complaints that have been resolved there.

That's what I wanted to submit to the committee under amendments L-1 and L-1.1.

• (1540)

**The Chair:** Thank you.

Go ahead, Mr. Jean.

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

I'm pleased to report to the committee that I think we have some form of compromise for the member, after listening last time and seeing the reasoning he brought forward or that the members brought forward. The department actually has provided to me a brief set of amendments that sets both French and English in some form of compromise that might be acceptable to the member and to the committee. I'd like to have the opportunity to pass that out, if I may.

**The Chair:** Agreed.

**Mr. Brian Jean:** Indeed, Mr. Chair, if I may continue, we have in both official languages the copy of the 2005 transportation report that has been referred to. I thought it would be advantageous for those of us who haven't seen it before to receive a copy of it.

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Do you have chocolates?

**Mr. Brian Jean:** That's 14,000 trees, Mr. Julian, right here.

Also, Mr. Chair, we do have the gentleman who was ultimately responsible for preparation of the report here again, if the committee has any further questions on this particular consolidation of amendments that have been proposed by the department, I think with input from all parties subsequent to the last meeting.

**The Chair:** I'll just wait, Mr. Jean, until everybody gets a copy. Then I'll ask you to briefly review the comments that are being made here.

Does everyone have a copy of the consolidation of amendments?

Please proceed.

**Mr. Brian Jean:** Mr. Chairman, as can be self-evident from reading the consolidation of the amendments itself, what we are proposing is an every-year reporting function in addition to the five-year report. The five-year report would be substantially more in depth, given some of the comments made last time. We thought specifically that proposed paragraph 52(2)(c.1) would be helpful. It is for "the long term outlook and trends in transportation in Canada", which will give not only a year-to-year synopsis of what's taking place but also a five-year outlook that can be compared to the last five years to see where the trend is going. That would be, from the department's perspective, very helpful on an ongoing basis.

• (1545)

**The Chair:** Are there any comments?

Go ahead, Monsieur Laframboise.

[Translation]

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** I agree.

[English]

**The Chair:** Are there other comments?

Go ahead, Mr. McGuinty.

**Mr. David McGuinty:** As a point of clarification, Mr. Jean, would proposed paragraph 52(2)(c.1), "the long term outlook in trends in transportation in Canada", include, for example, the air travel complaints responsibilities addressed by Bill C-11 as well?

**Mr. Brian Jean:** I think that question would be best directed towards the department.

**Ms. Helena Borges (Director General, Surface Transportation Policy, Department of Transport):** A separate report is required in the current act from the Canadian Transportation Agency that reports on all the complaints. This is a report produced by the department, and it's really reporting on the state of transportation. The agency's report reports on all the complaints and the matters dealt with by the agency, and there are no changes proposed to that reporting requirement.

**Mr. David McGuinty:** May I ask another question?

Can you help us and Canadians to understand what a brief overview of the state of transportation in Canada would look like subsection 52(1)?

**Ms. Helena Borges:** We would propose that it look like basically the facts and figures, the changes on an annual basis from year to year in each of the modes—the infrastructures providers and so on—compared to the five-year report. The five-year report would look at many other factors—it would look at the impacts of trade, for example, the changes in the economy, and the future trends and things like that.

The report that we distributed to you is a mix of both. It does the facts and figures on an annual basis, but it also tries to go beyond that and look at specific issues. We would propose to reduce it to just the facts and figures, and then on a five-year basis do a much more comprehensive report.

**Mr. David McGuinty:** Do you think it might be half the length of this report?

**Ms. Helena Borges:** It would probably be half the length of that, yes.

**Mr. David McGuinty:** And you already tabled a DPR and a report on plans and priorities, and you have a biannual requirement to report on your sustainable development strategy, for example.

**Ms. Helena Borges:** Yes, exactly.

**Mr. David McGuinty:** So you have a lot of reporting.

**Ms. Helena Borges:** Yes, it's a lot of reporting.

**Mr. David McGuinty:** But a lot of that information, I'm sure, is interchangeable between many of those reports.

**Ms. Helena Borges:** Not really. For example, the departmental performance report and the report on plans and priorities tend to be more with the issues the department is dealing with on an annual basis. It's a three-year report, right?

This one is actually on the state of the industry. It's called the industry review, so it's on the state of all the modes of transportation, the activity in transportation, the funding of transportation. I'll call it the transportation system report, rather than what the department is actually doing.

**Mr. David McGuinty:** And this is my last question, if I may. Is there any material difference in the wording here about a brief overview and the wording as it exists today, which leads to the production of this report?

**Ms. Helena Borges:** The wording that exists in the act today is what's under subsection 52(1). I can read it for you. In the act today, it says:

Each year the Minister shall, before the end of May, lay before Parliament a report briefly reviewing the state of transportation in Canada in respect of the preceding year

It then has paragraphs (a), (b), (c), and (d) under it.

We have in fact strengthened proposed subsection 52(2) to say it's going to be a comprehensive review. It will be expanded and will be a comprehensive review, and proposed subsection 52(1) is what would be the brief review that really reports on the actual data and statistics.

**Mr. David McGuinty:** Thank you very much.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Very quickly, I know Mr. McGuinty wasn't here last time, but the department gave evidence that indeed they have all of the information and extended versions of the information on the website, which is updated, I understand, very frequently. Much of the information that is already gleaned from these reports is available on a day-to-day basis from the web.

**The Chair:** Mr. Bell.

**Mr. Don Bell:** Thank you, Mr. Chair.

I'd like to understand why the amended version of proposed paragraph 52(2)(c.1) is (c.1) and not (d). For example, where you had (a), (b), (c), and (d) before, it seems to me that "the long-term outlook and trends in transportation" is not a subset of the degree to which they receive compensation directly and indirectly; it's the broader picture, and therefore it should be a subsection unto itself.

**Ms. Helena Borges:** I agree, but I'll let Mr. Langlois answer.

**Mr. Alain Langlois (Legal Counsel, Legal Services, Department of Transport):** The reason it's not amended proposed paragraph (d) in and of itself, but is instead amended proposed paragraph (c.1), doesn't diminish the fact that it's a separate one. It's just that, as a drafting technique, you don't want to change and renumber a proposed paragraph. In future years, if somebody does research in terms of what was done under the old law, for example, paragraph 52(2)(d) would be consistent in time.

If you add in a paragraph, the technique is to add a point one, point two, point three, etc., in between. That doesn't diminish the fact that the paragraph stands on its own. It's just that it has been interceded between two other paragraphs and it was numbered as a point-something. It's purely a drafting technique. It has no bearing on the substance whatsoever.

• (1550)

**Mr. Don Bell:** It just appears, from my reading of reports, that when you have a sub, it is a detail for the category ahead of it. It seems to me that what you're really talking of in the long term is totally separate. It's the big picture. The whole importance of having it every five years is to have the big picture, and it just gives the wrong impression to me by doing it here.

**Mr. Alain Langlois:** If I can draw a parallel, it would be exactly the same principle as interceding, in the legislation, a section 52.1. You already have a section. You're amending a section. Obviously, as part of the amendment that you will add into the legislation, you're

called to add section point-something. Again, it has no bearing on the substance. It's purely a drafting technique.

**The Chair:** What I am advised by the table officers is that if everyone is comfortable with the consolidation of amendments that Mr. Jean has passed around, we can either vote on Mr. Bell's amendments or ask him to withdraw them, and then have Mr. Jean make these as two amendments, simply because the amended version of 52(2) is an added piece. We would actually have to have two amendments on that.

**Mr. Don Bell:** I'm prepared to do so.

**The Chair:** So I can say to the committee that L-1 and L-1.1 have been withdrawn by Mr. Bell, and I will ask Mr. Jean to introduce the first consolidated amendment, 52(1).

**Mr. Brian Jean:** Before I proceed, Mr. Chair, if I may, I'm wondering if Mr. Langlois could confirm that if indeed I make part of the amendment to change (c.1) to (d) and (d) to (e), it would be consistent. Would there be any problems with that in my second amendment?

**The Chair:** Yes. His explanation I think was—

**Mr. Alain Langlois:** This is how it was first drafted. Then we sent it to the drafter and the drafter came back and said, you have to say paragraph (c.1) as a technique. Paragraph (d) will always be the last one. As a technique, you don't renumber the last paragraph; you just intercede them with it.

For example, if you were to add another paragraph after (c.1), it would be (c.2). You don't just change the number of the paragraphs. That's the principle that was explained.

**Mr. Brian Jean:** I just thought amending the entire thing would be quite simple and would be consistent.

**The Chair:** No. I'm advised that it would come back from the drafter, even if we amended it. They would send it back as paragraphs (c.1) and (c.2).

Mr. Jean, amendment number one, please.

**Mr. Brian Jean:** The amendment on subsection 52(1) reads:

Each year before the end of May, the Minister shall, using the most current information available, prepare and lay before both Houses of Parliament, a report providing a brief overview of the state of transportation in Canada.

I would move that amendment.

(Amendment agreed to)

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** I move the second amendment on subsection 52(2):

Every five years, the report referred to in subsection (1) shall be expanded to a comprehensive review of the state of transportation in Canada which shall include

(a) the financial performance of each mode of transportation and its contribution to the Canadian economy;

- (b) the extent to which carriers and modes of transportation were provided resources, facilities and services at public expense;
- (c) the extent to which carriers and modes of transportation received compensation, indirectly and directly, for the resources, facilities and services that were required to be provided as an imposed public duty;
- (c.1) the long term outlook and trends in transportation in Canada; and
- (d) any other transportation matters that the Minister consider appropriate.

(Amendment agreed to)

**The Chair:** Mr. Carrier.

[Translation]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** I have a quick question. I note that the English version says the following:

[English]

“Every five years, the report referred to in subsection (1)”.

[Translation]

However, this is not stated in the French version.

Is this merely an oversight? Is this not necessary in French?

• (1555)

**Mr. Alain Langlois:** No. The French version does not refer often to previous subclauses. This drafting technique is not used in French. Generally speaking, the reference is implicit. The reference to “tout le rapport” means the report provided for in the first subparagraph.

If you read through the act, you will note that in the French version, there are very few references to previous paragraphs. Different techniques are used to draft legislation in French and in English. However, both versions have the exact same meaning.

**Mr. Robert Carrier:** I see.

[English]

**The Chair:** I'll call the vote on the clause.

(Clause 11 as amended agreed to)

**The Chair:** Shall clause 12 carry?

Mr. Julian.

**Mr. Peter Julian:** Yes, Mr. Chair, if you could just proceed as methodically as you have in the past two meetings, it would be much appreciated.

**The Chair:** I'm sorry. I'm getting some pressure to keep the pace moving, but I certainly hear your comment.

(Clause 12 agreed to)

(On clause 13)

**The Chair:** We have a Liberal amendment on page 14 in your package.

Mr. McGuinty.

**Mr. David McGuinty:** Thank you, Mr. Chairman.

This amendment stems from a concern about vesting the minister with a serious new power, which is to review mergers and acquisitions beyond airlines in the transport sector, in federally regulated transport areas. The problem that some of us are having at the table, Mr. Chair, is that we're not sure what criteria the minister

might intend to use in the review of any kind of merger or acquisition that he's being empowered to review.

I'm sure we recollect receiving a serious memo from the Competition Bureau about these provisions, raising concerns about this new power being vested in the minister and whether or not this power in any way contradicts the power or the target of the Competition Act and the role of the Commissioner of Competition to oversee all mergers and acquisitions in a Canadian context.

At first blush, when I first read this as part of Bill C-11, I was quite surprised. Unless counsel can point us in some direction, I haven't found in the federal system—which doesn't mean it doesn't exist—other areas where line department ministers have been given authority for this mergers and acquisitions types of power, which seems to be in direct conflict, or at least side by side, with the power of the Competition Bureau under the Competition Act.

What I'm trying to do is simply ask that the minister clarify, in a public way, the criteria that would be applied by the minister in making a decision about a merger or acquisition in the Canadian context. Maybe we ought to be examining what criteria are being used by this minister, whoever that person is and in whatever period of time going forward, and the criteria that are being used and applied under the Competition Act. If we have two separate bodies in the federal family conducting precisely the same review of mergers and acquisitions, using the same criteria or slightly varied criteria, what's the point? Why are we vesting this new power in the minister in the first place? That's what the amendment is trying to do.

**Ms. Helena Borges:** I would like to clarify that this provision was in fact developed jointly with the Competition Bureau. We've had numerous discussions with them in all iterations of the bill.

The purpose of the provision is not to duplicate what the Competition Bureau normally does in reviewing a merger or acquisition proposal. What it proposes to do is look at factors beyond the competition factors that the bureau looks at. They normally look at the impact on services, the impact on prices, the impact of competitiveness. They take a very economic look at it.

The power the minister would be looking at would be the public interest as it relates to transportation. It would be factors, for example, such as the impact on safety issues or the impact on the functionality of the other modes. For example, if you have a merger in the railways, which was a potential happening in 2000, how would that impact the functioning of the ports, because the ports rely on the railways? We need to take all those other aspects into account, like the labour force and things like that.

They are not meant to duplicate. The applicants for a merger will continue to provide the Competition Bureau with the information it requires, and these guidelines would set out the information that the minister will require for these other factors.

•(1600)

**Mr. David McGuinty:** You'll forgive me, Ms. Borges, but if the Competition Bureau has been consulted through this process, why did they feel it necessary to write a four-page memo to every member of this committee expressing concern about these provisions?

**Ms. Helena Borges:** Can I clarify whether that happened for Bill C-11? We just had communications with them two weeks ago, and we haven't seen any written documentation from them.

**Mr. David McGuinty:** I just received the memo about a week to ten days ago.

**Ms. Helena Borges:** We're not aware of that.

**Mr. Ed Fast (Abbotsford, CPC):** Can you table it?

**Mr. David McGuinty:** I'm sending my staff to get it. I thought it was distributed.

**The Chair:** I think it was actually on a bill that's forthcoming, but I will wait until you get the information.

Monsieur Laframboise.

[Translation]

**Mr. Mario Laframboise:** I'd like something clarified. I can understand somewhat Mr. McGuinty's position on the guidelines. The proposed subsection (2) states the following:

(2) A notice given to the Minister or to the Agency [...]

Therefore, is the Commissioner of Competition the person responsible for giving notice to the Agency, or is it the official in charge of the Competition Bureau?

**Ms. Helena Borges:** No, that responsibility rests with the body seeking the merger or acquisition. Notice must be given by that entity.

**Mr. Mario Laframboise:** I see. The proposed new section 53.1 (1) reads as follows:

53.1(1) Every person who is required to notify the Commissioner of Competition under subsection 114(1) of the *Competition Act* [...]

**Ms. Helena Borges:** And at the same time . . .

**Mr. Mario Laframboise:** That person notifies the minister.

**Ms. Helena Borges:** That's correct.

**Mr. Mario Laframboise:** And, in the case of an air transportation undertaking, that person gives notice to the agency. I see. Therefore, the notice must contain the information required under the Competition Act.

The proposed subsection 53.1(2) further notes:

[...] The notice shall also contain any information with respect to the public interest as it relates to national transportation that is required under any guidelines [...]

That implies that the minister has already issued guidelines.

**Ms. Helena Borges:** He will be issuing guidelines.

**Mr. Mario Laframboise:** He's going to issue guidelines.

**Ms. Helena Borges:** Yes.

**Mr. Mario Laframboise:** Has he issued any at this point in time?

**Ms. Helena Borges:** Not yet.

**Mr. Mario Laframboise:** Not yet.

When the minister issues guidelines, are these made public?

**Ms. Helena Borges:** Yes.

**Mr. Mario Laframboise:** That's always been my understanding. Anyone can obtain these guidelines, otherwise notice cannot be given.

**Ms. Helena Borges:** That's correct. We want applicants to know what information the minister requires. It is our intention to make these guidelines public.

**Mr. Mario Laframboise:** Fine then.

You'll do what Mr. McGuinty asks, that is make these guidelines public and stipulate certain requirements. Is that correct?

**Ms. Helena Borges:** Yes.

**Mr. Mario Laframboise:** Consequently, this amendment doesn't change anything. It may specify certain criteria. Nevertheless, in my view, the guidelines must be made public. Those giving notice must be familiar with the guidelines. So then, this amendment doesn't change procedure.

**Ms. Helena Borges:** The difference is that here, we're talking about guidelines, while in his motion, Mr. McGuinty talks about criteria. There is a big difference between "criteria" and "guidelines". We don't have a problem with using "shall" or "may", but it's not the same in the case of "criteria" versus "guidelines".

**Mr. Mario Laframboise:** The proposed amendment reads as follows:

(2.1) The guidelines referred to in subsection (2) shall be made public and shall specify the criteria [...]

Surely, however, the guidelines will specify something.

**Ms. Helena Borges:** Yes, they will indicate to the applicant which information is required by the minister.

As far as criteria are concerned, we use them when it comes to the factors that the minister must take into account when making his decision. Criteria are not made public. They vary depending on the situation and the case before the minister for his consideration.

However, the guidelines will outline all of the information that the minister may require.

**Mr. Mario Laframboise:** You say the minister has his own criteria, or factors.

**Ms. Helena Borges:** That's correct.

**Mr. Mario Laframboise:** Quite often, you're the minister. Transport Canada is the one who...

**Ms. Helena Borges:** Yes, us or another person. It could be the agency.

However, we want the information to be made public.

**Mr. Mario Laframboise:** Why are the criteria not made public? Could it be that on occasion, some information is privileged?

**Ms. Helena Borges:** No, other factors come into play. It all depends on the situation. An airline merger is not the same as a railway merger. Totally different factors come into play. Different factors must be considered for a freight carrier, as opposed to a passenger airline. All of these factors cannot be made public. However, we want applicants to know what information . . .

**Mr. Mario Laframboise:** Therefore, you wouldn't have a problem if subsection 3.1(2.1) said: "Guidelines shall be made public." You would be fine with this, if the amendment stopped there?

**Ms. Helena Borges:** Yes, we would.

• (1605)

[English]

**The Chair:** Mr. Fast.

**Mr. Ed Fast:** Mr. Chair, I have a question and maybe a couple of comments, and the question would be through you to Mr. McGuinty.

I'm trying to understand his concern. He's essentially introducing the whole aspect of specific criteria to be considered by the minister. Is it his concern that there might be conflict between the criteria or the considerations that the minister undertakes and those of the Commissioner of Competition? Is that the issue?

**Mr. David McGuinty:** That's one of the issues. Absolutely.

**Mr. Ed Fast:** All right.

You know, when you read the rest of this particular clause, it goes on to provide for extensive consultation and dovetailing of the jurisdictions of the commissioner and the minister. So I'm not sure it's a concern that is necessarily valid. I don't want to waste the committee's time by reading through 53.1, 53.2, and all the way through to 53.5 and 53.6, etc. If you read them carefully, there's significant dovetailing of those functions between the minister and the commissioner.

Secondly, my concern, Mr. Chair, is that when we move from general legislation towards guidelines, and then, further, to criteria, despite what some might think, we're actually limiting the scope of the legislation. We actually tie government's hands to make decisions in the best interests of Canadians.

I spent years drafting legal documents. I know the dangers of becoming too specific, especially when it's legislation, not just contractual. Down the road, you'll find yourself in a situation where these criteria are actually used to argue against the public interest by those wishing to undertake mergers and acquisitions. I caution this committee about going down this road. It's dangerous, and we may live to regret it.

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** I think Mr. Jean was ahead of me, Mr. Chair.

**The Chair:** No, he was not.

**Mr. David McGuinty:** I would respond on a couple of fronts.

Monsieur Langlois, is there another minister in the Government of Canada who possesses the power to review mergers and acquisitions?

**Mr. Alain Langlois:** I'm not aware.

**Ms. Helena Borges:** There is one for banks, and the Minister of Transport, for air transportation.

**Mr. David McGuinty:** Okay. So to our knowledge, the precedent is the banking sector at Finance Canada.

I'm sorry, it would help me to understand.

**Ms. Helena Borges:** Well, in Transport, in air issues.

**A voice:** It actually expands into other modes of transportation as well.

**Mr. Brian Jean:** So that's the situation.

**Mr. Alain Langlois:** These provisions are already in existence in the CTA for air mergers. The minister does have that power right now for air mergers and acquisitions.

**Mr. David McGuinty:** And those powers were invested in the minister around the time of the acquisition by Air Canada of Canadian Pacific Airlines. Is that right?

**Mr. Alain Langlois:** Yes, that's correct.

**Mr. David McGuinty:** So they were brought in specifically for the purpose of actually overseeing and empowering the minister to deal with that particular acquisition, right?

**Ms. Helena Borges:** Well, yes, but it applies generally to the air mode. Any carrier that fits under the thresholds would be considered

**Mr. David McGuinty:** So now, if I understand this provision, if the Ottawa Central Railway, which runs through my riding—from here to Renfrew or Pembroke, 97 kilometres of track and back, every day, six times a day—were, for example, to be subject to sale, or if it wanted to acquire a smaller railway beside it, it would have to seek and achieve an approval from the Minister of Transport?

• (1610)

**Ms. Helena Borges:** Not necessarily. The same thresholds that apply under the Competition Act will apply under this. A transaction under the Competition Act is notifiable above \$400 million worth of assets. Basically, this notification applies to the same level. Ottawa Central is a small entity. It wouldn't fit under that threshold.

Secondly, it only applies to federal undertakings. They have to be under federal jurisdiction. That limits quite a bit of the population; there aren't that many carriers under federal jurisdiction.

**Mr. David McGuinty:** Just to mention—

**The Chair:** I think Mr. Jean might be able to answer some more of your question.

**Mr. David McGuinty:** I just want to go to Mr. Fast's point.

Here is the memo received from Mr. D'Amore to all members of the committee and analysts. It's the brief prepared by the Competition Bureau of Canada with regard to Bill C-11, dated November 6, 2006. It was sent to the chair, in fact. There are three aspects of the bill that are focused on. I assume every member has seen this and read it. There are some very serious concerns put forward by the Competition Bureau.

I don't want to read the brief, Mr. Chair. I assume everyone has seen this.

**Ms. Helena Borges:** We haven't, no.

**The Chair:** Mr. Jean.



**Mr. Brian Jean:** Thank you very much, Mr. Chair.

I just want to confirm a couple of things. First of all, I mentioned that the powers already exist for air transportation modes, but this would actually expand it to all modes of transportation in Canada. Quite frankly, this is identical language to what the Liberals proposed in Bill C-44.

The other issue is that there are two perspectives in relation to these transactions. First, the Competition Bureau looks at the issue of competition in the marketplace, whereas the Minister of Transportation looks at the public interest good.

Mr. McGuinty, in relation to your other point about transparency and accountability—and I don't believe this has been said so far—we on the government side would be open to a compromise on having the minister make public the guidelines on information regarding the public interest. However, as Mr. Scott could probably attest as a former minister, a minister does need some amount of discretion in relation to the criteria and the decision itself, but certainly making public those criteria and the decision itself would alleviate the concerns Mr. McGuinty has put forward.

Does that answer your question, Mr. McGuinty?

**Mr. David McGuinty:** That's only partly my concern. I'm more concerned about the fact that these are the Competition Bureau's concerns.

**Mr. Brian Jean:** I haven't seen the memo yet.

**The Chair:** I realize that some people have it, but I think we should make a copy and recirculate it, because obviously the department people have never received this. I remember receiving a copy of the cover letter, but I can't say I remember receiving the document.

**Mr. David McGuinty:** It was sent by Sheridan Scott, the Commissioner of Competition, on November 2, 2006.

[Translation]

**Mr. Mario Laframboise:** I have a copy.

[English]

**The Chair:** Maybe we could get a copy, Mr. McGuinty.

**Mr. David McGuinty:** Mine is badly marked up, so maybe you can get a clean copy from someone else.

**The Chair:** Monsieur Laframboise, is yours a clean copy?

[Translation]

**Mr. Mario Laframboise:** The thing is, I only kept the French copy.

**Mr. Peter Julian:** That's alright.

[English]

**The Chair:** Go ahead then, and we'll try to track down a copy. I think it's a little unfair that not all our committee members have a copy, and that the transport people—

**Mr. David McGuinty:** I completely agree, Mr. Chair. I assumed everyone had read it.

**Mr. Peter Julian:** Was this submitted by the clerk?

**The Chair:** The cover letter was, but I don't remember receiving the document itself.

[Translation]

**Mr. Mario Laframboise:** We received it as an attachment to an e-mail from the clerk.

[English]

**The Chair:** Mark has gone out to try to track down a copy.

Mr. Laframboise, do you have a comment? Do we want to move to the rest of the clauses and come back when we have the information? Is that reasonable? Can we move on to the next clause until we get this information provided to everybody?

• (1615)

[Translation]

**Mr. Mario Laframboise:** Yes.

[English]

**The Chair:** Thank you. I appreciate that.

(Clause 13 allowed to stand)

(On clause 14)

**The Chair:** On page 15 in your handout, the amendment being proposed is NDP-9.

Mr. Julian.

**Mr. Peter Julian:** I don't think we need to spend a lot of time on this. It's a simple clarification around clause 14, changing the current wording from “municipality” to “municipal government”, and ensuring that when we're talking about air service, if levels of government declare an emergency and request it, the air service will be provided. So it's a simple clarification of language.

**The Chair:** Are there any comments?

Mr. Jean.

**Mr. Brian Jean:** It's certainly acceptable from the government's position.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 14 as amended agreed to)

(Clauses 15 and 16 agreed to)

(On clause 17)

**The Chair:** This is on page 16 and 17 in your documents, amendment NDP-10....

Mr. Julian.

**Mr. Peter Julian:** Thank you, Mr. Chair.

Again, this is simply in reference to strengthening the language in clause 17. Currently the clause would read as follows:

A licensee shall provide an opportunity for elected officials of the municipal or local government of the community...to meet and discuss with the licensee the impact of the proposed discontinuance or reduction.

In the case of air service, this would require the obligation that as soon as practicable, the licensee would provide that opportunity to elected officials to do so. We believe the language is stronger and would push that consultation to take place as quickly as possible, or as soon as practicable, rather than leaving it open, as it is in the current wording.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** This creates a precedent, Mr. Chair, but twice in a row I think the NDP amendment is sound, and the government would agree.

**Mr. Peter Julian:** Now I'm very concerned.

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

**The Chair:** If that's the case, are there any other comments?

Seeing none, I would ask if the amendment shall carry.

(Amendment agreed to)

**The Chair:** We have another amendment, NDP-11, on page 17.

Mr. Julian.

**Mr. Peter Julian:** Thank you, Mr. Chair.

Regarding the same proposed subsection, to replace section 64 of the Canada Transportation Act, essentially it is now worded as follows:

This section does not apply to a licensee that operates a domestic service that is seasonal in nature for eight months or less in a 12-month period.

It would strengthen the language to restrict this exception to only smaller communities. A community of more than 10,000 people, even with the seasonal service, would see the obligation for the consultation.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Actually, the government is not in favour of this amendment for several reasons, Mr. Chair.

The first is that it would dramatically drive up the cost of tracking. Indeed, it's an arbitrary number that doesn't really have relevance to any particular criteria. It's unknown why that number was picked. Why is it not 20,000? Why is it not 30,000? Why is it not 5,000? Indeed, I think it brings about other issues, such as whether this includes peak seasons, or peak season populations in such places as the mountains where there is skiing, or whether it includes the local population.

I would suggest that this is for seasonal operators. This arbitrary number doesn't really accomplish anything. Rather than making it stronger, I would suggest that in fact it weakens it, and indeed drives up costs, without really accomplishing anything, for seasonal operators.

• (1620)

**The Chair:** Are there any other comments?

**Mr. Peter Julian:** I'm now comforted, Mr. Chair, that Mr. Jean and I aren't going to agree on everything.

**The Chair:** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** Is the member moving the amendment prepared to go along with the government's proposal, or does he maintain his position?

**Mr. Peter Julian:** I stand firm on my position.

**Mr. Mario Laframboise:** In my opinion, this proposal has some merit. It's already complicated enough to obtain services in

communities of fewer than 10,000 residents. We shouldn't be making their lives any more difficult than necessary. Therefore, we intend to support the NDP's motion

[English]

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** I'd just like to hear our colleagues from the NDP expand a little bit on some of the reasoning or thinking with respect to the 10,000-person test. There are, increasingly, rural communities that are feeling further and further from mainstream Canadian life—northern communities, northern Ontario communities, Quebec communities, Northwest Territories communities, and so on and so forth—in which access is severely restricted.

I want to understand a bit more what this is trying to address.

**Mr. Peter Julian:** What this is trying to address is the issue of not going through the appropriate process for discontinuance when it is a seasonal service. Essentially, what this would do is create an obligation for larger communities, even if it is a seasonal service, to go through that consultation process in the case of a discontinuance or a reduction in service.

Is 10,000 an arbitrary number? It is, because it's a round number. Could it be amended to reflect smaller communities? I believe that's where you're going, Mr. McGuinty, and I would certainly support that. Essentially, what we're saying is that when there's a seasonal service being offered in communities of a certain size, there is an obligation, when there is a reduction or discontinuing of service, to go through a consultative process.

**Mr. David McGuinty:** Okay.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** I also am worried, Mr. Chair, if I can be so blunt. I'm worried, as a person from northern Alberta where there's a huge number of small communities, about the 100 or so airlines in Canada setting up a seasonal service to deliver in the first place, if they know they have to go through this consultation process. At the end, if they want to withdraw, it's not financially beneficial to them.

I'm concerned about it from the other direction. Why would they set it up in the first place if they're not going to be able to discontinue it if it's financially not viable for them? The market certainly prevails in these areas. I would suggest that if it's financially beneficial to them, they should continue with service. If it's not, then I think it just adds a lot of cumbersome accounting and would set up an atmosphere where they wouldn't want to set up the service in the first place if there were any question at all.

I'd like to hear from the department as to what they think.

**The Chair:** Please.

**Ms. Brigita Gravitis-Beck (Director General, Air Policy, Department of Transport):** Most operators that would use this service would use it on a cyclical basis. That's the whole nature of seasonality. Again, if we are going to treat those operators whose business is of a cyclical nature in the same way as we would treat an ongoing venture, it drives up their costs. As we heard from the government representative, it increases their disincentive, I guess, to operate.

In terms of the reduced burden that is being proposed through this carve-out for seasonal operations, it is with respect to requests for exemption. Those operators normally would approach the agency to seek an exemption rather than going through the consultation process. Because of the cyclical nature of the business, it's not seen as necessary in most cases. So it is the exemption process that is going to be carved out for seasonal operators.

• (1625)

**The Chair:** Mr. Fast.

**Mr. Ed Fast:** Mr. Chair, I have just a couple of questions, again to Mr. Julian.

We had numerous witnesses here, and I don't believe I missed any meetings at which witnesses appeared. Is there something the witnesses said that would have driven you to propose this amendment? I didn't hear it. Quite aside from the arbitrary nature of the 10,000 number, I didn't hear any of the witnesses raise the concern that you've raised.

Secondly, one of the purposes of revisiting this legislation is to simplify and presumably also to reduce the cost burden, not only for industry, but also for government. If you could answer that, I'd also appreciate a follow-up from staff as to whether they would expect this would drive up costs for government, because we're introducing a whole new element of supervision and monitoring here. I'm concerned it's going to be counterproductive to what we're actually trying to do with this bill.

**The Chair:** Are there any other comments?

Mr. Julian—and staff.

**Mr. Peter Julian:** Thank you, Mr. Chair.

Quite frankly, we didn't have northern communities and remote communities represented here, so I think it would be a question that this committee could have put. I think we had very extensive consultations, but we didn't consult northern and remote communities to the same extent. So it's fair to say that if we brought those communities here, I think the concerns would be very valid. As a result of that, we thought of tabling this amendment in order to provide some sort of structure when there is reduction or discontinuation of services, even in a seasonal context. So it's important to provide some mechanism.

I don't see this as a huge cost component. It simply says providing:

an opportunity for elected officials of the municipal or local government of the community...to meet and discuss with the licensee the impact of the proposed discontinuance or reduction.

We're not talking about a huge royal commission. We're talking about meeting with local officials, and maybe finding solutions to that discontinuance or reduction that would allow that community to continue the service in some way, even in the off season.

**Ms. Brigita Gravitis-Beck:** The entire nature of a seasonal business is just that. I think communities welcome, benefit, and appreciate that business. I think there's generally a very good rapport between seasonal business operators and the community because of the interdependence of their activities.

That said, in terms of cost considerations, the agency currently issues licences on the basis of scope of operation. And that's for all of Canada. They do not distinguish whether an operator is only travelling a very short distance between two points or long distances between two points. When we introduce a component, as is proposed here, that has a population measure, it introduces a new element. That isn't something the agency tracks. That isn't currently a part of what's tagged as part of issuing the licence. Therefore, that requirement imposes an additional tagging requirement, tracking requirement, and ensuring compliance.

It also introduces a certain amount of ambiguity for the seasonal operators, who may question whether in fact they fit within the 10,000 criteria. To be on the safe side, they may choose to go through the painful process of seeking an exemption nevertheless. It introduces ambiguity. And with that ambiguity, there's additional cost. There's a cost to the agency, but there's also a cost to the operator.

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** What you're actually saying is there are two methods the operator could proceed by. They could seek an exemption, or if we adopt this amendment they could use the components of the act. We are giving two alternatives to that operator.

**Ms. Brigita Gravitis-Beck:** The clause we're looking at pertains to an exemption from the normal notice proceedings for seasonal operators. Rather than approaching the community and giving 120 days' notice, normally, a seasonal operator would approach the agency and seek an exemption from that requirement on the basis of being a cyclical business. The agency would then assess the validity and the merits of that. It generally allows that sort of an exemption from the 120-day requirement.

In many cases for seasonal operators, their insurance lapses. They choose not to maintain their insurance obligation, in which case they basically cease doing business; they no longer have a valid licence. Seasonal operators have a very distinct kind of functioning. This particular clause simply ensures that if they choose to maintain their insurance, and therefore a valid licence, they can go to the agency and seek an exemption if they aren't going to be continuing operations on a seasonal basis.

**Mr. Peter Julian:** You're referring to seeking an exemption. The way the clause is currently worded, it simply does not apply.

**Ms. Brigita Gravitis-Beck:** The 120 days would not apply to the seasonal operators. They would no longer have to seek an exemption, as they currently do.

• (1630)

**Mr. Peter Julian:** You understand the point I'm making.

Essentially what you're saying is that we already have provisions for this within the existing act. In a sense, reinforcing the reality that having a clause that has a threshold would not make a difference to the way Transport Canada currently acts.

**Ms. Brigita Gravitis-Beck:** No, in fact, in the existing legislation, there is no exemption for seasonal operators. Seasonal operators are bound by the obligation. If they choose to maintain their insurance, and therefore have a valid licence, but want to discontinue operations, under the existing legislation they have to approach the agency and seek an exemption for the cyclical period during which they're not operating.

The proposed bill would eliminate that requirement, exempt them, and carve out seasonal operators.

**Mr. Peter Julian:** The amendment would eliminate that current requirement for communities of less than 10,000.

**Ms. Brigita Gravitis-Beck:** That is what you have proposed. This is broader.

**Mr. Peter Julian:** My point being that we're actually providing a shift from the way things are currently done for smaller communities.

**Ms. Brigita Gravitis-Beck:** We are proposing that it be done for all seasonal operators, regardless of the size of community to which they offer seasonal services.

**Mr. Ed Fast:** Why not fifteen? Why not five? There's no evidence.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, I'm curious about the cost it would take to operate something like this. I know the department probably doesn't have any good figures.

I think Mr. Julian is proposing to keep the legislation as it is, in essence, because there are no communities, or very few in my mind, that are over 10,000 and have seasonal operators.

Am I correct in that assumption?

**Ms. Brigita Gravitis-Beck:** I don't know how many communities there are with—

**Mr. Brian Jean:** But it would be fair to assume there are not very many that would fall within that criterion. In essence, then, what it would do is neutralize the effect of what the department has suggested would be a good change for the seasonal operators. Indeed the seasonal operation is eight out of twelve months as a minimum, so they would be real, true seasonal operators.

**Ms. Brigita Gravitis-Beck:** Correct.

**Mr. Brian Jean:** Are most of these seasonal operators small as far as capital equipment and costs such as that are concerned? Are these large companies that we're talking about ones that can afford huge costs?

**Ms. Brigita Gravitis-Beck:** Seasonal operators would be small operators for the most part. They would include fishing camps, hunting lodges, and people who tend to work on a cyclical, seasonal basis.

**Mr. Brian Jean:** In northern Alberta, where I represent 15 or 17 rural communities of under 10,000 people, they would indeed be bound by this. Indeed, they might not even be prepared to service the communities I represent because of this new criterion. In fact, they might take a step back because of the financially onerous nature of it and not service places like Lake Athabasca for the fishing camps and things like that, because as soon as they want to withdraw that

service because the community is under 10,000, it would indeed impede their ability to operate. Is it fair to say that?

**Ms. Brigita Gravitis-Beck:** It would create a disequilibrium, yes.

[Translation]

**The Chair:** Mr. Laframboise.

**Mr. Mario Laframboise:** Just so that I understand clearly, what are the current requirements of section 64, as worded?

**Ms. Brigita Gravitis-Beck:** Do you mean the requirements as stipulated in the existing act?

**Mr. Mario Laframboise:** Yes.

**Ms. Brigita Gravitis-Beck:** Under the current legislation, if a business wishes to suspend its operations because of the cyclical or seasonal nature of the service, two things must be taken into consideration.

I'll answer in English.

•(1635)

[English]

They can allow their insurance to lapse. It's a cheap way of doing things. If they do not have valid insurance, they cannot have a valid licence and they cannot operate. Some cyclical operators do that. It's easy. Others, for whatever reason, choose to keep their insurance up to date. Even if they have a seasonal operation, they pay insurance at whatever rate for the entire year, but they don't wish to have their licence necessarily operational. They therefore seek an exemption from the agency in terms of offering services to these communities. They don't wish to operate on a year-round, continuous basis, and they seek a discontinuation of their licence. The agency normally has to consider the merits of that proposal. So there is both the application process by the seasonal operator and there is the consideration of the agency of whether to accept it or not.

What we're proposing is that those seasonal operators would no longer be subject to that process. They would be carved out and exempted. They could operate a seasonal operation, on a seasonal basis, as long as they have a valid licence, without having to seek an exemption from the agency to terminate that operation on a seasonal basis.

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** Is the impetus for this change coming from the seasonal carriers?

**Ms. Brigita Gravitis-Beck:** It's coming from both seasonal carriers and the agency, both of whom see it as a benefit.

**Mr. David McGuinty:** What about the communities that might be affected by this?

**Ms. Brigita Gravitis-Beck:** There is no indication—

**Mr. David McGuinty:** Sorry, but the point I was trying to make earlier in regard to Mr. Julian's 10,000-person cut-off is based on my own personal experience. I spent three years in and out of the Northwest Territories, travelling to places where there are 700 people or 500 people or 1,200 people. The question of access by air, seasonal or otherwise, is a very important question.

What do they say about this? What has the agency or the department done to talk to the dozens of communities across this country that don't live within a four-hour driving proximity or bus proximity of a major airport? How do they get around? How do they get their goods?

You mentioned earlier that there's a positive working relationship with these carriers, these seasonal carriers, anyway with these communities. If that's the case, why wouldn't those carriers not agree with this kind of proposed amendment?

**Ms. Brigita Gravitis-Beck:** I think the carriers are very supportive of the amendment the government is bringing forward.

**Mr. David McGuinty:** I'm talking about Mr. Julian's amendment.

**Ms. Brigita Gravitis-Beck:** In terms of putting a population criterion on it, the amendment introduces an element that currently does not exist in the licensing process. It means that if the agency were called upon to exercise this parameter, this exemption process, on a population basis, it would impose an additional workload on the agency to actually determine where a specific licence fits. It's information that currently is not tagged as part of the licensing process. There are some 800 to 1,000 small carriers. For all of those, it would have to look at whether or not they now serve a particular community of a particular size if that measure were brought in. That would be a very substantial inefficiency for the agency, and a new role that would have cost implications.

In terms of your question on how the communities see it, in some sense it's neutral to the communities. What the communities see is the seasonal operator who goes in and offers a seasonal service for as long as the season creates a market opportunity. To them, it really is invisible in regard to the engagement between the carrier and the agency, in terms of the licensing requirements and the licensing process.

**Mr. David McGuinty:** I have no doubt that this is going to cost more money. I have no doubt that this is going to take more work on behalf of the agency. None at all. But I think the import of this is a question of equity. I'm trying to get to a question of equity as a Canadian citizen if you have standards that don't apply equally across the board at a time when rural Canada is hemorrhaging to death and hollowing out.

If you were to take five community leaders from 500-person communities or 2,000-person communities, many of which we represent—particularly those of us who have catchment areas in rural areas—and put this question to them, what do you think they might say about this particular amendment put forward by Mr. Julian, about the need for consultation to be caught in this bill? They have to sit down with affected communities before either exempting themselves, which is the process today, either by letting their insurance lapse.... I understand the technique. But what I'm trying to get to is whether we are wrong in assuming, or whether I'm wrong in assuming, that affected communities here, at a time when the gap between urban and rural Canada is large.... We all live it. Am I missing something here?

• (1640)

**Ms. Brigita Gravitis-Beck:** Small carriers that serve communities, small or large, all year round are not exempted from the requirements for the 120-day service. What we are proposing is for

those carriers that provide a seasonal service to a community of any size. It could be a community of 10,000, it could be a community of 20,000, or it could be a community of 50,000. All of these, I think we would say, are small communities for whom the business, whether it's cyclical or temporary, is a very important economic contributor.

Having said that, we've said that because of the particular requirements of the seasonal operation industry, which is cyclical, and because of the fact that under the way in which the legislation is drafted at the present time, seasonal operators have to seek an exemption from the agency in order to terminate their licences, that introduces a certain inefficiency. It's something they would do anyway. It's something they do because the service they provide is a seasonal service. It is not a year-round service. That's the reason why they're seeking the exemption.

For services that are year-round to small communities, the advance notice will continue to be there. I think this measure, by carving out the seasonal element, does in fact take a very unbiased approach to all of the small communities that benefit from seasonal activity, not just the very few under a certain population threshold that might benefit from seasonal activity. This is a more generic and broader-based benefit, in my view.

[Translation]

**The Chair:** Mr. Carrier.

**Mr. Robert Carrier:** So then, if I understand what you're saying, the proposed new subsection (3.1) in the bill provides for an exemption, as compared to the current requirement under section 64. Therefore, under the proposed amendment, only small communities will be exempted, as stipulated in section 64.

**Ms. Brigita Gravitis-Beck:** The smallest communities . . .

**Mr. Robert Carrier:** So then, if this amendment is adopted, it will be to the detriment of small communities. If the exemption is removed, that would mean section 64 applies only to other communities.

**Ms. Brigita Gravitis-Beck:** Exactly.

**Mr. Robert Carrier:** Then this amendment would have an adverse effect on small communities.

**Ms. Brigita Gravitis-Beck:** Even if the others . . .

**Mr. Robert Carrier:** One can even question whether, in the final analysis, subsection (3.1) eases a requirement that possibly we could recommend be eliminated?

**Ms. Brigita Gravitis-Beck:** If it wasn't for this exemption.

**Mr. Robert Carrier:** Rather than impose restrictions.

**Mr. Peter Julian:** I understand.

**Mr. Robert Carrier:** However, that is not the motion currently on the table.

**Ms. Brigita Gravitis-Beck:** Precisely. I understand.

[English]

**The Chair:** Mr. Scott.

**Hon. Andy Scott (Fredericton, Lib.):** At the risk of adding to the confusion, it occurs to me that there's a requirement in terms of a cessation of service that captured seasonal operations that maybe weren't intended to be captured because they're coming back; they're just not operating in a period of time. Therefore, to be relieved of the obligations that would otherwise apply, they would have to seek an exemption. Because that is an obligation or that is an onerous, inefficient system, we don't have to seek it because they are seasonally exempted automatically.

**Ms. Brigita Gravitis-Beck:** As proposed under the bill.

**Hon. Andy Scott:** As against having to seek an exemption from....

So in terms of the obligation on the carrier, I don't agree necessarily with Mr. Carrier. I think what's happening is there is an effort being made to relieve them of being caught in a regulation that is deemed necessary to deal with ceasing a service. So I'm not sure how you split this.

I agree with Mr. Julian on this point. I don't believe it is invisible to the communities, because, for instance, for whatever the reason that a permanent carrier would be asked to explain themselves, there may be a need to ask a seasonal carrier to explain themselves as well.

It's not all rural and remote. The carrier that is delivering Japanese tourists to Charlottetown...it's not a rural or remote community; it's a seasonal service. It's the tourist season, but it's a seasonal service. And the community of Charlottetown may have questions of the carrier as to why they picked the peak period in the shoulder season. I think that's a legitimate question. They no longer will have to explain themselves to anybody, because before they would have had to seek an exception and now they don't.

So it's a legitimate question as to whether or not the carrier should be relieved of having to explain themselves to the community in many instances. We've gone from perhaps too much requirement on the seasonal carrier to too little. Is that correct?

**A voice:** Yes.

**Hon. Andy Scott:** So absent of an alternative to Mr. Julian's amendment, I'd have to support Mr. Julian, although I don't necessarily like the population piece.

• (1645)

**Mr. Peter Julian:** Neither do I.

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** I'm of the same sense as Mr. McGuinty, Mr. Scott, and Mr. Carrier. The more we're having this discussion, the more I'm realizing that I don't think the amendment actually justly covers the impact on these communities. We're allowing communities to basically see a termination of their seasonal service without any recourse, and I think there's a broad concern over that on this side of the table. I don't think the amendment stipulating 10,000 really deals with that because it means many smaller communities can see a termination of seasonal service without the appropriate consultation.

Might I suggest, Mr. Chair, that we stand this clause and come back to it at next Tuesday's meeting. In the meantime, I think we

could have some discussion about the best way to deal with the issue.

**The Chair:** I have a couple more people requesting to speak, and then I think I'll refer back to that.

Mr. Storseth.

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** Thank you very much, Mr. Chair.

I want to thank all the members of this committee for their deep concern for rural communities, which I represent. I agree with a lot of what Mr. Scott is saying, but I do have a serious problem when we start putting arbitrary numbers on this, like 10,000 people. I really think that's a major issue.

One of the things I would like to ask of the department is whether we know how many exemptions have been given per year and how many interventions by communities have been requested.

**Ms. Brigita Gravitis-Beck:** Because the agency does not issue licences on the basis of seasonality or on the basis of community or carrier size, there are no statistics that indicate exactly how many would be of a seasonal nature.

The agency has indicated that it sees some 200 suspensions requested per year. Some of these may be seasonal in nature and some may not be.

**Mr. Brian Storseth:** And how many communities have expressed this per year? Are we getting any numbers or any feedback?

**Ms. Brigita Gravitis-Beck:** I don't know how many communities benefit from seasonal air operations.

**The Chair:** Go ahead, Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I would tend to agree more with Mr. Julian. I would advise the government and Mr. Jean to be very careful, for safety reasons. I have safety concerns about licensees requesting that their licence be suspended for a certain period of time. I'd like the government to consider this, because I'm not sure that your amendment . . . However, I can see how this might save you some time, from an administrative standpoint.

The problem, for me and for the public, is knowing whether it's important, for security considerations, to know which companies are suspended their operations and thus have no insurance. I think that at this point in time, it might be better for us to continue monitoring these individuals and require them to notify us when service is suspended, so that we know which companies are insured, in case of an accident occurs and the carrier continues to operate.

Otherwise, it means that these persons can at any time suspend their operations and cancel their insurance, and no one would know when or how this came about. I'd like us to take a closer look at this.

Perhaps you can return for our next meeting. I can understand how this would mean less work and how it would be easier for everyone. But, would it be safer? You can't convince me of that. I'd like the government to study this issue, because I'm convinced that safety is important to the Conservative government. I'm simply wondering if it's not important for us to monitor these individuals.

• (1650)

[English]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, my difficulty with this.... I think I have a pretty good handle on seasonal service in the north, in rural communities. I have some communities that have absolutely about three weeks of service by road, and the only way they can get their goods is by plane. For instance, Fort Chipewyan has seasonal operations, and a lot of people go in there to fish, but it's a very difficult time to fish in the middle of winter when there are four feet of ice on the lake.

I think what it's going to do, if this amendment passes that Mr. Julian has put forward, is it's going to restrict operators from actually trying out seasonal operations in the north. What I'm curious about, since the main concern seems to be rural communities and their expression of dissatisfaction with the cut-off of seasonal air service, is whether the department can tell us how many communities have actually expressed, over the last five years, concerns about seasonal operators discontinuing the service to them.

**Ms. Brigita Gravitis-Beck:** I'm not aware of any communities that have expressed concerns in that regard.

**Mr. Brian Jean:** Most of the communities, quite frankly, would either have a regular service or they wouldn't use the service in the first place, because it would be for tourists or bear hunters or people like that. Is that correct?

**Ms. Brigita Gravitis-Beck:** Yes, and the seasonal services, again, are for very limited periods of time, in many cases. Some of these seasons last 180 days, and if we're talking about using a 120-day process of advance warning, it really becomes a very impractical kind of connection.

**Mr. Brian Jean:** Indeed, the people who use these seasonal airlines would be the people who would not be from the community in the first place, because they're not going to use it if they have regular modes of service. Is that fair to say?

**Ms. Brigita Gravitis-Beck:** Correct. That's absolutely correct.

**Mr. Brian Jean:** So indeed, it's a burden that is not necessarily going to have any effect on the outcome that Mr. Julian wants, but indeed will have the opposite outcome for the rural communities in that they won't receive the service in the first place. Is that fair to say?

**The Chair:** We'll go to Mr. Scott.

**Hon. Andy Scott:** If I may, I'm trying to find the logic in this, and I see some, but because the people who visit the community don't come from the community doesn't mean the community is not interested in their visit. They come into the community—

**Mr. Brian Jean:** They don't visit.

**Hon. Andy Scott:** They fly in and out of communities. It's a part of the economic.... Tell the people in Charlottetown that all the tourists that visit—

**Mr. Brian Jean:** There are more than 10,000 people in Charlottetown.

**Hon. Andy Scott:** No, we've already agreed on the number. That's gone. The issue is whether the community has an interest in this, and we're just trying to figure out some way to go from an overly

burdensome requirement of 120 days to something that would be more than just simply saying they'll be permanently exempted.

**Mr. Brian Jean:** But they have a regular service in Charlotte-town, for instance—

**Hon. Andy Scott:** No.

**Mr. Brian Jean:** —with a population of over 10,000, I understand.

**The Chair:** It's a seasonal service.

**Mr. Brian Jean:** But they're not going to be stranded, because they have a regular service already provided to them.

**The Chair:** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** Why not simply issue seasonal licences valid for a set period of time?

**Ms. Brigita Gravitis-Beck:** I don't have an answer for you. You would have to ask the agency. I don't know why this isn't done.

**Mr. Mario Laframboise:** In my view, for safety reasons, it would be simpler to issue a licence, for example, for 120 days. This licence would be valid for a set period of time.

**Ms. Brigita Gravitis-Beck:** Again, it's probably more efficient to proceed in this manner. If there is only one type of licence, then it's easier to assess assignment criteria. However, another administrative layer could be introduced with the imposition of another criterion such as the seasonal nature of service. I would imagine that this is the rationale behind this approach.

**Mr. Alain Langlois:** The question of licences and the process for discontinuance of service are two different issues. When an operator applies for a licence, the agency does not set conditions. However, it must ensure that certain conditions are met, insurance being the basic condition, quite obviously. Provided the operator has insurance and meets the other criteria, then a licence is issued. If, after a year, the licensee wishes to have his licence cancelled or suspended, then he is free to submit a request to the agency to have his licence cancelled or suspended. However, the licensee is not required under section 64 of the existing legislation to make such a request. The operator must give 120 days' notice of his intention of discontinuing service. These are two separate requirements.

To answer your first question, safety will not be affected because as soon as the statutory insurance lapses, the agency suspends the operator's licence. This is a mandatory requirement of the act. Immediate action must also be taken if a licensee fails to meet statutory insurance requirements. These are two separate issues. The suspension or cancellation of a licence does not relieve a licensee of his obligation to meet the requirements prescribed in section 64.

• (1655)

**Mr. Mario Laframboise:** Basically, what the licensee wants is to suspend operations so that he no longer has to pay insurance, which accounts for the bulk of his costs.

You're saying that in the past, when his insurance lapsed, the licensee would give notice to the agency to suspend his licence. Automatically, his insurance lapsed. Now, you're saying that as soon as his insurance lapses, the agency will be notified. When I mention the safety of the public, it's not that I think the airplane could crash. However, it's important that passengers who board an airplane have insurance coverage. If ever that wasn't the case, because no follow up was done, then the passenger would not be able to take legal action against the operator, because the latter is no longer insured. And we would have been the ones responsible for having authorized that.

I felt that the existing system reassured the public that the operator was licensed and that passengers were covered by insurance in the event of an accident. Now you're saying that passengers would be covered in any case since the agency is notified as soon as the licensee allows his insurance to lapse.

**Mr. Alain Langlois:** No aircraft in Canada, whether serving a domestic or international route, is authorized to fly if the owner is not insured.

**Mr. Mario Laframboise:** I understand that. Insurance is a licensing requirement.

**Mr. Alain Langlois:** The agency does periodic checks to see if the insurance is current. The insurance requirement is ongoing. An operator is not required to have insurance when he applies for a licence. However, as soon as his insurance lapses, his licence must be revoked immediately.

[English]

**The Chair:** Can I go back to Mr. Julian's suggestion and perhaps, with the willingness of the committee, stand this?

I'd like the department to contact some of the communities that access this service that has been discontinued for the interim periods we're talking about and get their reactions. Ask them if they're satisfied with what is being done, or even present them with the clauses in the bill and get some feedback from them.

Would that be a reasonable request?

**Mr. Ed Fast:** Which communities are we talking about? How much time do we have?

**The Chair:** I don't think we have to make this too detailed. We can phone people in a couple of communities that get discontinued service and start-up service and talk directly with them. I'm sensing there's a concern about the small communities.

I represent small communities, and I've also represented communities that rely on services on a seasonal basis. My sense is that if I'm an operator looking at some of the details and difficulties I have to go through in a process, it influences my decision on whether to even try to apply the service.

So we could get feedback from those communities, perhaps in areas where there are fly-in services over a very short period of time. I may be wrong, but I'm even thinking about winter roads. The only reason they extend the service on those kinds of things is because the conditions prevail and allow them to happen. If not, a person is pretty regulated by the conditions.

Mr. McGuinty.

**Mr. David McGuinty:** I support your suggestion, Mr. Chair. Could I add to it? On the question of winter roads, I read somewhere recently—and maybe the department has information around this—that with climate change we're seeing a shortening of the use of winter roads because of when they're freezing and thawing. The government members, and I think Ms. Gravitis-Beck, have repeated four or five times that this would become such an onerous test for seasonal carriers that it would be a disincentive to enter the market.

Can you help us understand? Would you be able to provide any evidence to the committee that this kind of change would drive small or even large seasonal carriers out of the marketplace? I've heard it asserted repeatedly that it's a market disincentive. I'm just trying to get my head around whether that's the case or not, or whether most carriers would simply say, "We comply with a very onerous and difficult set of transport regulations and legislation anyway, so this is really not a big deal." I don't know.

● (1700)

**Ms. Brigita Gravitis-Beck:** I think your question is a little speculative and therefore would be kind of hard to get to. What wouldn't have happened "if" is kind of hard to get a grip on.

I'll undertake what the chair has suggested and see if we can provide some additional information.

**The Chair:** I suspect these are smaller operators that are trying to provide service as long as possible to recapture their investment.

Mr. Jean has the last word, and then I'll ask the committee if they're prepared to let this stand.

**Mr. Brian Jean:** With respect, I think everybody has lost focus of what these seasonal carriers do. Everybody needs to go back and ask what they are doing. They are taking tourists to particular places during the fishing season, or when the aurora borealis is out, or when there's an opportunity to go somewhere. They're not seasonal carriers that provide services to particular communities to get the community members in and out. That's not who they are. They are seasonal carriers that provide tourists or different types of people to seismic areas, etc., only.

We've lost focus to think that these carriers provide a service to the communities, other than tourists dollars, which many of them don't see because they don't go directly there. Everybody needs to refocus on that particular issue. If the department has any comments on that, it would be relevant.

**Ms. Brigita Gravitis-Beck:** I agree one hundred percent. These are very specific benefits, for very specific carriers, in the very specific context of seasonality and cyclicity. The measures we've tried to introduce for operations for a period of eight months out of twelve were intended to streamline the process and remove the paper burden for something that did not seem to be providing any benefits to either the carrier, the community, or the agency, without any impacts on the economics.



**The Chair:** I ask that we stand this amendment and have you report back to us. I don't think the chair or the committee will tell you to pick a certain company. I'm sure there are instances you can use, and we trust your good judgment on this. So we're going to stand the second amendment on clause 17.

(Clause 17 allowed to stand)

(Clauses 18 to 24 inclusive agreed to)

(On clause 25)

**The Chair:** Clause 25 brings us to page 18 in our document file. It is a Bloc amendment, BQ-2.

Monsieur Laframboise.

• (1705)

[Translation]

**Mr. Mario Laframboise:** That's right. The amendment proposed to delete from clause 25 of the bill which amends section 85.1(1) the words "may review" and substitute the word "shall". The provision in question would thus read:

behalf, shall review and attempt to resolve the [...]

[English]

**The Chair:** Are there any comments?

Mr. Julian.

[Translation]

**Mr. Peter Julian:** I support the amendment, Mr. Chairman. The objective here is to clarify and strengthen the wording . . .

**Mr. Mario Laframboise:** Yes. It introduces an obligation.

[English]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, with respect, when I went through this originally I thought it was a reasonable request, until I actually heard from the department regarding the process itself and how they deal with complaints. I think it might benefit the committee to hear from the department in relation to this particular section and dealing with level one and level two complaints, how the process actually goes and how we can streamline that process here.

**The Chair:** Please.

**Ms. Brigita Gravitis-Beck:** We would prefer language that retains flexibility for the agency. The flexibility is very important. We've used the "efficiency" word a lot, and we come back to it again in this particular case.

It's interesting to think of what the implications would be if we had an obligation, a "shall",

[Translation]

as proposed.

[English]

It's at the low end. Right now there is a certain number of complaints that the agency can dismiss fairly quickly without need for review in an attempt to resolve the complaint. Some of those complaints are purely frivolous or vexatious in nature and get

dismissed very quickly. Under the proposed wording, they would have to be given full consideration.

Certain other complaints are dismissed. Roughly 20% of the 1,300 complaints received are generally found in favour of the carrier very quickly, without a great deal of analysis. In this case the agency is very familiar with perhaps the tariffs and the terms and conditions of the carrier and can see very quickly that the complaint will be in favour of the carrier. Again, those are dismissed without much review in an attempt to resolve the complaint.

Similarly, if we look at level one and level two complaints, level one complaints, as I think the agency explained when they appeared as witnesses, really involve the agency acting as a post box. They don't review. They don't attempt to resolve. They simply, in the first instance, if a complainant has not done so himself or herself, would forward the complaint to the carrier for response.

In a post box function, what they find is that 70% of level one complaints are resolved with the carrier. So they are never reviewed and attempted, and only 30% of level one complaints go to that more additional due diligence. It means that the agency can put its attention on those cases that demand the most analysis and due diligence.

That's at one end, those complaints that do not require a great deal of detailed analysis or review. At the other end, the agency does receive some complaints that are considered very serious. These are complaints that deal with issues like unruly conduct that may create safety risks on an aircraft. They relate to things like unreasonable tariffs, potentially the discontinuance of service, undue obstacle in terms of disabilities.

These are complaints that the agency views with a great deal of seriousness, and they may choose to move them immediately into the formal review process rather than go through the informal review process. Again, if we had the "shall review and attempt to resolve", it would slow down the consideration of serious proposals that come in and that the agency wants to look at very quickly.

A third area that causes us concern in terms of the language of "shall" instead of "may" relates to instances where carriers go bankrupt and are no longer functioning. Again, if we have a "shall" requirement, the agency may be forced to continue to look at those complaints, even when the carrier no longer exists. The current situation is that those complaints are dropped.

All of those elements, to us, argue very strongly for the "may" language, to retain flexibility so that the agency can put its resources where it can do the most benefit in terms of due diligence, rather than putting scarce resources into looking into complaints that perhaps do not merit the informal process.

• (1710)

**The Chair:** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** The problem is that the provision is currently worded as follows: “The Agency, or a person authorized to act on the Agency's behalf, may review [...]”. What if the agency chooses not to review the complaint? I can understand your telling the complainant that his complaint is frivolous, but as I see it, you have a duty to review the complaint. It's fine if you decide the complaint is frivolous, but I can't see the agency not reviewing the complaint at all. I can't understand that.

When I'm asking you to review a complaint, I'm not asking you to resolve it, to launch an investigation or to mediate the situation. If you receive a complaint and tell the complainant that his complaint is frivolous, that's fine. I'm sure some complaints do indeed fall into that category. However, if you're telling me that some complaints are not even reviewed, then I do have a problem with that.

The wording “The Agency [...] may review” implies that some complaints are not reviewed at all. If that's the case, I want to know which ones are not reviewed. Otherwise, I feel it is your privilege and duty to review all complaints, even if you ultimately find that some are frivolous. In the process, if the complainant is not satisfied, then he can always appeal. However, to say “may review” implies that some complaints will not be addressed at all. That doesn't sit well with me.

**Ms. Brigita Gravitis-Beck:** I think it's a good idea to also look at the proposed section 85.1(3) which reads as follows:

If the complaint is not resolved under this section to the complainant's satisfaction, the complainant may request the Agency to deal with the complaint in accordance with the provisions of this Part [...]

Therefore, this provision provides the complainant with some recourse if he feels that his complaint warrants more serious consideration from the agency. It strikes a balance with the first provision. It's not much, but it allows for the complaint to be addressed.

**Mr. Mario Laframboise:** Instead of “may review” or “review”, I suggest that the provision read “is notified of all complaints”. When a complaint is filed, the agency responds. Otherwise, it would mean that some complaints are not addressed. What procedure do you follow when you receive a complaint? Do you reject some complaints outright because you don't like the complainants?

**Ms. Brigita Gravitis-Beck:** When I testified earlier before the committee, Mr. Julian brought up the issue of complainants' level of satisfaction with the procedure followed by the agency. It's important to know that complainants are almost 100 per cent satisfied with our procedure. Ninety-seven per cent of complainants claimed to be satisfied with the process and with the outcome in the case of level one complaints. We take that to mean that the agency exercises its discretion in an appropriate manner and that the current legislative provisions adequately ensure that the process is effective and fair.

[English]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Actually, those are two points that I was going to make as well, Mr. Chair.

I'm wondering what the department's response would be if proposed subsection (3) were amended to indeed force the agency to

review it. If the word “shall” were put into subsection (3)—so if the complainant asked for the complaint to be dealt with under this provision the department “shall”, or would be forced to do so—would that be better? Because then it would be a tier two complaint, and indeed the 70% wouldn't fall under that gambit, so for anybody who is not satisfied, the department would be forced to deal with it under that.

Would that be satisfactory? I'm wondering if that would meet the compromise of Monsieur Laframboise.

•(1715)

**Ms. Brigita Gravitis-Beck:** I am sorry, I missed the comments you made.

**Mr. Brian Jean:** Can we have that read back?

**The Chair:** What he is saying is that in subsection (3), for the “complaint is not resolved” provision, the complainant “shall” request the agency, as opposed to “may”.

Is that correct, Mr. Jean?

**Mr. Brian Jean:** The complainant “may” but the department “shall”.

**Mr. Peter Julian:** *Monsieur le président.*

**The Chair:** Mr. Julian.

[Translation]

**Mr. Peter Julian:** I'd like to propose a subamendment, because I can well understand Mr. Laframboise's concern. I propose that we add the word “may” after “and”, so that the provision would read like this:

85.1(1) The Agency, or a person authorized to act on the Agency's behalf, shall review and may attempt to resolve the complaint [...]

Thus, the review process would be mandatory, but not the actual resolution of the complaint. Admittedly, section 85.1(3) provides for possible follow-up action.

I completely agree with Mr. Laframboise that provision must be made to ensure that all complaints are required to be reviewed and dealt with. That's very important and the Bloc's amendment attempts to do just that. In the bill, the word “shall” qualifies both “review” and “attempt”. Perhaps the word could be made to qualify only the second verb, namely “attempt”. The provision would then read “may attempt to resolve the complaint”.

[English]

**The Chair:** Ms. Gravitis-Beck.

[Translation]

**Ms. Brigita Gravitis-Beck:** Maybe I haven't properly explained the way the current process works.

There are two levels of complaints. Level one complaints received by the agency are not reviewed. They are handled in much the same way that a post office would handle them. They are read and forwarded to the air carriers who look at them and try to resolve the problem. That's the first stage in the process.

The agency is subsequently advised of the outcome of this process which, in most cases, is positive. Only 30% of complaints go on to become level two complaints. At this stage in the process, the agency conducts a more thorough review and attempts to grasp and resolve the problem. If the agency was required to subject all level one complaints — and we're talking here about nearly 600 complaints — to this degree of scrutiny, the task would be onerous indeed.

Regardless, I want you to know that we do take note of every new complaint.

**Mr. Mario Laframboise:** So then, you review the complaints. As such, what Mr. Julian is proposing is rather logical. He's suggesting that the provision read “and may attempt to resolve the complaint”.

During the first stage, you attempt to resolve the complaint by forwarding it directly to the air carriers. What I want to avoid at all costs is a situation where, pursuant to the provision, you are not required to deal with certain complaints. As the bill is now worded, you could in fact decide that certain complaints are of no interest to you. That's what the bill says. Do you understand what I'm saying?

**Ms. Brigita Gravitis-Beck:** No.

**Mr. Peter Julian:** That is in fact what it says.

**Mr. Mario Laframboise:** I don't have a problem with your agency's procedures, but the words “may review” imply that you could choose not to review certain complaints. I don't want to see that happen. The wording should truly reflect the procedure that you follow and at present, that's not the case.

**Ms. Brigita Gravitis-Beck:** Yes, it does.

**Mr. Alain Langlois:** The agency is an administrative tribunal. Consequently, regardless of the wording used in the act, the agency cannot exercise its discretion and decide not to deal with a complaint. The provisions of the Transportation Act respecting the powers of the agency do not stipulate that the agency must review complaints. The agency is a tribunal, which means that when it receives a complaint, it is judicially obligated to take note of the complaint and to act on it.

What you're saying is true, but if you're concerned that for whatever reason, the agency does not deal with certain complaints, then I can tell you that this is not the case. In my estimation, that concern is unfounded. As an administrative tribunal, the agency is obligated to take note of all complaints filed and to take steps to address them.

• (1720)

**Mr. Mario Laframboise:** All the more reason then to use the words “shall review” and “may attempt”.

I didn't want to substitute the word “shall” for “may”. I want to leave you some room to manoeuvre.

**Mr. Alain Langlois:** We're saying the same thing.

[English]

**The Chair:** Mr. Carrier.

[Translation]

**Mr. Robert Carrier:** According to the explanations provided by Ms. Gravitis-Beck, you proceed in the exact same way as is being proposed in the amendment, and in Mr. Julian's subamendment.

The complaint is reviewed to some degree before going on to the second stage. It may then be reviewed more thoroughly, or a simple acknowledgement may be sent to the complainant. The fact remains that we want some assurance that every complaint is at least reviewed. That's all the text of the amendment says.

When the amendment was drafted, I was tempted to insist on the use of the words “doit examiner”. Ultimately, I settled for the word “examine”.

[English]

**The Chair:** Mr. McGuinty.

On the order, it was Mr. McGuinty.

**Mr. David McGuinty:** Thanks.

Ms. Gravitis-Beck, there are 1,300 complaints.

**Ms. Brigita Gravitis-Beck:** Yes, 1,300 complaints a year.

**Mr. David McGuinty:** And each and every one of those complaints is acknowledged.

**Ms. Brigita Gravitis-Beck:** Yes, I believe so.

**Mr. David McGuinty:** Are there any that are not?

**Ms. Brigita Gravitis-Beck:** No, not that I'm aware of.

**Mr. David McGuinty:** If an e-mail comes in and it's—

**Ms. Brigita Gravitis-Beck:** Every single complaint is dealt with.

**Mr. David McGuinty:** Every complaint is disposed of.

**Mr. Alain Langlois:** Most complaints come through e-mail, I would say.

**Mr. David McGuinty:** Right. It's either fired off a desk, to an airline company, or it's off to some other—

**Ms. Brigita Gravitis-Beck:** And then it comes back from the airline company. It's not as though it's fired off to the airline company and who cares what the outcome is? There's a feedback loop that then brings back the result of that process to the agency in terms of whether it has been effective or not.

**Mr. David McGuinty:** So there were 1,300 air travel complaints last year—

**Ms. Brigita Gravitis-Beck:** Correct, in 2005.

**Mr. David McGuinty:** —in total.

**Ms. Brigita Gravitis-Beck:** Yes.

**Mr. David McGuinty:** And each one is dealt with. So to Monsieur Laframboise's concern about a Canadian resident or citizen who is complaining, getting some kind of response, is it an unfounded concern, a level one response? What kind of response do I get if I send an e-mail that says, “Air Canada lost my baggage again”, or “I couldn't get through to or understand the agent in Mumbai who's tracking the luggage for me”? What kind of response do I get back?

**Ms. Brigita Gravitis-Beck:** If the complainant has not, himself or herself, already gone to the carrier, what the agency will do is ship off the complaint to the carrier for resolution and will notify the complainant that this is the first step, that this is what has been done. They then work with the carrier in terms of making sure that a reasonable period of time is allowed to attempt to resolve the issue. In many cases, it is resolved at that level. Seventy percent of level one considerations end at level one; they don't continue to level two. But 30% continue on to level two. They're either not resolved or they're not resolved adequately to the satisfaction of the complainant, in which case they then proceed to a more detailed assessment by the agency.

**Mr. David McGuinty:** Okay.

Just going back to Monsieur Laframboise's concern, then, as it's presently drafted, Bill C-11 would compel the agency—no matter who's in charge of it, what president, what CEO, what budget it was working with—to conduct its affairs this way. In the future, three years or five years from now, could someone say, “That's enough, we're not going to treat level one complaints the same way we've been treating them for the past five years”?

**Ms. Brigita Gravitis-Beck:** No, I think there is an obligation to say that they will review and attempt to resolve, and may, if appropriate, move to subsequent steps. So those obligations will be there.

**Mr. David McGuinty:** Well, I think I understand English, and it says that the agency “may review”.

**Ms. Brigita Gravitis-Beck:** I think the language that has just been proposed that perhaps we consider is, “on the Agency's behalf, shall review and may attempt to resolve”.

• (1725)

[Translation]

The French version would therefore read: “L'Office ou son délégué examine toute plainte déposée en vertu de la présente partie et peut tenter de régler [...]”

[English]

To me, that's perhaps a clarification. It is indeed what we had intended.

**Mr. David McGuinty:** My concern is longer term. When will this come back to this committee or a subsequent committee or to the House for re-examination? I forget the timelines we're looking at, but my concern is, in five years from now, if there are budgetary differences, if there's different management, if there's a different government—

**Mr. Brian Jean:** You give up. You agree.

**Mr. David McGuinty:** Thank you, Brian.

**The Chair:** I would suggest, then, that I know there was maybe some—

**Mr. Peter Julian:** It's just a matter of different bits of intensity.

**Mr. Brian Jean:** We agree. The art of persuasion has painted a picture and a portrait far beyond bleak, Mr. Julian.

**Mr. Peter Julian:** In that case, let's go back to clause 17.

**Mr. Brian Jean:** Do we have another hour?

**The Chair:** We will go back to clause 17 at our next meeting.

I know Mr. Julian has offered an amendment, and I know Mr. McGuinty has a small piece of business at the end of this meeting. What I would like to do is have Mr. Julian, with Mr. Laframboise's approval, which I think is there, come back to the next meeting with that amendment and we'll vote on it.

**Mr. Peter Julian:** No, I'm proposing it now, Mr. Chair, so we could just vote on the subamendment and vote on the amendment.

**The Chair:** All right. I was just trying to get the terminology the way we have it.

[Translation]

**Mr. Peter Julian:** The clarification is the word “may”.

[English]

**The Chair:** Okay. So what I will do, then, is ask either my good friend beside me to read the amendment, or perhaps, Mr. Julian, you would like to read the amendment into the record.

[Translation]

**Mr. Peter Julian:** I'm proposing to add the word “may” before the word “attempt”.

[English]

**Mr. Ed Fast:** But there are two.

[Translation]

**Mr. Peter Julian:** No. There would only be one “may”.

[English]

**Mr. Ed Fast:** “May”.

[Translation]

**Mr. Peter Julian:** It would be inserted before the verb “attempt”.

[English]

Before “attempt”.

**Mr. Ed Fast:** That's fine.

[Translation]

**Mr. Mario Laframboise:** In English, “peut” is “may”.

[English]

**The Chair:** Okay, seeing no further discussion—and I didn't hear anything different from my earpiece—I will ask if the amendment as amended shall carry.

(Subamendment agreed to)

(Amendment agreed to)

**The Chair:** Mr. McGuinty talked to me at the start of the meeting, and I said I would leave a couple of minutes at the end to discuss some of the future meetings.

Mr. McGuinty, very briefly.

**Mr. David McGuinty:** It's just about tomorrow evening's potential meeting, Mr. Chair, and whether or not the committee would be amenable to postponing it until next week.

**The Chair:** Are there any comments?

Mr. Jean.

**Mr. Brian Jean:** First of all, I have to make mention that Mr. McGuinty asked for this meeting, I think in relation to infrastructure.

**Mr. Peter Julian:** That was last week.

**Mr. Brian Jean:** I was hoping that since Mr. Julian, Mr. McGuinty, and Mr. Scott weren't going to be here, we could actually deal with the clauses that we've just put to the next meeting.

**The Chair:** Nice try. Thank you.

Mr. Julian.

**Mr. Peter Julian:** So we would not be having a meeting tomorrow. I think that's fair, because Mr. McGuinty actually requested the meeting for last Wednesday—

**The Chair:** And it got changed.

**Mr. Peter Julian:** —and it's not fair, given the Liberal convention, that it be put this Wednesday.

[*Translation*]

**The Chair:** Mr. Laframboise.

**Mr. Mario Laframboise:** Mr. Chairman, are we still planning to hold the two meetings on infrastructures? Otherwise, I would like these meetings to take place tomorrow.

You don't look certain.

[*English*]

**Mr. Brian Jean:** That is the will of the committee, and I would suggest that the Canadian taxpayer thinks it's very important that we have those meetings. As such, I would suggest that we will, if it's up to the committee.

[*Translation*]

**Mr. Mario Laframboise:** Okay.

[*English*]

**The Chair:** Okay. I think that's as clear as it can be.

Mr. Julian, last call.

**Mr. Peter Julian:** So next week and the week following.

**The Chair:** The meeting is adjourned.

---





**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**

**Also available on the Parliament of Canada Web Site at the following address:  
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :  
<http://www.parl.gc.ca>**

---

**The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.**

**Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.**