



House of Commons  
CANADA

# **Standing Committee on Industry, Science and Technology**

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INDU • NUMBER 038 • 2nd SESSION • 40th PARLIAMENT

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**EVIDENCE**

**Wednesday, October 21, 2009**

**Chair**

**The Honourable Michael Chong**



## Standing Committee on Industry, Science and Technology

Wednesday, October 21, 2009

• (1535)

[English]

**The Chair (Hon. Michael Chong (Wellington—Halton Hills, CPC)):** Order, please.

Good afternoon. Welcome to the Standing Committee on Industry, Science and Technology and to our 38th meeting on this day, October 21, 2009.

We're here pursuant to the order of reference of Friday, May 8, 2009, concerning Bill C-27, otherwise known as the Electronic Commerce Protection Act.

Today, we will be going clause by clause on this bill. So without further ado, we'll begin.

Before I do, I just want to recognize our three departmental officials here. We have Madam DiFrancesco, who is director general of the electronic commerce branch; we have Mr. Palmer, who is the senior general counsel of the legal services group; and we have Monsieur André Leduc, who is the policy analyst with the e-commerce policy group.

I believe I have an intervention from Mr. Lake.

Go ahead.

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** It's just a point of order to take a moment to congratulate our chair on the birth of his third son, Cameron, I believe on Monday or Tuesday?

**Voices:** Hear, hear!

**The Chair:** Monday night.

**Mr. Mike Lake:** Congratulations. I'm surprised to see you here two days later.

**The Chair:** Well, we're getting discharged from the hospital, and as a matter of fact I still have my hospital bracelet on. After this meeting I will be going home to pick up Carrie and the baby.

Thank you very much.

We're going to begin clause-by-clause on this bill. We're going to stand clause 2 for procedural reasons.

Consideration of clause 1, as per the rules in the Standing Orders, is postponed. Clause 2 will be stood to the end of the meeting so that we can consider clause 3 and onward first.

(Clause 2 allowed to stand)

(Clauses 3 to 5 inclusive agreed to)

(On clause 6—*Unsolicited electronic messages*)

**The Chair:** We have a government amendment for clause 6, G-6.1 in the package that has been distributed to you.

Could I have a mover for G-6.1?

**Mr. Mike Lake:** I so move.

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

**The Chair:** We now will consider the Bloc amendment to clause 6, BQ-1.1 in your package.

Is there any debate on Bloc amendment 1.1?

Mr. Lake.

**Mr. Mike Lake:** Actually, I'd ask the witnesses to maybe give some clarification of what this would mean.

**The Chair:** Mr. Leduc.

**Mr. André Leduc (Policy Analyst, E-Commerce Policy, Department of Industry):** I think the clause may be somewhat redundant insofar as the act only applies to commercial activity, and it would not be a regular course of business for a political party to engage in commercial activity.

**The Chair:** Thank you, Mr. Leduc.

Is there any further debate on Bloc amendment 1.1?

Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ):** It's true that a political party does not engage in commercial activities. On the other hand, it can organize activities such as meetings or dinners for which admission fees are charged. They may then become activities of a financial nature. I would like to hear you say that political parties are not concerned by this provision.

**Mr. André Leduc:** That depends on the party's interpretation. If it's a party fund-raiser, then there's no profit, no commercial activity; it doesn't apply.

**Mr. Robert Bouchard:** But when a political party organizes fund-raising activities, that generates a profit. A cost is attached to the activity and an amount is requested from members or clients. So there is a profit. I would like you to reassure me by saying that political parties are not concerned by this provision.

**Mr. André Leduc:** They aren't completely excluded. If they engage in commercial activities, the provision applies, but if they're involved in fund-raisers for the party or a charity, it doesn't apply.

**Mr. Roger Gaudet (Montcalm, BQ):** Give me an example of fund-raising.

**Mr. André Leduc:** A political party sends an e-mail to its members to organize a fund-raiser for the party. The idea is to organize a dinner—

**Mr. Roger Gaudet:** Unless I misunderstand the act, I think that if it organizes a fund-raising dinner, the idea is to raise funds.

**Mr. André Leduc:** That's correct. It's precisely for that reason that this is taken into account in subclause 10(6) of the bill, which concerns non-business relationships involving charities, political parties or religious groups.

**Mr. Robert Bouchard:** As a precaution, since we belong to political parties, I would ask my colleagues to speak. I believe it would be prudent to include this kind of provision so as to rule out any ambiguity or any potential reprisals against political parties. I would like to point out to my colleagues the importance of adding this kind of provision, which is not very elaborate but would constitute a safety measure for each of our political parties. I would like to hear my colleagues' reactions on that subject.

• (1540)

**The Chair:** Thank you, Mr. Bouchard.

[English]

Seeing no further debate, I'll call the question.

Shall Bloc amendment 1.1 carry?

(Amendment negated)

**The Chair:** Shall clause 6 as amended...?

Just one moment, Mr. Gaudet.

Perhaps people could pay attention when I call the votes.

Go ahead, Mr. Gaudet.

[Translation]

**Mr. Roger Gaudet:** I don't want to make trouble for anyone, but we can take the example of the Conservative government, which, in its ads, shows a t-shirt bearing the "C" of the Conservatives. That could be the Bloc Québécois or even others. For that reason, I think you put it on or you don't. You can say that one party will be good and the other won't. That's false.

[English]

**The Chair:** Thank you very much.

[Translation]

**Mr. Roger Gaudet:** Mr. Leduc will answer next, Mr. Chairman.

**The Chair:** All right. One moment.

Mr. Bouchard, go ahead.

**Mr. Robert Bouchard:** I get the impression that a vote was requested a little too soon. Could we know who opposed it and who was in favour?

[English]

**The Chair:** Okay.

I will again call the question on clause 6 as amended....

[Translation]

You want us to vote on your amendment?

**Mr. Robert Bouchard:** You said it had been negated, but I didn't see any hands raised. Actually, I saw some, but not all.

[English]

**The Chair:** Okay. We will have the vote.

Madam Coady, or Madam Rota...or Mr. Rota, go ahead.

**Mr. Anthony Rota (Nipissing—Timiskaming, Lib.):** I know you've been up for a while; congratulations.

We were just clarifying the difference here. Perhaps we can have two seconds amongst ourselves to discuss it.

**The Chair:** I'm about to call the vote on the Bloc amendment 1.1.

**Ms. Siobhan Coady (St. John's South—Mount Pearl, Lib.):** And what happens to Bloc amendment 1 because of Bloc amendment 1.1?

**The Chair:** We have not considered Bloc amendment 1 because we have stood clause 2 for procedural reasons. We will consider clause 2 at the end of this meeting. We have begun with clause 3.

Currently we're considering Bloc amendment 1.1, which amends clause 6.

Seeing no further debate on Bloc amendment 1.1, I'm going to call the question on the Bloc amendment.

Monsieur Gaudet.

[Translation]

**Mr. Roger Gaudet:** Mr. Chairman, Mr. Leduc didn't answer my question about the Conservatives' t-shirt.

[English]

**The Chair:** I think he adequately answered your question, but

[Translation]

Mr. Leduc, if you wish, you can answer Mr. Gaudet's question.

**Mr. André Leduc:** If a political party wants to engage in electronic commerce, it must follow a process if, for example, it sends e-mails to its members in the context of a dinner. Subclause 10 (6) of the bill states that, in the context of a relationship with a member of a party, that person can always send out e-mails to promote a dinner, sell t-shirts and so on. You always have the right to do so if you obtain tacit or implicit or express consent.

However, it is considered illegal under the bill to send an e-mail to all Canadians stating that you are organizing a dinner.

• (1545)

**Mr. Roger Gaudet:** Mr. Chairman, I can't adjust my audio system.

[English]

**The Chair:** One moment, please, while we get the translation issues addressed.

[Translation]

**Mr. Roger Gaudet:** I want to know what channel is reserved for French.

[English]

**The Chair:** We're going to wait until the translation issues are fixed.

[Translation]

**Mr. Robert Bouchard:** I'd like to ask another question.

Mr. Leduc, let's suppose a political party does some polling via the Internet. When you poll, you contact citizens who haven't given their consent. Would that political party be violating the act?

**Mr. André Leduc:** No, purely and simply. If the party is not selling products, such as tickets for a dinner or t-shirts, but is conducting voting polls, it doesn't apply. That's not business.

**Mr. Robert Bouchard:** So it would apply if the political party was engaged in commercial activities.

**Mr. André Leduc:** That's correct.

**Mr. Robert Bouchard:** Earlier you talked about a grey area, about an uncertainty. What type of activity did that refer to?

**Mr. André Leduc:** That applies only when the political party engages in commercial activities. Otherwise, it doesn't apply.

**Mr. Robert Bouchard:** If I organize an activity to raise funds, that's not a commercial activity in your mind?

**Mr. André Leduc:** No. The fund-raisers of a political party are not commercial activities.

**The Chair:** Thank you, Mr. Bouchard.

Mr. Blaney.

**Mr. Steven Blaney (Lévis—Bellechasse, CPC):** I'd like to make a brief comment, Mr. Chairman.

We see that the bill doesn't apply to polls, but that, in the case of commercial activities, the political parties are considered as other businesses. I believe they in fact should be subject to the act.

Thank you.

[English]

**The Chair:** Is there other debate on Bloc amendment 1.1?

Seeing no further debate, I will call the question on Bloc amendment 1.1.

(Amendment negatived)

**The Chair:** All those in favour of clause 6 as amended, please indicate.

All those opposed to clause 6 as amended, please indicate.

We have a tie vote.

**Mr. Brian Masse (Windsor West, NDP):** The problem, Mr. Chair, is that we're trying to catch up. The order we have here is different from the order you're going through.

**The Chair:** So that members are clear, I'm working off the agenda, and I'm working down the list. We are presently on clause 6,

on page 2. Amendment G-6.1 has carried. We are presently on the vote for clause 6 as amended by amendment G-6.1.

Mr. Masse, you're the only one who hasn't indicated your—

**Mr. Brian Masse:** I'm going to vote in favour.

**The Chair:** Okay, thank you.

(Clause 6 as amended agreed to)

(On clause 7—*Altering transmission data*)

**The Chair:** I understand the government has an amendment to clause 7.

Mr. Lake, would you care to move amendment G-7?

• (1550)

**Mr. Mike Lake:** Sure, so moved.

**The Chair:** Would you like to speak to amendment G-7?

**Mr. Mike Lake:** I don't think we need to, in the interest of time.

**The Chair:** Seeing no further debate on government....

Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard:** Can we come back to a clause?

**The Chair:** We're on clause 7.

**Mr. Robert Bouchard:** All right. If I understand correctly, we can't go backwards.

[English]

**The Chair:** The amendments, so everybody understands, are in your big, thick package. They're listed on the top right-hand corner as G-7 or NDP-1 or BQ-1.

We're currently on amendment G-7, which amends clause 7. Is there any further debate on amendment G-7?

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

(Clause 7 as amended agreed to)

(On clause 8—*Installation of computer program*)

**The Chair:** Clause 8 has two government amendments. The first one is amendment G-8; the second one is amendment G-9.

Do we have a mover for amendment G-8?

It is moved by Mr. Lake.

Mr. Lake, would you like to speak to amendment G-8?

**Mr. Mike Lake:** No.

**The Chair:** Is there any further debate on amendment G-8?

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

**The Chair:** Do I have a mover for amendment G-9?

It is moved by Mr. Lake.

Is there any debate on amendment G-9?

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

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

(On clause 10—*Express consent—sections 6 to 8*)

**The Chair:** We have 10 proposed amendments for clause 10. We'll begin in the order in which we have received them. We'll begin with amendment G-10.

Do I have a mover for amendment G-10?

Mr. Lake. Thank you.

[*Translation*]

**Mr. Robert Bouchard:** I would like you to give me an explanation of amendment G-10, which states: (1.1) Despite paragraph (1)(b), for the purposes of section 6, if a person is seeking express consent on behalf of a person whose identity is not known,

(a) the only information that is required to be provided under that paragraph is prescribed information that identifies the person seeking consent;

Could you explain that to us using simpler words?

**Mr. Philip Palmer (Senior General Counsel, Legal Services, Department of Industry):** This concerns situations where, for example, Aeroplan asks its members whether they are interested in receiving commercial messages from its partners, Avis, Sheraton or others. At the time consent is requested, the partner has not necessarily been selected, but Aeroplan can eventually decide that, for its members, the special of the month offered by Avis is a good bargain. A message is then sent to them by Avis or on its behalf to offer them that special.

• (1555)

**The Chair:** Thank you, Mr. Palmer and Mr. Bouchard.

Do other committee members wish to ask the officials any questions?

[*English*]

Seeing no further debate, I will ask if government amendment 10 shall carry.

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

**The Chair:** We're now on government amendment 11.1, moved by Mr. Lake.

Mr. Lake, would you like to speak to this amendment?

**Mr. Mike Lake:** What I'd like to do on this one, just because it is a little bit longer, is have the officials speak to the necessity for the changes here.

**The Chair:** Mr. Leduc.

**Mr. André Leduc:** The confusion for us is that we don't have the amendments by the government number. We don't have that package. We were going by the clause number rather than the government amendment number.

**The Chair:** Just hold on a moment while we wait. We'll get the clerk to distribute copies of the package so we're all working off the same document.

The amendment number is in the upper right-hand corner of each page. We're presently on government amendment 11.1.

Go ahead, Mr. Leduc.

**Mr. André Leduc:** I'll run through what this entire section's intention is.

In the first instance, where a software company or otherwise is intending on seeking express consent for a download of a computer program onto a user's computer, they have to seek the requirements that are under subclause 10(2). At that time, should that computer program do anything listed in the activities of subclause 10(2.2) under clause 10, they have the additional requirements of subclause 10(2.1), which is notably apart and separate from a licence agreement:

(a) describe the program's material elements that perform the function or functions, including the nature and purpose of those elements and their reasonably foreseeable impact on the operation of the computer system; and

(b) bring those elements to the attention of the person from whom consent is being sought in the prescribed manner.

Further, an exception to that is subclause 10(2.3) in the case where it is for the reasons of transmitting the message, i.e. "transmission data", or where it performs other operations that might be specified in regulations. They are excepted.

For computer updates and upgrades, as long as it does not do anything that's listed in subclause 10(2.2), they do not have the additional requirement. Again, it's the same for the list in subclause 10(2.5). As long as it is not doing anything in subclause 10(2.2), they do not have the additional requirement.

That, hopefully, describes the entire consent regime around the installation of a computer program.

[*Translation*]

**The Chair:** Thank you, Mr. Leduc.

Mr. Bouchard, do you have any questions?

**Mr. Robert Bouchard:** Yes, Mr. Chairman. Even though the Liberals have withdrawn amendment L-2, I would like to know whether the officials have made amendments taking amendment L-2 into account.

**Mr. André Leduc:** We wanted a functional consent system for clause 8. We considered what is currently being used and what will function well in terms of the consent required to install computer programs. We considered the lists in amendment L-2, and the government's suggestions, in other words, are found in the new subclause 10(2.5).

• (1600)

**The Chair:** Thank you, Mr. Leduc and Mr. Bouchard.

[*English*]

Is there any further debate on G-11.1?

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

**The Chair:** On G-12, do I have a mover?

It is moved by Mr. Lake.

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

**The Chair:** The next amendment under consideration is BQ-2.

Do I have a mover for BQ-2?

Monsieur Bouchard, thank you.

[Translation]

Would you like to speak to this amendment? Go ahead.

**Mr. Robert Bouchard:** The officials recommended 18 months at first. A lot of witnesses asked that that period be much longer. I believe one witness even mentioned six years. Since we're taking an important turn and this measure constitutes a major change, we're moving that it be two years rather than 18 months.

[English]

**The Chair:** Thank you very much.

Mr. Masse.

**Mr. Brian Masse:** I have a question for the officials about the 18 to 24 months. What will that change effectively for people?

**Mr. André Leduc:** From what I understand, BQ-2 extends the 18-month period to a two-year period. We proposed the 18-month period to be consistent with what is pre-existing in “do not call” to simplify regulations for enterprises in Canada. So that's why we went with the 18 months originally.

**Mr. Brian Masse:** So it will effectively treat the “do not call” and the phone—the two sets of businesses and communications—differently.

**Mr. André Leduc:** Yes.

**Mr. Brian Masse:** I won't be supporting this motion for that reason, Mr. Chair.

**The Chair:** Thank you, Mr. Masse.

Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard:** Ultimately, we're suggesting 6 months more than what was contained in the initial bill, that is to say 18 months. It would now be 24 months. I would like to know whether you believe that will have any consequences and, if so, would they be significant?

**Mr. André Leduc:** It is possible that consumers may say that two years have elapsed since the discussion and transaction and ask why the business waited 24 months before sending the e-mail, when it could have done so in the first 18 months. In our view, a year and a half should be enough for businesses—even the smallest ones—to pursue a business relationship by e-mail.

**Mr. Robert Bouchard:** Did you meet the witnesses? Did you read their comments? They presented a number of reasons. Did you consider the longer timeframes proposed? I remember that the Association des courtiers et agents immobiliers du Québec suggested a six-year period. What's your reasoning on that?

• (1605)

**Mr. André Leduc:** We did read the comments of the witnesses who appeared. They decided to propose a transition period of 6 years in their requests to help businesses, not to change the 18-month timeframe.

**Mr. Robert Bouchard:** They suggested extending the timeframe by six months because people told us things and spoke in a logical, polite and reasonable manner. We are attentive to the public and people who do business. It seems normal to me to be a little more

open. I'm not proposing a 6-year timeframe, but to extend the timeframe to 24 months. Ultimately, that's six months more; it doesn't change much.

**The Chair:** Thank you for your opinions and questions, Mr. Bouchard.

Mr. Blaney, go ahead.

**Mr. Steven Blaney:** Thank you Mr. Chairman. I'll be brief.

I'm in favour of this amendment. I wasn't here when the representatives of the Mouvement Desjardins appeared before the committee. However, I know they proposed a two and a half-year time bar, for insurance, for example. When you want to change insurance companies in the case of automobile insurance, you have to wait until the anniversary date of the premium, the expiry date, which can take six months. I find this timeframe is a good proposal and a good amendment.

Thank you.

**The Chair:** Thank you, Mr. Blaney.

Mr. Rota.

**Mr. Anthony Rota:** Since Mr. Blaney and the Conservatives will probably support it, I don't have any arguments. I agree on the 24-month timeframe.

[English]

**The Chair:** Mr. Masse, and then Mr. Lake.

**Mr. Brian Masse:** I just have a further question.

Is part of the reason for the consistency that there's going to be a convergence with the technology as well—the “do not call” and the potential...?

**Mr. André Leduc:** No, we weren't looking at it from a technological standpoint; we were looking at it from a regulatory standpoint, where they would have to follow that set of rules under the “do not call” already. It would be a more facilitated transition into this. The time periods are all modelled. These specific ones for existing business relationships are modelled after the “do not call” legislation.

**The Chair:** Thank you, Mr. Masse.

Do you have further questions?

**Mr. Brian Masse:** No, thank you, Mr. Chair.

**The Chair:** Mr. Lake.

**Mr. Mike Lake:** I would just agree with my colleague, Mr. Blaney.

Ultimately, given what was being asked for by the witnesses before the committee, this is a very minor compromise, I think, to go from 18 months to 24 months. I don't believe it compromises the legislation. So I'll be supporting it.

**The Chair:** Okay.

Is there any further debate on Bloc amendment 2?

(Amendment agreed to)

**The Chair:** We're now considering government amendment 13. Do I have a mover for government amendment 13?

That's moved by Mr. Lake.

Is there any debate on government amendment 13?

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

**The Chair:** We are now going to consider Bloc amendment 3.

I would like to tell members of the committee that the chair is ruling that the vote on Bloc amendment 3 will apply to Bloc amendments 4 and 5. If Bloc amendment 3 does not carry, it will negate Bloc amendments 4 and 5.

Do I have a mover for Bloc amendment 3?

Mr. Bouchard, thank you very much.

Mr. Masse.

**Mr. Brian Masse:** For the record, there wasn't a request asking who was opposed to the earlier motion. I am opposed to that earlier motion. I just want it on the record.

**The Chair:** Thank you.

Does anyone want to speak to Bloc amendment 3?

Monsieur Bouchard.

[*Translation*]

**Mr. Robert Bouchard:** If I correctly understand your statement, clauses 3 and 4 are considered automatically agreed to since we've agreed to clause 10. Is that in fact the case?

• (1610)

**The Chair:** The vote on amendment BQ-2 is separate from the vote on amendment BQ-3. However, if amendment BQ-3 is negated, amendments BQ-4 and BQ-5 will be rejected as well. All right?

**Mr. Robert Bouchard:** All right.

**The Chair:** We're now discussing amendment BQ-3.

**Mr. Robert Bouchard:** The period of two years that appears here is consistent with clause 10, which we voted on earlier and which appears in amendment BQ-2.

The arguments presented earlier are still valid. For that reason, it would be logical for the committee as a whole to accept and approve that amendment.

[*English*]

**The Chair:** Mr. Lake.

**Mr. Mike Lake:** I'll just take one second with the officials to clarify.

Bloc amendments 3, 4, and 5 basically need to be consistent with number 2 anyway, right? So it would be silly for us to vote against this one and vote in favour of the other one?

**The Chair:** Okay. Thank you, Mr. Lake.

Mr. Masse.

**Mr. Brian Masse:** I just want to be clear, for the record as well, that I believe this bill is supposed to be for consumers and their rights. I think this additional time is not necessary, given the types of

issues that we have with spam. In another half a year, to allow a very simple process to take place for consumers I think is wrong.

**The Chair:** Thank you very much, Mr. Masse.

Is there any further comment or question on Bloc amendment 3?

Seeing none, I'm going to call the question on Bloc amendment 3. Members, please note that the vote on Bloc amendment 3 applies to Bloc amendments 4 and 5 as well.

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

**The Chair:** Thank you very much.

We're now going to go to the consideration of government amendment 14. Do I have a mover?

**Mr. Mike Lake:** I so move.

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

**The Chair:** We will now go to the consideration of government amendment 15.

Do I have a mover? It's moved by Mr. Lake.

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

**The Chair:** We have considered all the amendments to clause 10, so I will call the question on clause 10.

(Clause 10 as amended agreed to)

(On clause 11—*Unsubscribe mechanism—section 6*)

**The Chair:** We have three amendments proposed to clause 11. We will begin with the consideration of government amendment 16.1.

Do I have a mover for government amendment 16.1?

It's moved by Mr. Lake.

Are there any questions or comments on government amendment 16.1?

Monsieur Bouchard.

[*Translation*]

**Mr. Robert Bouchard:** Are we in fact discussing G-16.1?

**An hon. member:** Yes.

**Mr. Robert Bouchard:** All right.

I'm moving two subamendments to that amendment. First, paragraph (c) states: "no later than 10 business days". I'm moving: "no later than 30 business days". Then, paragraph (f) states: "no later than 10 business days". I'm moving: "no later than 30 business days". In both cases, "10 days" is replaced by "30 days".

I'd like to point something out to committee members. It is not unusual for a worker to have one month's vacation. In that case, that easily amounts to 30 calendar days. A person may also take three weeks' vacation. That's why we think that 10 business days, that is to say 2 weeks, is much too short a timeframe.



We think that a 30-day timeframe would really be in the interests of citizens. I'm speaking to my colleagues from the Conservative Party and the other parties. In my opinion, this measure would be in the interests of the citizens we represent. We could take up their defence in this matter.

●(1615)

[English]

**The Chair:** Merci, Monsieur Bouchard.

Just to be clear, we are now considering a subamendment to the government amendment 16.1. Monsieur Bouchard has moved a subamendment to the government amendment. That subamendment would modify the government amendment by moving the length of time from 10 business days to 30 days.

So that we're all clear and we're all on the same page, we're not considering the government amendment; we're considering the subamendment as moved by Monsieur Bouchard.

Mr. Masse.

**Mr. Brian Masse:** I won't be supporting the motion to amend this. I thought putting 10 business days was a reasonable compromise, because it was 10 days before that. The consequence of this, unfortunately, is that it would probably take around 40 days to unsubscribe someone, and I find that very difficult.

Once again, we're talking about a personal computer, a computer people pay for. They maintain it by providing the software and by making sure that it operates right. They buy the Internet service as well. When you permit an advertisement to come into your memory, they'll do that in a matter of hours.

I think 10 business days, when you request to get off the system, is reasonable. If not, you're going to have to live with additional spam and consequential e-mails for a frustrating period of time, especially if you've been offended by an ad that's come into your mailbox. You'll have to live with ads that are consequential to the actual campaign.

So to me, it's important that it stays the same. I appreciate the Bloc's intent, but I think this change would operate at the expense of consumers.

**The Chair:** Thank you, Mr. Masse.

Mr. Lake.

**Mr. Mike Lake:** I agree with what Mr. Masse is saying. If a company is undertaking to send commercial e-mails to people, they have a responsibility to man the unsubscribed mechanism and make sure they're responding to people who want to unsubscribe. Think of a situation where there's a limited time offer and the company is putting out e-mail after e-mail to advertise it during a short timeframe. It might get frustrating for a person. After the third or fourth e-mail, the person might send a note saying she wants to be unsubscribed. We don't want to see 30 more days of this barrage of e-mails coming at the consumer.

**The Chair:** Thank you, Mr. Lake.

Mr. Rota.

**Mr. Anthony Rota:** I've heard different figures being thrown around—30 days, 30 business days, 10 business days. What is the figure we're looking at here?

**The Chair:** We are currently considering the Bloc subamendment to the government's amendment, which would change the timeframe from 10 business days to 30 calendar days. The chair has ruled that this is what's under consideration. So we're currently considering the Bloc subamendment that would lengthen the time from 10 business days to 30 calendar days.

Do you have any further comment, Mr. Rota?

Madam Coady, do you have anything to add?

●(1620)

**Ms. Siobhan Coady:** It was the same point.

**The Chair:** Okay, thank you.

Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard:** I simply have one final comment to make.

We are proposing 30 days as a result of witnesses who have come to testify before the committee. According to the documentation I have before me, the representative of the Mouvement Desjardins talked about 31 days. The Mouvement Desjardins is a cooperative business, and its representative presented us with reasonable comments. That is why I want to make members aware of the suggestion made by that business. We thought the proposal made by the Mouvement Desjardins had merit, and we are open to that.

**The Chair:** Thank you, Mr. Bouchard.

Mr. Blaney.

**Mr. Steven Blaney:** Thank you, Mr. Chairman.

I want to reassure my colleague opposite. We're talking about Yvan-Pierre Grimard, who appeared before the committee. In his brief, he indeed talked about 31 days, but I was informed that 10 business days was suitable, as the government's amendment proposes. Perhaps more was requested, but what is proposed in the initial amendment... So I will stick to the 10 business days.

It's a pleasure for me to have the largest Canadian cooperative movement in my committee, Mr. Chairman. Thank you.

**The Chair:** Thank you.

[English]

Are there any further questions or comments on the Bloc subamendment?

Seeing none, I will call the question on the Bloc subamendment to lengthen the time from 10 business days to 30 calendar days.

(Subamendment negated)

**The Chair:** We now go back to the consideration of government amendment G-16.1, which was moved by Mr. Lake. Is there any further debate on government amendment G-16.1?

Seeing none, I call the question.

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

**The Chair:** Since we have already considered the subamendment to government amendment G-16.1, as proposed by Monsieur Bouchard, Bloc amendments BQ-6 and BQ- shall not be considered at this juncture.

I call the question on clause 11 as amended by government amendment G-16.1.

(Clause 11 as amended agreed to)

(On clause 12—*Contravention of section 6 or 7*)

**The Chair:** We have two amendments proposed for clause 12. We will begin with government amendment G-17. Do I have a mover for amendment G-17?

**Mr. Mike Lake:** I so move.

**The Chair:** Thank you.

Do any members wish to speak to government amendment G-17?

Seeing none, I call the question on government amendment G-17.

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

**The Chair:** Since government amendment G-17 has carried, that has negated Liberal amendment L-3.

Seeing no other amendments under consideration, we will go to the consideration of clause 12 as amended.

Monsieur Bouchard.

[*Translation*]

**Mr. Robert Bouchard:** I would like an explanation: was L-3 negated?

**The Chair:** Yes.

[*English*]

If there is no further debate on clause 12 as it has been amended by government amendment G-17, I will call the question.

(Clause 12 as amended agreed to)

(Clauses 13 and 14 agreed to)

(On clause 15—*Preservation demand*)

**The Chair:** On clause 15 we have one amendment. It is government amendment G-18.

Do I have a mover for government amendment G-18?

**Mr. Mike Lake:** I so move.

**The Chair:** Is there any debate on government amendment G-18?

Mr. Bouchard.

[*Translation*]

**Mr. Robert Bouchard:** No, I have questions.

**The Chair:** All right, go ahead.

● (1625)

**Mr. Robert Bouchard:** I would like to have an explanation from officials concerning paragraphs (b) and (c) of amendment motion G-18.

Could you provide the reasons for those two amendments?

**Mr. Philip Palmer:** Yes. This was proposed by the Chairman of the Canadian Radio-Television and Telecommunications Commission. He noted that our biggest North American economic partner has provisions in its laws greatly encouraging and facilitating the exchange of information on offences such as those found in this bill. In this case, the Americans are ready to use their powers to obtain evidence so as to help us, and we are also ready to use our powers to obtain the evidence requested by the Americans. This is one way of facilitating the implementation of the act and the international effort to suppress spam and the other problems addressed by the bill.

**Mr. Robert Bouchard:** You're talking about the Americans, but we're talking about a foreign state, and I believe we're talking about all foreign states, not just the United States. That's one example that you're citing.

**Mr. Philip Palmer:** Yes. That's one example. This is also the case of Australia, and the European Union. All have laws and bills targeting exactly these problems.

**Mr. Robert Bouchard:** When the act comes into force, how many states could be affected? Have you determined what states will be a concern? Do you know the number of countries that will be concerned by this clause?

**Mr. André Leduc:** We know we are the last G8 country to introduce this kind of bill. Only three OECD countries do not have this kind of act. I don't know the exact number—I don't know the acts and bills of all the countries—but I know there are a number. We're lagging behind.

[*English*]

**The Chair:** Merci.

Are there any other members who wish to ask questions or to comment on amendment G-18?

Seeing none, I'll call the question on amendment G-18.

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

(Clause 15 as amended agreed to)

(On clause 16—*Application for review*)

**The Chair:** We have three government amendments to clause 16.

We'll begin with government amendment 19. It's moved by Mr. Lake.

Is there any debate on government amendment 19?

*Monsieur Bouchard, avez-vous une question?*

[*Translation*]

**Mr. Robert Bouchard:** Yes.

**The Chair:** Go ahead.

**Mr. Robert Bouchard:** Does that include G-20? You mentioned clause 16 and G-19. Does that also include G-20?

• (1630)

**The Chair:** No, they're separate.

[English]

So we're considering G-19 on its own, separate and distinct from G-20 and G-21.

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

**The Chair:** G-20 is moved by Mr. Lake.

Are there any questions or comments on G-20?

[Translation]

Go ahead, Mr. Bouchard.

**Mr. Robert Bouchard:** Once again, I'd like to have an explanation from the officials concerning clause 16 of G-20. Could you justify the wording of subclause 16(2) as it appears in amendment G-20?

**Mr. Philip Palmer:** Yes, once again, the idea is to simplify procedures. As a result of the changes approved in clause 15, we had to make changes to clause 16 and we simplified it at the same time. In spite of everything, it's really of the same nature as previously. It's merely simplified.

**Mr. Robert Bouchard:** The wording was previously more complex.

**Mr. Philip Palmer:** Yes, it was, and we think it was needlessly complex. It was even difficult to read and probably to implement.

[English]

**The Chair:** All those in favour of G-20?

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

**The Chair:** G-21 is moved by Mr. Lake.

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

(Clause 16 as amended agreed to)

(On clause 17—*Notice for production*)

**The Chair:** Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard:** Are we on G-22? I'm ahead.

**The Chair:** Not now. We are on clause 17, and government amendment G-22.

[English]

That is moved by Mr. Lake.

[Translation]

Are there any questions on the government's amendment, amendment G-22?

[English]

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

(Clause 17 as amended agreed to)

(On clause 18—*Application for review*)

**The Chair:** We have two proposed government amendments, beginning with G-23.

Before this amendment is moved, I would like the department to correct the discrepancy between the English language version and the French language version. In the English version you propose to eliminate lines 21 to 41. It's the same in the French version. But in the text of the bill it means you're stripping out seven lines from the English version. Do you mean to do that, or can you clarify for us what would you like to do?

Mr. Palmer.

• (1635)

**Mr. Philip Palmer:** As I understand it, what we're talking about here is simply different drafting approaches used by our francophone and anglophone drafters. In our view, subclause 18(3), as amended, would have the same meaning in both English and French.

**The Chair:** In government amendment 23 in front of us you're proposing to strip out subclauses 18(3) and 18(4) in English, but in the French version you're only proposing to strip out subclause 18(3). I'd like you to clarify what your intention is. Do you want to strip out subclauses 18(3) and 18(4), or do you just want to strip out subclause 18(3)?

**Mr. André Leduc:** No. We want to strip out the old subclause 18(3) and replace it with new subclause 18(3). The same goes for the French.

**The Chair:** Okay. So you do not want to strip out subclause 18(4)?

**Mr. André Leduc:** No.

**The Chair:** Okay. So—

**Mr. Philip Palmer:** Sorry, but no, you're right. That should be “to line 35”, to and including line 35.

**The Chair:** Okay. So we are now going to consider government amendment 23.

I want to tell members of the committee that the English language version of government amendment 23 is incorrect. In the first line of that amendment, “41” should be replaced with “35”. It should read that “Bill C-27, in Clause 18, be amended by replacing lines 21 to 35 on page 15”—not lines 21 to 41.

The amendment we're considering is as I've read it. Are there any questions on government amendment 23 as I've read it into the record?

Mr. Masse.

**Mr. Brian Masse:** I just want to note that somebody does their homework.

**Voices:** Oh, oh!

**The Chair:** Are there any questions or comments on government amendment 23?

Seeing none, I'll call the question.

(Amendment agreed to)

**The Chair:** We are now going to go to the consideration of government amendment 24. Do I have a mover?

Thank you, Mr. Lake.

Is there any debate on government amendment 24? Seeing none, I'll call the question.

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

(Clause 18 as amended agreed to)

(On clause 19—*Warrant*)

**The Chair:** There is one amendment. It is government amendment 25. Again, here there is a discrepancy, a typographical error in the English language version, that I want to correct.

The English language version of government amendment 25 should read, in the third-last line, "nated person may, for any purpose set out in subparagraphs (a)(i) to (iii)". We were missing a numeral "i" in that line.

Do the departmental officials agree with that discrepancy in the text? If you look at the French language version, it appears to be correct. It's the English language version that has the typographical error. In the French language version it says "1(a)(i) à (iii)". We are missing the numeral "i" in the English language version. Is that correct?

Mr. Palmer.

**Mr. Philip Palmer:** Yes, that does appear to be correct.

**The Chair:** Okay. We'll note that in the record.

We are considering government amendment 25.

Monsieur Bouchard.

[*Translation*]

**Mr. Robert Bouchard:** Has a mistake been made? This is a matter that concerns the officials. In amendment G-25, proposed paragraph (c) reads: "par substitution, aux lignes 4 à 12, page 17 [...]". Shouldn't it read: "[...] aux lignes 6 à 12, page 17"? Figure "4" should be replaced by "6".

●(1640)

**Mr. Philip Palmer:** Is that in French?

**Mr. Robert Bouchard:** Yes.

**Mr. Philip Palmer:** I think the amendment is correct.

**Mr. Robert Bouchard:** You don't think there's a mistake; it should read "4 à 12" and not "6 à 12", as I suggested.

**Mr. Philip Palmer:** I think it's correct.

**Mr. Robert Bouchard:** Line 4 begins with "toute personne s'y trouvant"; and line 6 by "pour lui permettre de vérifier".

**Mr. Philip Palmer:** That's line 6. Oh, pardon me.

**The Chair:** Mr. Bouchard, I believe you're right.

**Mr. Philip Palmer:** Pardon me; you're right. It's the numbering of the two columns that confused me.

**The Chair:** So, it's "6 à 12".

Thank you, Mr. Bouchard.

[*English*]

So the French language version of the amendment has a mistake in it as well, and it should read: lines 6 to 12, not lines 4 to 12. Okay?

[*Translation*]

Thank you, Mr. Bouchard.

[*English*]

Shall government amendment 25 carry, as corrected by Monsieur Bouchard and the chair?

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

(Clause 19 as amended agreed to)

**The Chair:** We are on to the consideration of a new clause proposed by Liberal members of this committee. It is Liberal amendment 4.

Do I have a mover for Liberal amendment 4?

It is moved by Madam Coady. Would you like to speak to it?

**Ms. Siobhan Coady:** Yes, thank you.

The members of the committee will remember that we had witnesses before us who raised the issue of access to information, and I raised this issue with the officials when they appeared before us. Documents produced and then kept by the government agency may be accessed via access to information requests.

What we're asking for in this particular amendment is to address our concern that the document produced for and then kept by the CRTC would not be available and not be made public under the Access to Information Act. Obviously, there's a lot of proprietary information that would go with that information. If you look at the Telecommunications Act, it does work towards ensuring that information is kept confidential.

So I've put before you an amendment that would seek to contain information and ensure that it's kept confidential.

●(1645)

**The Chair:** Mr. Lake.

**Mr. Mike Lake:** It's my understanding that the Access to Information Act already has provisions to protect personal or sensitive information.

Actually, rather than my talking about it, why don't I ask the officials to comment on what effect this might have.

**Mr. Philip Palmer:** There are two impacts. I think the first one is internal to the act.

If we were to say that the information is confidential and shall be used only for the purpose of this act, that would be rendering impossible what we were just discussing: the sharing of information with foreign states, for instance, to help suppress this kind of activity, and, secondly, sharing it with even our domestic partners such as the Competition Bureau and the Privacy Commissioner. In that sense, I think it would frustrate one of the objectives of the bill.

The other aspect is that this provision would actually not shelter from the Access to Information Act without a consequential amendment to schedule 2 of the Access to Information Act.

**The Chair:** Thank you very much.

Mr. Masse, Madam Coady, and then Monsieur Bouchard.

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

I want to make sure this is correct. Say, for example, that some company had been illegally spamming against the act and that continued. Any information collected in that investigation then couldn't be shared with our international partners. Lastly, you're saying that even for the competition they would then get off the hook from basically having a penalty, because there couldn't be an investigation, and potentially the spam could even continue. Is that the consequence?

**Mr. Philip Palmer:** Yes. That is a potential consequence if the harm was happening someplace else.

**Mr. Brian Masse:** Thank you.

**The Chair:** Madam Coady.

**Ms. Siobhan Coady:** Thank you.

My original wording sent to the drafting clerk did address this. My original wording was that "information collected by the commission pursuant to sections 17 and 19 of this act shall be maintained as confidential by the commission unless it is used for the proceedings under this act".

Drafting came back as it's before you, so we have a dilemma here, because obviously we want it as used under the proceedings for this act. Would that satisfy the concern?

**Mr. Philip Palmer:** No. Again, I'd have the same concern with the ability to use information for the purposes of, first, other domestic acts, particularly PIPEDA and the Competition Act, and second, sharing information that we have gotten in exercising our powers under this act with, for instance, the FTC in the United States or a member of the European Community in Europe.

**Ms. Siobhan Coady:** Thank you.

If you will recall, when officials were before the committee we did discuss this very issue. There was a general sense coming from this that officials were in favour of drafting something along these lines to ensure that confidential information proprietary to a business is not ATIPed, not available through access to information.

Is there something the officials can suggest that would alleviate the concern that was raised and was considered by all of us at committee?

**The Chair:** Monsieur Leduc.

**Mr. André Leduc:** It's our understanding that personal or sensitive business information is already protected under the Access to Information Act.

**Ms. Siobhan Coady:** Very good.

Thank you, Mr. Chair.

**The Chair:** Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard:** Thank you, Mr. Chairman.

I don't think this clause contradicts the clauses referring to foreign states. I would like to hear you say that.

• (1650)

**Mr. Philip Palmer:** The real problem is the restriction on the application of this act, that is to say Canada's domestic act. If, on the other hand, one of our foreign partners requested information from Canada, we could use our powers under clause 17 or 19. We can use this information only to implement the Electronic Commerce Protection Act, not, for example, for the purposes of the United States' CANSPAM Act. That's a problem and it undermines international cooperation.

**The Chair:** Thank you.

Ms. Coady, go ahead please.

[English]

**Ms. Siobhan Coady:** I'm turning to the officials again, because in this amendment we say that it should be confidential and shall be used only for the purpose of this act, so shouldn't that cover off the concern?

**Mr. Philip Palmer:** It's precisely the problem, as I would see it. If it can be used only for the purpose of this act, it limits the CRTC's ability to share information with the Competition Bureau, because there it would be used for the purposes of another act. Similarly for the Privacy Commissioner, it would be used for the purposes of PIPEDA, and even more so in the case of the laws of foreign states, where evidently something like the "can spam" act in the United States is not this act; therefore, we would have to maintain it confidential and not allow it to be sent to someplace where it would be used for the purposes of another act.

**Ms. Siobhan Coady:** But that sharing of information would be the purpose of this act, would it not?

**Mr. Philip Palmer:** One of the purposes of this act, which we have actually added through clause 60 and through clauses 15, 17, and 19, is to facilitate the ability to share information so that they can be used under other acts, domestic and foreign.

**Ms. Siobhan Coady:** So that is the purpose of the act, then?

**Mr. Philip Palmer:** That is, yes.

**Ms. Siobhan Coady:** So we are moving forward. The language here says that we are keeping it confidential for the use of the purposes of this act. I guess I'm a little confused as to why.... If having in clauses 15, 17, and 19, as you just said, the ability to share information under this act, wouldn't that apply?

**Mr. Philip Palmer:** The problem, if you like, is that ECPA itself contains only the four contraventions, clauses 6, 7, 8, and 9. So the purposes of that act are limited to verifying compliance with or breaches of contraventions of those provisions. What we have done in the subsequent provisions of the act is to enable information collected under clauses 17 and 19 to be used for the purposes of other acts.

This is an unusual provision in federal legislation, which is why this particular formulation of proposed new clause 19.1 would frustrate other objectives of the act.

**The Chair:** Okay.

Madam Coady, do you have any more questions for officials?

• (1655)

**Ms. Siobhan Coady:** I do have one.

We heard from Mr. Leduc that he felt there was enough protection under PIPEDA to alleviate the concern that was duly expressed here at committee and that we all, as a committee, discussed as being something we would like to alleviate.

Do you feel that's sufficient?

**Mr. André Leduc:** What I was saying was that the provisions in the Access to Information Act are enough to protect sensitive information and information that is personal in nature from an access to information request.

**Ms. Siobhan Coady:** I'm still concerned, quite frankly, Mr. Chair, that we will have concern from the business community around being able to access information that will be gathered under this act.

**The Chair:** Do you have any further questions, Madam Coady?

Seeing no further questions from members of this committee, I'm going to call the vote.

(Amendment negatived)

**The Chair:** There are no proposed amendments to clauses 20, 21, and 22, so I'm going to call them together.

(Clauses 20 to 22 inclusive agreed to)

(On clause 23—*Limitation period*)

**The Chair:** There is one proposed amendment. It's government amendment 26, and it is moved by Mr. Lake.

Is there any discussion of government amendment 26?

Seeing no discussion, I will call the vote.

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

(Clause 23 as amended agreed to)

(On clause 24—*Options*)

**The Chair:** Government amendment 27 on clause 24 is moved by Mr. Lake.

Is there any discussion of government amendment 27?

Seeing no discussion, I'll call the question.

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

(Clause 24 as amended agreed to)

(On clause 25—*Representations*)

**The Chair:** There is one government amendment for clause 25, government amendment 28. It's moved by Mr. Lake.

Is there any discussion on government amendment 28?

Seeing no discussion, I'll call the question on government amendment 28.

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

(Clause 25 as amended agreed to)

(On clause 26—*Restraining orders*)

**The Chair:** There are two government amendments for clause 26, beginning with government amendment 29, moved by Mr. Lake.

Is there any discussion of government amendment 29?

Seeing none, I'll call the question.

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

**The Chair:** Government amendment 30 is moved by Mr. Lake. Is there any discussion on government amendment 30?

Seeing none, I'll call the question.

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

(Clause 26 as amended agreed to)

(On clause 27—*Appeal to Federal Court of Appeal*)

**The Chair:** There is government amendment 31, moved by Mr. Lake.

Is there any discussion or debate on government amendment 31?

Monsieur Bouchard.

[*Translation*]

**Mr. Robert Bouchard:** Page G-31, clause 27, refers to the time limit for appeal to the Federal Court of Appeal. Is that time limit standard?

• (1700)

**Mr. Philip Palmer:** No, and that's a problem. There is no standard time limit. That is why we decided to set a reasonable time limit comparable with those of other similar acts.

**Mr. Robert Bouchard:** Was that reasonable time limit easy to find? Did you consider various days or periods? What was the justification?

**Mr. Philip Palmer:** We did a little research. The appeals from the Trade Tribunal's decisions are very similar. In addition, the CRTC's decisions are now subject to a similar time limit. So we found that limit reasonable.

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

[*English*]

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

(Clause 27 as amended agreed to)

(Clauses 28 to 33 inclusive agreed to)

(On clause 34—*Questions of law and fact*)

**The Chair:** There is one amendment to clause 34, which is amendment G-32. It is moved by Mr. Lake.

For members of the committee to note, a vote on G-32 will also apply to G-33, G-34, and G-35.

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

(Clause 34 as amended agreed to)

**The Chair:** Amendment G-32 has carried, as have amendments G-33, G-34, and G-35.

(Clause 35 as amended agreed to [*See Minutes of Proceedings*])

(Clause 36 as amended agreed to [*See Minutes of Proceedings*])

(Clause 37 as amended agreed to [See *Minutes of Proceedings*])

(On clause 38—*Evidence*)

• (1705)

**The Chair:** There is one government amendment to clause 38. It's G-36, which is moved by Mr. Lake.

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

(Clause 38 as amended agreed to)

(On clause 39—*Information may be made public*)

**The Chair:** There is one government amendment to clause 39, G-37, which is moved by Mr. Lake.

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

(Clause 39 as amended agreed to)

(On clause 40—*Enforcement*)

**The Chair:** There is a government amendment, G-38, on clause 40, which is moved by Mr. Lake.

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

(Clause 40 as amended agreed to)

(Clauses 41 to 46 inclusive agreed to)

(On clause 47—*Application*)

**The Chair:** There are three government amendments for clause 47. We will begin with government amendment G-38.1, as moved by Mr. Lake.

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

**The Chair:** We now go to the consideration of government amendment G-39.1, moved by Mr. Lake.

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

**The Chair:** We now go to the consideration of government amendment G-40.

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

(Clause 47 as amended agreed to)

(On clause 48—*Limitation*)

**The Chair:** There are two government amendments to clause 48. We will begin with government amendment G-41, moved by Mr. Lake.

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

**The Chair:** We will now go to the consideration of government amendment G-42, moved by Mr. Lake.

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

(Clause 48 as amended agreed to)

(Clauses 49 and 50 agreed to)

(On clause 51—*Order*)

**The Chair:** There are three government amendments, beginning with government amendment G-42.1, moved by Mr. Lake.

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

**The Chair:** My understanding is that Mr. Lake is moving amendment G-43.1. It is a new amendment to clause 51. All members of the committee should have this document.

Are there any questions or comments about this new amendment?

Mr. Lake.

• (1710)

**Mr. Mike Lake:** I gave a heads-up to the members of the committee that this was coming. There has been some change to the original amendment G-43. It's a pretty technical and long amendment, so we'll let the officials speak to it.

**Mr. André Leduc:** This has to do with the statutory damages. The original amendment is to bring clause 9 into statutory damages and follow the money. In making this amendment, we saw an omission of statutory damages in a private right of action for the Competition Act and PIPEDA. This addition is to make sure we are not limiting the statutory damages in a private right of action to clauses 6 through 9, but it also applies to the Competition Act and PIPEDA.

[*Translation*]

**The Chair:** Mr. Bouchard, do you have any questions?

Mr. Gaudet?

Mr. Gaudet, I think Mr. Bouchard has some questions to ask. Then it will be your turn.

**Mr. Robert Bouchard:** If I understand correctly, committee members have just obtained this document. We hadn't seen it before this evening. In the circumstances, it seems to me that the reasons and explanations you gave us were not very long. It would be appropriate for you to give us more. I'm open to the idea of studying this document and of being in favour of it, but we would need to hear a little more comment and justification.

**Mr. Philip Palmer:** Yes, of course. We apologize for providing these amendments so late. It must be said that this is a bit complicated. That's why we made a mistake at the outset, when we started amending this clause. Briefly, we have always contemplated damages for victims covered by the Competition Act and PIPEDA, but when we made our changes, we forgot that aspect. That's why we made this change to paragraph (a) of the amendment. Paragraph (b), it should be said, explains in detail how the courts must interpret this clause and states the maximum amounts that can be imposed on a person who has contravened the act.

There are differences between the institutions and the nature of the contravention. That's why this is long. On the other hand, it corresponds to the objective that we had at the outset. Subclause (1.1) states: (1.1) The purpose of an order under paragraph (1)(b) is not to punish but to promote compliance with this Act...

That's entirely similar to what is found in the provisions under clause 20, which have already been approved. We made this clarification to avoid giving the impression that it was a punitive measure rather than a corrective measure.

The purpose of paragraph (c), once again, is to import the terms of the Competition Act. That's also the case of paragraphs (d) and (e).

• (1715)

**Mr. Robert Bouchard:** If I understand correctly, you've detailed the measures. This part of Bill C-27 was originally much more restricted. What was presented to us at the outset included no explanation. It was really an addition. Are you providing more details, clarification, or are you making changes?

**Mr. Philip Palmer:** It's a clarification. Some of our partners have raised the question of the application of this clause, and particularly of the need to draw a distinction between a contravention under clause 6 and a contravention under clauses 7 and 8. A contravention under the latter two clauses can be much more dangerous, in one sense, for the businesses and individuals concerned. That's why we've limited the damages in the case of a single message to \$200. That can't really apply to clauses 7 and 8 because the nature of the contravention could have much more serious consequences than simply receiving an e-mail.

**Mr. Robert Bouchard:** Also, does what you're proposing stem from the testimony we've heard, from the consultations you've had or from suggestions by officials? I would like to know that detail. Does this proposal come from groups or individuals in your department? Could you enlighten us on that point?

**Mr. Philip Palmer:** This aspect was brought to our attention by government authorities. We made these changes in light of their comments. That's the explanation. This aspect had not been raised in the evidence heard before the committee.

**Mr. Robert Bouchard:** When you say authorities, are you talking about the Competition Bureau?

**Mr. Philip Palmer:** I'm talking about the CRTC, the Competition Bureau—

• (1720)

**Mr. Robert Bouchard:** Exactly who are you talking about when you say authorities? Could you clarify that?

**Mr. Philip Palmer:** First of all, people from our own department, but also from the CRTC and from the Competition Bureau asked questions and clarified points on what had to be done with regard to these provisions.

**Mr. Robert Bouchard:** Thank you.

**The Chair:** Mr. Gaudet, go ahead.

**Mr. Roger Gaudet:** I didn't get an answer, but I'm going to ask my question all the same.

If, for example, I have a company and I send out 5,000 e-mails a day and that's not permitted, I'll be fined \$1 million. Can you explain to me how that works?

**Mr. André Leduc:** That's for a civil proceeding, so there is—

**Mr. Roger Gaudet:** What's that?

**Mr. André Leduc:** That's a private law action. It enables a private group to obtain an amount equal to the amount of the loss or damages suffered or expenses incurred and pre-established damages for each contravention. Those damages correspond to the CRTC's fines. The purpose is to push businesses that commit an offence to comply with the act.

**Mr. Roger Gaudet:** Why then impose a fine of only \$200?

**Mr. André Leduc:** It's \$200 per e-mail.

**Mr. Roger Gaudet:** That's what I was saying. If you send out 5,000 e-mails, at \$200 an e-mail, that equals a fine of \$1 million a day.

**Mr. André Leduc:** Indeed, you would have to send out 5,000.

**Mr. Roger Gaudet:** That's a serious fine.

**The Chair:** Thank you.

I'll hand over to Mr. Lake first of all. Then it will be Mr. Bouchard's turn.

Mr. Lake, go ahead.

[English]

**Mr. Mike Lake:** Just to give some clarity to this, because the honourable member hasn't really been on the committee during the hearings and everything, the numbers are in the original text of the bill. They're consistent. While this amendment may look long, the numbers referred to are in the original text of the bill. It's just been expanded to deal with different circumstances.

I don't know if that lends some clarity or not, but I'll just put that on the table.

[Translation]

**The Chair:** Mr. Bouchard, go ahead.

**Mr. Robert Bouchard:** Mr. Chairman, I find it surprising that we've received the document at the last minute, even though I think it's very interesting. However, I would like to introduce a motion. We've studied a lot of documents over a number of hours and days. We've carefully examined all the other clauses. We've devoted a lot of time to this. Now a document is being submitted to us and we're being given explanations. I find those explanations interesting, but I would like to introduce a motion that we study this aspect at the next meeting; that will be a point that we could study. We have to have the time to look at it. I move that we not adopt it today, but that we defer to the next meeting.

[English]

**The Chair:** We're clearly not going to finish clause-by-clause of this bill today. I suggest we adjourn the meeting presently and continue with debate on G-43.1 at the beginning of Monday's meeting.

**Mr. Mike Lake:** I wonder if we might move past this and take the seven minutes we have left to get through a few more so we'll have enough time to finish on Monday.

• (1725)

**The Chair:** Okay. I will consult with the legislative clerk.

There's nothing contingent on the deliberations on clause 51, so I will stand clause 51 to the end of our clause-by-clause considerations.

(Clause 51 allowed to stand)

(Clauses 52 to 54 inclusive agreed to)

(On clause 55—*Liability*)



**The Chair:** There is one amendment, G-44.1, moved by Mr. Lake.

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

(Clause 55 as amended agreed to)

(Clauses 56 and 57 agreed to)

(On clause 58—*Disclosure by Commission*)

**The Chair:** Clause 58 has one government amendment, government amendment 45, moved by Mr. Lake.

Is there any discussion on government amendment 45?

Monsieur Leduc, do you have a comment on government amendment 45?

**Mr. André Leduc:** It's simply a grammatical clarification. Instead of "not to conduct an investigation or to discontinue an investigation", we should add the words "to not conduct an investigation or to discontinue"; it's just to add the word "to" in front of "not conduct an investigation".

**The Chair:** Okay. Thank you very much for that clarification.

Government amendment 45 is corrected by Monsieur Leduc. Is there any further debate?

Seeing none, I will call the question.

Go ahead, Mr. Lake.

**Mr. Mike Lake:** Actually, Mr. Chair, I didn't see that coming, and I want to clarify this. The word "to" appears at the end of line 21, so we would have two "to"s.

**Mr. André Leduc:** I want to enter that there's at least one "to"!

**Voices:** Oh, oh!

**Mr. Mike Lake:** Page 32, line 21.

**Mr. Philip Palmer:** Yes, you're correct.

**The Chair:** Okay. So Mr. Leduc withdraws his suggested correction.

We will now go to the consideration of government amendment 45 as it was originally moved.

Any further debate? Seeing none, I call the question.

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

(Clause 58 as amended agreed to)

(Clause 59 agreed to)

(On clause 60—*Information shared with the government of a foreign state, etc.*)

**The Chair:** There are two government amendments to clause 60, beginning with government amendment 46, moved by Mr. Lake.

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

**The Chair:** We now move to government amendment 47.

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

(Clause 60 as amended agreed to)

● (1730)

**The Chair:** We now go to the consideration of a new clause, clause 60.1, as presented in G-48, as moved by Mr. Lake.

Is there any debate or discussion on government amendment 48? Seeing none, I'll call the question.

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

(Clauses 61 and 62 agreed to)

**The Chair:** Seeing that the bells are ringing, we will adjourn clause-by-clause consideration and continue with clause-by-clause consideration at Monday's meeting.

This meeting is adjourned.





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