HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

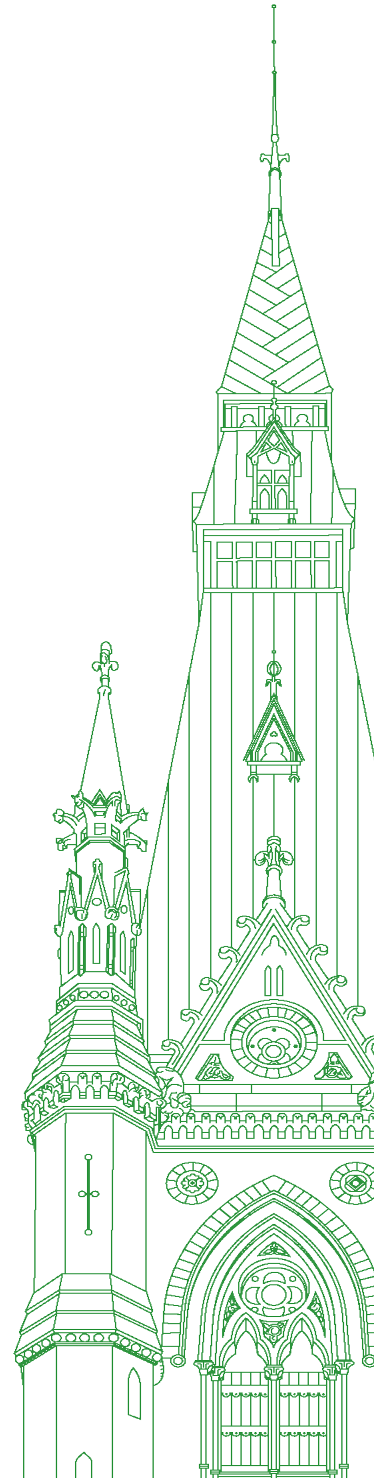
43rd PARLIAMENT, 2nd SESSION

Standing Committee on Canadian Heritage

EVIDENCE

NUMBER 036

Wednesday, May 19, 2021



Chair: Mr. Scott Simms

Standing Committee on Canadian Heritage

Wednesday, May 19, 2021

● (1430)

[*English*]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): I call this meeting to order.

Welcome to meeting number 36 of the House of Commons Standing Committee on Canadian Heritage.

Pursuant to the order of reference of February 16 and the motion adopted by the committee on Monday, May 10, the committee resumes consideration of Bill C-10, an act to amend the Broadcasting Act and to make related and consequential amendments to other acts.

As I mentioned earlier, when we left we were with G-11.1.

I see there is a great deal of interest on the board. There are hands up.

Ms. Dabrusin, go ahead, please.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): I had already moved G-11.1, so I was just going to speak in favour of amendment G-11.1.

I'll put forward that this amendment will restrict the CRTC's powers in respect of social media companies to three things, which would be finding out what the Canadian revenues are for the—

The Chair: Ms. Dabrusin, I'm sorry, but just before you finish, I didn't have a chance to say, for all those watching on television or the Internet through our web page, that we are doing clause-by-clause on Bill C-10. I forgot to mention that this is clause-by-clause.

I'm sorry for the interruption, Ms. Dabrusin. Carry on, please.

Ms. Julie Dabrusin: It's about declaring what the companies are making in Canada, requiring financial contributions to cultural production funds in Canada, and making Canadian creators of programs discoverable.

That is why G-11.1 is being proposed.

Thank you.

The Chair: Mr. Louis.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): Thank you, Mr. Chair.

I wanted to offer my support to this. I'm looking forward to getting back to it. I think G-11.1 strikes the balance. I'd like to hear from others, work together and get this done in a judicious manner.

That's all I wanted to say.

The Chair: Mr. Rayes.

[*Translation*]

Mr. Alain Rayes (Richmond—Arthabaska, CPC): Thank you, Mr. Chair.

I would like to ask the committee something. I don't know whether it is in keeping with procedure, but I am sure you could enlighten me.

We have met a number of times over the past few weeks. Clearly, the committee came to an impasse after the initially proposed section 4.1 was deleted. We had an opportunity to hear from expert witnesses, following our unanimous decision to summon them. We even had an opportunity to hear from both ministers. The Minister of Justice produced the requested document. Is it the minister's statement or an explanatory document? We do not agree on this. Be that as it may, we are all here to continue the clause–by–clause consideration of the bill.

Since the Liberals rejected the clause of the bill that proposed adding section 4.1 to the Broadcasting Act, our work has not been going well. I would like to know how to proceed to move a motion that would help us overcome this impasse, in a spirit of cooperation. We have already sent the motion to the clerk.

Can I move the motion right away, before we continue the debate on amendment G–11.1? If not, will you give me an opportunity to do so as soon as we have finished voting on the amendment, whether it is adopted or rejected?

● (1435)

[*English*]

The Chair: Thank you, Mr. Rayes.

Since G-11.1 is now moved, as Ms. Dabrusin pointed out, we are in the middle of that debate. If you wish to move a motion—I'm assuming it's about Bill C-10—that certainly falls within the purview of the committee to examine, but we have to dispense with what's on the table right now. That would be G-11.1, as far as the amendment is concerned.

In saying that, would you like to talk about G-11.1?

[*Translation*]

Mr. Alain Rayes: No, Mr. Chair. I just want you to confirm that, as soon as we have voted on amendment G–11.1, you will give me the floor, so that I can move my motion.

[*English*]

The Chair: Yes.

[*Translation*]

Mr. Alain Rayes: Thank you.

So I will give others an opportunity to speak to the amendment.

[*English*]

The Chair: Ms. Ien.

Ms. Marci Ien (Toronto Centre, Lib.): Mr. Chair, I was just going to express support for G-11.1 and say that I'm looking forward to getting this work done.

That's all for me.

[*Translation*]

The Chair: Mr. Champoux has the floor.

Mr. Martin Champoux (Drummond, BQ): Mr. Chair, I would like to propose a subamendment to amendment G–11.1.

In proposed paragraph 9.1(1)(i.1), which talks about "the discoverability of Canadian creators of programs", I would like to replace "Canadian creators of programs" with "Canadian programs". So it would say "the discoverability of Canadian programs".

[*English*]

The Chair: Where it says "Canadian creators of programs", you want to replace it with "Canadian programs". Is that correct?

[*Translation*]

Mr. Martin Champoux: Yes, exactly.

[*English*]

The Chair: Now, folks, as you know—

[*Translation*]

Mr. Martin Champoux: Mr. Chair, there is another element of text I would like to add under my subamendment.

[*English*]

The Chair: Go ahead, Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: At the end of the text the amendment proposes to add after line 10 on page 8, I would like to add the following:

> Interpretation
>
> (3.2) for greater certainty, paragraph (1)(i.1) shall be construed and applied in a manner that is consistent with the freedom of expression enjoyed by users of social media services provided by online undertakings.

I have in hand the English and French texts, which I can send to the clerk.

The Chair: Thank you, Mr. Champoux.

[*English*]

With your patience, sir, what I'm going to do is break away from this for just a moment. We're going to suspend for a short period. I just want to talk to our legislative clerk to make sure.... Since the second part of what you said, proposed subsection 9.1(3.2), is a bit more substantial, I'm just going to check on it.

We will suspend for just a few moments, folks.

● (1435)

_____________________(Pause)_____________________

● (1440)

The Chair: I call the meeting back to order.

I believe our clerk has now sent out the information for the subamendment. Just to remind everybody, we are still on government amendment G-11.1, as put forward by Ms. Dabrusin, but we now have a proposal for a subamendment from the Bloc, from Mr. Champoux. That information has been sent out. Everything is in order, and we can commence debate.

Mr. Champoux.

[*Translation*]

Mr. Anthony Housefather (Mount Royal, Lib.): Mr. Chair, I have a point of order.

I wanted to say that the text the clerk sent us does not contain everything Mr. Champoux proposed. I missed the first part of Mr. Champoux's proposal, but what I received by email is not exactly the same as what Mr. Champoux said.

[*English*]

The Chair: What I'm going to do, Mr. Housefather, is give the floor to Mr. Champoux, and to the best of his ability I'm sure he can explain or answer your question.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: That's right, Mr. Chair, the only thing missing was the change regarding the first part of the amendment. My subamendment's goal is also to replace the term "Canadian creators of programs" with "Canadian programs". I did not include that part of my subamendment in the text I sent. I sent only the proposed addition concerning the interpretation. With your permission, I will send you another email with the missing element right away.

[*English*]

The Chair: Okay. In the meantime, do you wish to speak to your subamendment right now, and then we'll get on with the debate? I have Ms. Harder next.

[*Translation*]

Mr. Martin Champoux: I think that says it all, Mr. Chair.

Paragraph 9.1(1)(i.1), as proposed in the amendment, talks about "Canadian creators of programs". However, that is not a term generally used in the texts we are now reviewing under Bill C-10. It is rather a matter of Canadian content, francophone content or programs, or even of human, creative and other resources. So I felt that the term "Canadian creators of programs" does not refer to something very specific. However, the term "Canadian programs" does refer to what we want to make discoverable for users, in the context of the Canadian broadcasting system. That is my explanation for this part of the subamendment.

As for the second part, the aim is to add wording to reassure people who may be concerned about the act being interpreted so as to infringe on freedom of expression. So this notion is added to the part on interpretation, to encourage the CRTC not to lose sight of needing to make its decisions while keeping in mind that the Canadian Charter of Rights and Freedoms contains a fundamental principle, that of the freedom of expression enjoyed by Canadians. As such, this is about the freedom of expression enjoyed by users of social media services provided by online undertakings.

It is pretty simple and clear.

[*English*]

The Chair: Ms. Harder.

Ms. Rachael Harder (Lethbridge, CPC): Thank you, Chair.

I just wish to move another subamendment, so I guess I'll wait for debate to conclude on this before doing that.

Thank you.

● (1445)

The Chair: Okay, thank you.

Ms. Dabrusin.

Ms. Julie Dabrusin: I thank Monsieur Champoux for putting forward the subamendment. The second part, the part that we had in the email, seems like a good addition to me, but I am concerned about the first part that was just added in this last piece that he talked about, with changing what would be discoverability for social media companies. I think that, around the committee, if there's one thing that we all agree upon, it is that the content on social media shouldn't be covered. For me, I have a concern that the amendment on the discoverability piece actually changes it.

I am wondering if perhaps someone from the department might be able to help clarify what they believe the impact would be of the change that is proposed to proposed paragraph 9.1(1)(i.1).

The Chair: Mr. Ripley.

Mr. Thomas Owen Ripley (Director General, Broadcasting, Copyright and Creative Marketplace Branch, Department of Canadian Heritage): Thank you, Mr. Chair, and thank you for the question, Ms. Dabrusin.

If I understand the amendment correctly, it would replace the phrase "Canadian creators of programs" with "Canadian programs" or "Canadian programming". Indeed, that is a change, in the sense that, as drafted right now, the discoverability power that is being provided to the CRTC is explicit about raising the visibility of Canadian creators, so the emphasis is on the individual creator or artist and showcasing them on these services, not their programs.

Mr. Champoux is correct that the act does have a definition of "program". Changing that power to focus on the program would be a significant change, in that then the obligation on the services changes from raising the visibility of or showcasing the actual individual creators or artists to their Canadian programs. The term "Canadian program", just so that the committee is aware.... If you look at section 10 of the act, the CRTC has the ability to make regulations defining what constitutes Canadian programming. The committee may be aware that this is what engages the question of the 10-point scale and those kinds of things.

The discoverability power, as it is currently drafted, was really intended to focus on the individual creator or artist, as opposed to getting into the question of what constitutes Canadian programming on social media services. Social media services are obviously a very different kind of environment from conventional broadcasting, so the focus on the individual creator or artist was intentional: It was not to create a situation where you may be asking social media companies to assess what constitutes a Canadian program.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Ripley.

Before I go to Mr. Rayes, we just want to confirm the wording of the text that we have received. I'd like to go to our legislative clerk, Mr. Méla.

Mr. Philippe Méla (Legislative Clerk): Yes, Mr. Chair.

The Chair: Just so that we're certain of what we're looking at in the subamendment, what do you have currently?

Mr. Philippe Méla: We all have the second part, proposed subsection 9.1(3.2). We all have that, so I'll just clarify proposed paragraph 9.1(1)(i.1). It would read "in relation to online undertakings that provide a social media service, the discoverability of Canadian programs". That would be it.

The Chair: Thank you, Mr. Méla.

I'm going to—

Ms. Julie Dabrusin: Mr. Chair.

The Chair: Is this a point of order, Ms. Dabrusin? Otherwise, I have to go to Mr. Rayes.

Ms. Julie Dabrusin: I hadn't given up the floor yet. I asked a question to the department.

● (1450)

The Chair: Okay, I apologize.

I tend to do this. When we go to one of the people in the department, I tend to go to the next person. If you want to stay on the subject, please tell me that you're staying. It's not your fault; it's mine. Just tell me that you're staying on the subject, and I'll come back to you.

Right you are, Ms. Dabrusin.

Ms. Julie Dabrusin: Thank you, my apologies. I'll be clearer next time.

I am concerned about the impact of that first part of the amendment to G-11.1, part 2, about proposed paragraph 9.1(1)(i.1), which Mr. Ménard was clarifying for us.

I would seek, if I can, to sub-subamend by removing that part from the subamendment, removing the amendment to (i.1) while maintaining—and I apologize because I don't have all the writing in front of me—the portion about subsection 9.1(3.2) that I believe is being proposed by Mr. Champoux.

The Chair: I'm afraid we can't get into a subamendment to amend a subamendment. You'd have to wait for another amendment to come about. You're going to have to wait for this to unfold, to be dispensed with, and then we can go to what you'd like to do, which would be to amend it once again.

Ms. Julie Dabrusin: I'm just checking, because my understanding was that, if was to revert back and it was severable, I could. That was my understanding.

The Chair: Okay. I'll tell you what I'm going to do. I'll seek clarification, so that way you won't have to go through what you're proposing. Just one moment, everyone.

Ms. Dabrusin has the floor when we come back. After that, it's Mr. Rayes.

● (1450)

_____________________(Pause)_____________________

● (1455)

The Chair: Okay, we're back, everybody. My sincere apologies.

I'll tell you what we're trying to do here, Ms. Dabrusin. We're trying to help. You can't amend a subamendment, so we were trying to figure out ways to satisfy your concern. I know all you have is a very simple solution.

There are several ways you can do this, one requiring unanimous consent and so on, but may I suggest we do it this way, as I originally suggested? Why don't we just deal with this subamendment in a total package as is, and then go back? Then you can move your subamendment to take out the word. It's awkward only in the sense that you're voting on the same thing in two different manners, without getting too far into the weeds—maybe it's too late for that now.

Nevertheless, it seems to me that the cleanest way to do this is to handle Mr. Champoux's subamendment in total, and then deal with the amendment you wish to propose afterwards.

Go ahead, Ms. Dabrusin.

Ms. Julie Dabrusin: No, that's your ruling, so we will move along. I see there are a couple of other hands up.

The Chair: Yes, I apologize, but it's an awkward situation. Nevertheless, I'm trying to get through this as quickly and as cleanly as possible. As I said, it might be too late, but nevertheless, here we are.

Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

I was going to propose something similar to Ms. Dabrusin's proposal.

I would propose to Mr. Champoux to move two different subamendments—one for the first part and another one for the second part—so that we can vote separately on each part. Perhaps he wants to make a connection between the two, but I don't think there really is a connection between them. I may be wrong about Mr. Champoux's intention, but I think it is a good one. If he agreed to do this, it would resolve the issue for everyone.

Ultimately, these are still significant amendments. Once we finish discussing these amendments, Mr. Chair, I would like you to give us five minutes to allow colleagues from each party to discuss amongst themselves and to decide how to vote.

[*English*]

The Chair: Okay, that's fine.

Yes, we did discuss that as well. However, the way we have to do this.... I have to have unanimous consent, first of all, to withdraw Mr. Champoux's subamendment. If he so desires, he can do it on two separate movements, as it were, two subamendments.

Just so that everyone is clear, there are two things we're trying to do here: change the word in one part and add proposed subsection 9.1(3.2) in the other, which was discussed.

That being said, Mr. Champoux, obviously, in order to proceed I have to have some permission from you. I'm jumping ahead of the queue—I apologize, Ms. Harder—but, Mr. Champoux, would you like to tell me very briefly whether that's how you'd like to proceed?

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I completely agree with dividing the subamendment into two parts.

First, I propose replacing the words “Canadian creators of programs” with “Canadian programs”. Second—

[*English*]

The Chair: One moment. I'm sorry to interrupt, Mr. Champoux, but I have to put this horse before the cart. I need unanimous consent to withdraw your subamendment.

Is there anybody who is against the idea of withdrawing the subamendment?

(Subamendment withdrawn)

The Chair: That being said, Ms. Harder, with your permission, because you are next in line to speak and I'd like to be close to the speaking order, would you allow Mr. Champoux to proceed with his subamendment, the first one, and then we can go to you to speak? I'm giving you a veto, essentially.

Ms. Rachael Harder: Mr. Chair, I have no problem with that.

Just to be clear, then, Mr. Champoux has removed his original subamendment and now he's choosing to put forward a different subamendment.

● (1500)

The Chair: Yes, what he's doing is this. If you recall, we had two parts to his subamendment. He's going to do each of those individually. The first one will be the first part, proposed paragraph 9.1(1)(i.1), changing the word. That's the first one. We'll dispense with that, and you can speak to it following him, because I have you on the list.

Once we dispense with that, we'll go to the second subamendment that he is proposing, which is about proposed subsection 9.1(3.2).

Ms. Rachael Harder: Mr. Chair, if I may—I'm putting the cart before the horse a little bit here, I suppose, because he hasn't given it yet—could we get that in writing, and then could we pause for one moment, just to take it all in?

The Chair: We can pause, Ms. Harder. You already have it in writing, but we can pause, certainly, if you wish. We can take a moment.

What we can do is allow him to move his subamendment. If you wish, and I'm looking at all squares here on the board—I'm not calling you square, don't get me wrong—following that we can take a break so you can have a discussion with your caucus.

Ms. Rachael Harder: Thank you very much, Chair.

The Chair: Mr. Champoux, you have the floor.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

As agreed, I will propose two subamendments. I have no issue with pausing to discuss them.

The goal of the first subamendment I am proposing is simply to change a few words in order to end up with the following:

> (i.1) in relation to online undertakings that provide a social media service, the discoverability of Canadian programs;

As far as I understand, Mr. Chair, we will take a break and deal with this subamendment, and then I will be able to propose the other subamendment. Is that right? Can I propose both subamendments right away?

[*English*]

The Chair: No, I have to dispense with the first subamendment first. I guess first things first, as it were. We'll deal with that—

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I think we should rather take a break after the next subamendment. The first one is fairly simple. We could debate it quickly and put it to the vote. Unless I am mistaken, it is rather the second subamendment that requires colleagues' reflection, but I will let you manage this.

[*English*]

The Chair: If that's your interpretation, I'll accept it, but at this point, I did mention to Ms. Harder that we'd take a break.

Ms. Harder, what's proposed is that we dispense with the first subamendment. I'm not trying to steer the debate in any way, shape or form, but it is one simple thing. What Mr. Champoux is saying is that the second part may be more contentious. Would you like to take the break now or after the second one?

Ms. Rachael Harder: I'm happy to take a break after the second one.

For clarity purposes, I wish to speak to the subamendment.

The Chair: Do you mean this one?

Ms. Rachael Harder: Yes.

The Chair: The floor is yours.

Ms. Rachael Harder: Thank you.

I wish to seek perhaps Mr. Owen Ripley's response to this. I'm just wondering if the significance of this change can be explained to us, changing “discoverability of Canadian creators of programs” to simply “discoverability of Canadian programs”. Perhaps that nuance could be explained to the committee so that we better understand the effect of that change.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I have a point of order.

[*English*]

The Chair: We have a point of order.

Go ahead, Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: I don't mean to to offend anyone, but I feel that Mr. Ripley has already answered Ms. Dabrusin's question. Am I wrong in saying that it was about the same issue?

[*English*]

The Chair: I realize that, but I think it's certainly Ms. Harder's right to ask again if she so desires.

Let me fix this first, because I should have done it a long time ago: Mr. Ripley, is it Mr. Owen Ripley or is it Mr. Ripley? I'll let you start with that.

Mr. Thomas Owen Ripley: Thank you, Mr. Chair.

I go by Owen. Thank you for asking.

The big difference is kind of the unit to which the discoverability power would apply. As it's currently crafted, the obligation or the power is in relation to the individual creator or artist, so if the CRTC were to exercise that, it would be limited in requiring social media services to raise the visibility of the creator or artist, as opposed to their programming.

With the subamendment by Mr. Champoux, the unit of analysis, so to speak, would shift from the individual creator or artist to the idea of “Canadian program”. Mr. Champoux is right that it is a concept that is well known and exists in the broadcasting system.

As I mentioned, there's a power that the CRTC has to kind of specify what constitutes a Canadian program, so it would then be given the power to impose obligations on social media services to raise the discoverability of the programs, as opposed to the actual individual creators or artists.

● (1505)

Ms. Rachael Harder: Chair, may I just shed greater clarity on the question I'm asking?

The Chair: Yes. I want to point out that, if you're in discussion with the department, I'm going to treat it similarly to how we deal with witnesses. You can have a back-and-forth with the department officials, and you don't need me to intervene. It just makes things a lot easier.

Go ahead, Ms. Harder. Let's do it that way.

Ms. Rachael Harder: Thank you.

For greater clarification....

I'm sorry. Is it Mr. Owen or just Owen?

Mr. Thomas Owen Ripley: It's whichever you wish, Ms. Harder: Mr. Ripley or Owen.

Ms. Rachael Harder: Understood, thank you.

Mr. Ripley, my question is really around the word “program”, because what I'm hearing you say is that the content that an individual posts on their social media would then be considered a program. Am I understanding you correctly?

Mr. Thomas Owen Ripley: Thank you for the question, Ms. Harder.

Just to recap a little bit what has transpired, with the removal of proposed section 4.1, the social media services and the programming that is on those services get scoped in. What G-11.1 would do is restrict, essentially, the CRTC's ability to regulate those services to the three things that I think the committee is now well aware of.

With respect to the discoverability piece, the discoverability power does not apply to the programs. If you look at the proposed amendment G-11.1, you see the focus again is on the individual. That was intentional, to avoid the issue of actually extending the CRTC regulation to the programming. The idea was, again, to raise the profile of Canadian artists and creators without getting into this question of whether their programming needs a particular definition and without forcing the CRTC to exercise a judgment call, so to speak, on that programming. The goal is simply to showcase that Canadian talent, so to speak.

Ms. Rachael Harder: This subamendment, though, takes us back to a place, then, where that programming, the content, would be regulated, and the discoverability would be increased or decreased based on its level of Canadian content, as determined by a regulatory body.

Mr. Thomas Owen Ripley: Yes, Ms. Harder, that is correct. If the subamendment by Monsieur Champoux were to pass, the focus would be on the programming and raising the visibility or discoverability of programs, as opposed to the person who is the creator of the program.

Ms. Rachael Harder: Okay.

The body that would determine the level of Canadian content would be what?

Mr. Thomas Owen Ripley: The CRTC, as the regulator, would be the one to exercise this power, and it would have to determine what constitutes a Canadian program in the context of social media services.

Ms. Rachael Harder: Okay.

Mr. Ripley, if content is made more discoverable because it is given a greater ranking in terms of its Canadian content, is it possible, then, for that programming to be on an equal playing field with all other programming, or, by the fact that it's moved up in rank, does other content therefore have to be moved down?

How does discoverability work?

● (1510)

Mr. Thomas Owen Ripley: Thank you for the question.

“Discoverability” is a high-level term, and I would just caution about jumping to conclusions in terms of what that may look like at the end of the day. The expectation in terms of how the CRTC uses all of these powers is that it would come to its conclusions through consultations with the industry, with social media services themselves and with broadcasters, in relation to these powers.

Ms. Harder, as you suggest, yes, it could be about raising the visibility of Canadian programs—again, whatever the conclusion of the CRTC is with respect to what that term means in the context of social media on those services. It could also be about showcasing those programs on landing pages and those kinds of things. There are different kinds of tools that the CRTC could think about using, and again, those conclusions would be informed by consultation with the impacted communities.

Ms. Rachael Harder: Thank you, Mr. Ripley.

This is my final question, I believe.

In this section, the term “social media” is used. Can you provide a definition for the term “social media”? Do we have a regulatory document or an authoritative document that would help us understand what is meant by the term “social media”?

Mr. Thomas Owen Ripley: You're right, Ms. Harder, in the sense that “social media” is not a defined term in the bill. Not every term is defined. Where a term isn't defined, it would be understood in relation to its ordinary meaning. In this instance, it was intentional to leave the term undefined, to be understood in terms of its ordinary meaning, so that the framework can continue to evolve over time.

My understanding of what it would be is an Internet-based service that allows individuals to share content with one another in a network. That's roughly how I would define social media off the cuff.

Ms. Rachael Harder: Mr. Ripley, you're using the term “ordinary meaning”, but I'm wondering about the fact that, ultimately, at the end of the day, this legislation will have to be enforced. Where would the enforcer go to find a definition for “social media services”?

Mr. Thomas Owen Ripley: You are right, in the sense that when the CRTC moves into implementation of this, the CRTC will have to articulate who precisely is caught and subject to any potential obligations. In doing that work, the CRTC would first, like the committee, look to whether there's a definition in this act, and there isn't.

You're right that it could then look to other legal instruments, in terms of other legislation or regulations elsewhere that have defined that. Again, I don't know the answer to that question off the top of my head. Failing that, they would craft their own definition, presumably based on the ordinary meaning of that term.

Ms. Rachael Harder: Okay.

Mr. Ripley, thank you so much for your time.

The Chair: Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

Mr. Ripley, we are bombarding you with questions, but I think they are quite relevant.

At first sight, when Mr. Champoux proposed the first part of his subamendment, its aim was to replace "Canadian creators of programs" with "Canadian programs", and I saw this as a simple superficial amendment. However, I have listened to your comments, especially those in response to Ms. Harder's questions. The further we get, the more she is showing her knowledge on the topic, and the more I am finding that the amendment is not just a superficial one. It is rather an important amendment. I am happy Mr. Champoux agreed to divide his subamendment in two, so that we can vote.

I would like you to clarify something for me.

At first, when Bill C-10 was introduced, the objective was for the activities of digital broadcasters, such as Netflix, Disney+ and Spotify, to be regulated in a fair manner compared with the activities of our so–called traditional broadcasters, such as TVA, CBC, CTV and Global. The basis of the bill is very technical; we can see that in all the proposed amendments, the scope of this issue and the reactions to it around the country.

To ensure that I understand properly, I would like you to explain something to me, as this will impact my response to this subamendment. As you pointed out, everything we are trying to do is related to the initially proposed section 4.1. The government is trying to integrate elements to compensate for the shortcomings stemming from this section's deletion. The rift occurred when social media were brought into the discussion. In the beginning, it was a matter of digital broadcasters like Netflix, which is not a social network such as Facebook or TikTok. Now, YouTube, TikTok and all social networks have been integrated as potential broadcasters.

As you pointed out so well, the bill provides no definition of social media. You say that the CRTC will define what constitutes a social medium and what constitutes a Canadian program. I think we all agree on what a Canadian program is when it comes to traditional broadcasters. Those rules have been in place for a long time. Now, the Internet has joined the conversation. For me, Netflix is on the Internet. However, a social network is another type of platform. We always talk about the same social networks we, the old generation, are familiar with; I will put all of us into the old generation category. My children, who are 19, 23 and 25 years old, use other social networks that I dare not even mention, as I may get the name wrong. The youth are using them by the millions around the world.

I am honestly a bit shaken today, and I would like you to clarify this for me. Without a definition, we are all relying on the CRTC. Unless I am mistaken, the corporation has nine months following the passing of Bill C-10 to set out clear rules. Is that right? Do I understand the situation correctly or am I completely off course? If so, tell me, and I will accept it with humility.

● (1515)

[*English*]

The Chair: Mr. Ripley, go ahead.

[*Translation*]

Mr. Thomas Owen Ripley: Thank you, Mr. Chair.

Thank you for the question, Mr. Rayes.

The starting point is the definition of an online undertaking, which is an "undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus".

As you can see, the concept of programs is part of the definition of an online undertaking. Here is how the act defines a program: "sounds or visual images, or a combination of sounds and visual images, that are intended to inform, enlighten or entertain, but does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text".

The starting point is that certain social media are included in the definition of an online undertaking. So they are subject to the act, barring an exclusion. As you know, there are two relevant exclusions—proposed subsection 2(2.1), which indicates that an individual who is using social media is not a broadcaster under the act, as well as the initially proposed section 4.1, which contained an exclusion for social media under certain circumstances.

When we testified for the first time to present the bill, we explained that the social media business model was complicated. Certain social media, like YouTube, are already included in one part of the bill. If they behave like a broadcaster—in other words, if the social media undertakings themselves are controlling content—they are subject to the act.

I repeat that the change proposed here is to replace what was initially planned in proposed section 4.1—which was deleted—with the limited powers described in the amendment the committee is now discussing.

The starting point is that social media are included in the definition of an online undertaking.

● (1520)

Mr. Alain Rayes: Mr. Chair, can I have a few seconds to ask a very simple supplementary question?

The Chair: Yes, go ahead.

Mr. Alain Rayes: Thank you, Mr. Chair.

Mr. Ripley, would it have not been more simple or wiser for the committee to define, in the bill, what a social medium is, instead of waiting for the CRTC to define it, which could take nine months? We have to think about all the consequences this could have, especially given the debate we are currently having on freedom of expression, which I think is very legitimate. This affects both the individuals uploading content and the content itself. Whether we like it or not, experts, Canadians and even some members of the committee still have a number of questions about this. I am actually one of them.

If we could come up with a definition, instead of leaving it up to the CRTC, I feel that we would move forward in a constructive manner.

I don't know whether you are allowed to give your opinion on this, but I put the question to you humbly.

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Rayes.

I will not pass judgment on whether it is wise or not to do what you are proposing, because that is the committee's decision.

However, I can say that every term is definitely not defined in a bill or an act. A number of terms are used. Often, a definition will be provided for a term if it is very technical, if it is not part of common language and if people don't understand it very well.

The term social media is commonly used, and dictionaries provide a fairly specific definition for it. That is why we did not deem it necessary to include a technical definition of social media.

The Chair: Thank you.

[*English*]

Ms. Dabrusin.

Ms. Julie Dabrusin: Thank you.

I think we've had a very helpful conversation and discussion so far. What I take from it is that it really helps to clarify the point that G-11.1, as it's been drafted, specifically in proposed paragraph 9.1(1)(i.1), has discoverability that does not apply to content, and the subamendment that has been proposed by Mr. Champoux would actually extend that to cover content.

I have found this actually very helpful, and I want to thank everyone for that. What helps me is that it gives me much greater comfort that, as worded, the original proposed paragraph 9.1(1)(i.1) in G-11.1 specifically does not cover the content. It doesn't require discoverability of content, and it applies only to making Canadian creators more visible. I just wanted to thank you.

I will be voting against the amendment to proposed paragraph 9.1(1)(i.1) in G-11.1.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

I thank all my colleagues for their comments. I think there is still some confusion around the term “creator”. It is unclear and, once again, the CRTC is being asked to define what a Canadian creator is. Does that refer to screenwriters, composers, authors? Again, the door is being left wide open to an interpretation of what a creator is, while the point is for content to be discoverable.

That said, we have discussed this subamendment a great deal. I expected the second subamendment to lead to more discussion, but we are clearly ready to vote.

● (1525)

[*English*]

The Chair: Before Ms. Harder proceeds, I'd like to remind everyone to put their electronic hands down when they're done talking. Thank you.

Ms. Harder.

Ms. Rachael Harder: Thank you.

Very quickly, I want to make sure we're clear here. If we go back to the original, if we don't accept the subamendment as put forward, then I'm wondering, Mr. Ripley, if you can very clearly state who gets impacted by this clause.

The Chair: Go ahead, Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you, Mr. Chair.

The impact would be for individual creators and artists who.... All of the powers being given to the CRTC are permissive, not obligatory, but if the CRTC chose to exercise this power, the focus would be on requiring social media services to raise the profile of the individual creators or artists. That's distinct from the programs they create, and that was intentional, again, to avoid the whole question of the CRTC determining what kinds of programs constitute Canadian programs on social media services, recognizing that, I think, we all agree that these types of services are very different from your conventional broadcasting type of service.

Ms. Rachael Harder: Would it make some artists or some creators or individuals who are posting within their social media service—according to the wording here—more discoverable?

The Chair: Go ahead, Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you, Ms. Harder.

Yes, the CRTC would have to determine, again in consultation with creators and social media services, how to give effect to the term “Canadian creator”. Mr. Champoux is right in that. That is not a defined term in the act, but the intention here, again, is to recognize that these services can do a lot in terms of promoting local artists and local creators whose work is shared on these platforms. The CRTC would have the task of sorting out how to give effect to that provision, how to give meaning to the term “Canadian creator”, and how to identify those creators on those services.

Ms. Rachael Harder: Okay.

Ms. Dabrusin in her comments seemed to indicate that programming services would mean apps as well. Is that a correct understanding?

Ms. Julie Dabrusin: I have a point of clarification.

The Chair: Ms. Dabrusin, is it regarding the structure of what we're doing, or is it about the conversation on the content?

Ms. Julie Dabrusin: It's about the rephrasing of what I've said, which includes words I didn't say.

The Chair: Ms. Dabrusin, you can certainly get your name in the lineup to refute what she has said. I ask that you please do that. Thank you.

Ms. Julie Dabrusin: Okay, but it's unfortunate—

The Chair: We go back to Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you, Mr. Chair.

Ms. Harder, let me just clarify that I've understood the question correctly. The question is whether an app could constitute a programming undertaking as defined in the act. Is that the question?

Ms. Rachael Harder: Mr. Ripley, that is correct, yes. Thank you.

Mr. Thomas Owen Ripley: The answer to that is yes, depending on the app. As we know, more and more broadcasting services offer a variety of different ways to reach their audiences. Sometimes those take the form of an app—CBC Gem, or ICI TOU.TV—which you can download on your box at home and click through. The intention is that this type of app would be captured by "programming undertaking" or "online undertaking".

● (1530)

Ms. Rachael Harder: Okay. Thank you.

The Chair: Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

After all I have heard, I would like to put a single question to Mr. Ripley.

I am wondering whether, ultimately, we should not just remove proposed paragraph 9.1(1)(i.1). I am not making that request for the time being. Whether we are talking about Canadian creators of programs or, as Mr. Champoux proposes in his subamendment, about Canadian programs, we see that we don't have a definition for either of those terms. Correct me if I am wrong, Mr. Ripley, but we have no more idea of what a Canadian creator of programs is. As Mr. Champoux said, is it a director, a producer or someone else? I even think you used the term "artists", Mr. Ripley. In some cases, we may be talking about individuals who create something they post on social networks. Otherwise, we may be talking about a Canadian program. This concerns discoverability.

Is it logical to assume that we could regulate all social media from around the world, those we know of and those we still don't know of? Earlier, I mentioned young people who are using social media we have not even named yet. Others will also be created in the future. Things are changing so fast. Four years ago, no one knew what TikTok was.

By trying to legislate in an area that is unmanageable, simply put, are we stepping into a field we should stay out of ? Am I wrong?

We have no definition of what a Canadian creator of programs is or of what a Canadian program is, and we will vote on an amendment that concerns the discoverability of something we have not defined. I am not even talking about social networks.

[*English*]

The Chair: Mr. Ripley.

[*Translation*]

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Rayes.

It is not really up to me to be the judge, as this is a matter for the committee's consideration.

The government's position is that those social media services are a way for people to listen to music and interact with their favourite artists. So they are important tools for increasing the visibility of creators and artists. The intention is for those people to help promote Canadian artists and creators.

You are completely right in saying that we will have to define what a Canadian creator of programs is. The CRTC will have to fulfill that task, in consultation with creators who broadcast their work on social media, as well as with social media themselves, which will have their own opinion on the best way to do that.

[*English*]

The Chair: Thank you.

Mr. Shields.

Mr. Martin Shields (Bow River, CPC): Thank you, Mr. Chair.

I appreciated the conversation, so let's get it down, for my mind, in the simplest terms. Under the subamendment, we are talking about whether, let's say, a study of the beluga whales in the St. Lawrence is Canadian content versus—with the original motion—whether it's a Canadian in South Africa studying South African penguins. You are talking about the individual in one, and the content in the other.

Is that what we're talking about here in those two, Mr. Ripley?

Mr. Thomas Owen Ripley: Mr. Shields, thank you for that question.

The short form is yes: The difference is between the individual and the program. Again, I think the intention is not to deny the fact that these services are used in a variety of ways. That is what makes them so challenging to deal with from a regulatory perspective. The question that this committee is grappling with is where the appropriate line is, in terms of ensuring that they make a meaningful contribution to the broadcasting system while also recognizing that lots of people post different kinds of content to these services that isn't really cultural content in the purest sense of the word.

Again, I don't want to underplay the work that the CRTC will have to do in giving that effect, but it's also why I would highlight that it's important that it be done in consultation with the folks this is going to impact. It's important that creators have their say in that. It's important—to your point, Mr. Shields—that social media services have their say in that as well, in terms of actually bringing forward a regime that, if the discoverability power remains in it, will work for everybody at the end of the day.

● (1535)

Mr. Martin Shields: Right. I would probably term it “culture”, in the sense that if you're doing a photographic exposé of beluga whales as content, or you're a Canadian doing one on the penguins in South Africa, it can be very cultural in that sense. That's what I was referring to.

Thanks.

The Chair: Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

I find our discussion very worthwhile. That said, I would like to put the facts in context and make it clear that we aren't talking about individual or user content, but about the broadcasting activities of companies that also run social media.

In my view, when defining social media, the CRTC will have no trouble clearly defining a social media activity as a platform where users post content for other users. These activities are already specified in a few places in the bill. I don't think that the CRTC will have any trouble defining the social media activity on a platform that provides social media services as well as the broadcasting activities on the same platforms.

Whether we're talking about creators, content or programs, discoverability refers to the responsibility of companies that run social media services in which they engage in broadcasting activities. In this respect, the idea here is simply to ensure that the act applies to companies that engage in these specific activities, not to regulate the activities of users who share content with other users.

I find it hard to understand why the term “creators” is used. Everywhere else, broadcasters are being asked to promote Canadian content or Canadian programs and to enhance their visibility and discoverability. We aren't talking about the discoverability of the creators themselves, but the discoverability of the content. That was my concern.

I particularly wanted to draw my colleagues' attention to the component that this subamendment seeks to frame. That's the point that I wanted to make.

The Chair: Mr. Rayes, you have the floor.

Mr. Alain Rayes: Thank you, Mr. Chair.

Mr. Ripley, as we move forward, new questions come to mind. I'm sorry for dragging out the discussion, Mr. Champoux, but I find that I'm learning almost more today than I've learned since the start of this study.

If we don't pass Mr. Champoux's subamendment and we go back to the government's original amendment, which talks about “the discoverability of Canadian creators of programs,” we won't know what constitutes a Canadian creator. It could be anyone. As you confirmed, Mr. Ripley, it isn't defined. The CRTC will have to define it. There's no mention of professional Canadian creators, for example. If need be, I could create my own program on social media. I'm thinking of a young Quebecker who created his own program, *7 jours sur Terre*, and who is followed by thousands of people. He even has his own subscription system. This has become a side gig for him, or maybe it's his main job. I have no idea. Thousands of people follow him in real time.

Since the original proposed section 4.1 was removed from the bill three weeks ago, the government has been telling us that users aren't affected by Bill C-10, even without that section. Over the course of our discussion, questions have been coming to mind. I'm thinking as I'm talking to you. I can see that, in proposed paragraph 9.1(1)(i.1), the government is asking for, “in relation to online undertakings that provide a social media service, the discoverability of Canadian creators of programs.” So, indirectly, if a Canadian were to create their own program on social media for fun, the CRTC would be asked to determine whether to ensure the discoverability of that program and, if so, to establish how to do this. Is that right?

For three weeks now, the minister has been telling everyone that users aren't affected by this bill after the removal of proposed section 4.1. However, I can see the intention to reinstate a provision in the bill that could directly affect users. In any event, I'm raising the issue.

Do I understand this properly?

● (1540)

[*English*]

The Chair: Mr. Ripley.

[*Translation*]

Mr. Thomas Owen Ripley: Thank you for the question, Mr. Rayes.

I'll try to make this clear. Under proposed subsection 2(2.1), a non-affiliated user can never be considered a broadcaster. The user can't suddenly be considered a broadcaster.

You're right that the purpose of the CRTC's discoverability power is to promote individual Canadians. As I'm sure you know, a whole community of creators and artists use social media to share and promote their work. The idea, again, is to give the CRTC the permissive power to create a positive obligation for social media to promote these people. The term “creators” has a creative and cultural connotation. Certainly, the goal isn't to target the social media accounts of every Canadian. It's really the people who fit that identity, who are involved in the creative field and who are sharing their work on social media.

[*English*]

The Chair: Monsieur Boulerice, welcome to the committee, sir.

Go ahead. You have the floor.

[*Translation*]

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you, Mr. Chair.

I'll keep it short.

First, I must say that I'm quite in favour of the subamendment proposed by Mr. Champoux. He tried to remind us of the idea behind the discoverability requirement. We want people to be able to discover productions, programs, films and television series. We want to make sure that our stories, Quebec and Canadian stories, can be easily found online.

Personally, I really like director Anaïs Barbeau-Lavalette. However, I would prefer that people discover not Anaïs Barbeau-Lavalette, but rather her film, *Goddess of the Fireflies*. Afterwards, they can discover the director. In my opinion, it's important to put things in the right order. We want to highlight Quebec and Canadian productions. I'm therefore quite in favour of Mr. Champoux's subamendment.

Second, I want to go back to the definition of social media. I don't think that we should box ourselves in or limit ourselves. We must give the CRTC the flexibility and freedom to face the future. As Mr. Rayes said, our children are using social media that we don't know about. Honestly, this is also true for me. We need to leave the door open and let the CRTC define social media. If we define it today, in May 2021, the definition will probably be outdated in six months or a year.

● (1545)

[*English*]

The Chair: Mr. Shields.

Mr. Martin Shields: Thank you, Mr. Chair.

I'll go one more time at this. Many of us have followed a documentary TV type of show called *Island of Bryan*, in which a Canadian couple, architecture designers, have rebuilt a resort in the Bahamas over the last two to three years. They're Canadians. That program was available on cable, and it's now available on streaming services.

Words matter. Is it the content or the individuals? That, to me.... We have a challenge here; we really do. This is an incredibly interesting show with a large following. They're a tremendous couple, but they're not in Canada. The resort is not a Canadian resort, but they're Canadian. That's a challenge for me in the discussion.

Thank you.

The Chair: We now go to Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I just want to clarify something regarding Mr. Shields' concern.

Classification systems are already available to the various funds, for example. The CRTC also has a points system to define Canadian content. Since this system already exists, it isn't a new thing to introduce. The definition of Quebec and Canadian content already exists. It isn't an issue here.

[*English*]

The Chair: Mr. Manly.

Mr. Paul Manly (Nanaimo—Ladysmith, GP): I wanted to clarify that as well. There is a system within the CRTC. When you're talking about music, there's something called MAPL, which is music, artist, performance and lyrics. It's a scoring system to determine how you figure out whether something is Canadian content or not.

There's a similar set of rules for broadcasting, for documentary production—producers and directors, the actors, the companies involved. The CRTC has already set up these kinds of rules that would determine how we figure out what is Canadian content and what is not Canadian content. That's basically how the system works. The CRTC has been fairly clear about this.

I think it's not going to impinge on people's freedom of speech, because you can still post what you want on your social media channels. It just means that the algorithm that says “If you like that, you might like this” is going to show you something and say, “This is a Canadian program you might be interested in.” Maybe they'd put a little Canadian flag on it or something to indicate that, for discoverability, this is something you might want to watch that is Canadian.

That's just a comment I wanted to make.

The Chair: Thank you, Mr. Manly.

I see no further conversation.

Just so that we're all clear—it's been a bit of time since it was proposed—we're now working on amendment G-11.1, put forward by Ms. Dabrusin. We're currently voting on the subamendment as proposed by the Bloc, by Mr. Champoux, which simply proposes to take out the words “creators of”. This is the English version, and I'm assuming my interpretation went through.

Has everybody now understood?

Very well, then, we will now proceed to the vote. This is on the subamendment by Mr. Champoux.

(Subamendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

The Chair: As we pointed out earlier, Mr. Champoux had two separate subamendments. I'll give him the floor to proceed with number two.

Mr. Champoux.

● (1550)

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

My second subamendment concerns paragraph (b) of amendment G-11.1, which proposes to amend clause 7 of Bill C-10 by adding subsection 9.1(3.1) after line 10 on page 8. My subamendment seeks to amend the amendment by adding the following to the end of the proposed text:

> Interpretation
>
> (3.2) For greater certainty, paragraph (1)(i.1) shall be construed and applied in a manner that is consistent with the freedom of expression enjoyed by users of social media services provided by online undertakings.

[*English*]

The Chair: It is my understanding that the wording of this was distributed earlier.

Is that correct, Mr. Champoux?

[*Translation*]

Mr. Martin Champoux: Yes, it was sent.

The Chair: That's fine. Thank you.

[*English*]

I did ask Ms. Harder earlier if they would like to have some time. I'm going to go back to that point once more.

Ms. Harder, I'm looking to you only because it was requested. I did say that we would have a pause after the first subamendment, and you said yes. Are we in the same situation?

Ms. Rachael Harder: Mr. Chair, I think we would benefit from being able to step out for a few moments.

The Chair: It would be great if everyone could do the health break and this at the same time. I'm calling on your talents, as it were.

Ms. Rachael Harder: That's such a good idea, Mr. Chair.

The Chair: Let's break for a few moments.

I don't want to give you a time, but turn off your video now. When you're ready to come back on board, please turn on your video and I will look for a critical mass of active screens to go back on the air.

Let's suspend for a few moments.

Thank you.

● (1550)

_____________________(Pause)_____________________

● (1600)

The Chair: Okay, thank you so much.

We have just heard the text of the subamendment from Mr. Champoux, and I'll have to give him the floor to start debate.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you, Mr. Chair.

As I explained earlier, this subamendment provides an additional safeguard in response to the concern raised in recent weeks by a number of people, including our colleagues in the Conservative Party, about the possible infringement on freedom of expression.

The purpose of my proposed subamendment is to ensure that, when making decisions, the CRTC will always consider the significance of the fundamental principle of freedom of expression.

[*English*]

The Chair: Thank you, Mr. Champoux.

Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

Mr. Champoux said that the Conservative Party members were very concerned. I just want to point out that they aren't the only people concerned. We speak for many people across the country, including experts, as everyone has seen. Experts from a variety of backgrounds may have different opinions.

That said, it will still be a good initiative to protect freedom of expression in every possible place in the bill. As the saying goes, you can't be too careful. If, based on the comments and explanations provided by the experts, we can add an additional layer of protection to address the concerns of a number of experts and Canadians, that would be good.

I'll also be moving an amendment in this area soon.

● (1605)

[*English*]

The Chair: Okay, thank you.

I have Ms. Harder, and then Mr. Champoux.

Ms. Harder, you have the floor.

Ms. Rachael Harder: Thank you.

I guess I'm just looking for some clarification. Again, perhaps Mr. Ripley would be the best one to comment on this.

It's about the phrase “freedom of expression enjoyed by users of social media services provided by online undertakings”. I'm not sure what that means, “freedom of expression enjoyed”.

The Chair: Mr. Ripley.

Mr. Thomas Owen Ripley: Thank you for the question, Ms. Harder.

I guess the starting point would be perhaps to point all members to subsection 2(3) of the act, which talks about the act being "construed and applied in a manner that is consistent with the freedom of expression and journalistic, creative and programming independence enjoyed by broadcasting undertakings." At its heart, the Broadcasting Act has recognized that media are obviously in the business of sharing ideas and opinions and that freedom of expression is very important.

A lot of the debate over the last few weeks has focused on the issue of the interaction between social media services, which, again, are caught by the definition of "online undertaking" and being regulated, and the intersection with users who use those services.

If I understand the intention of the amendment correctly, it would be to clarify that the CRTC, in applying that discoverability power, should do it in a way that is consistent with freedom of expression, i.e., the ability for users to post and upload the content they wish to social media services.

Ms. Rachael Harder: Okay.

It has been argued that this is already the case, that the CRTC has to respect the charter, so is this redundant?

Mr. Thomas Owen Ripley: I heard Mr. Champoux, in the way he presented it, describe it as a way of removing any doubt about this fact. I think that's a fair way to characterize it. I pointed you toward a section at the beginning of the act that already talks about the act being applied consistently with freedom of expression.

You are correct. The committee heard from ministers yesterday that, at the end of the day, the CRTC is indeed bound by the charter, as you point out, and could be subject to a charter challenge if there was ever a question about one of its measures not being consistent with the rights and freedoms guaranteed by the charter.

Ms. Rachael Harder: Okay.

I asked Mr. Ripley a question earlier with regard to the prioritization and deprioritization of content, also known as discoverability, meaning that some material can be found more easily than other material. That does, in and of itself, hinder the freedom that creators have to naturally generate followers and support, to organically expand their footprint within the world of social media. Is that correct?

Mr. Thomas Owen Ripley: Thank you for the question, Ms. Harder.

The committee heard from a number of experts earlier this week. Some of them highlighted the fact that there are obviously many factors that go into the consideration of the order in which content is given to us. We know that, on many of these services, individuals or companies are able to pay to have their content ranked above others.

The government's intention in putting forward this power, again, comes from the perspective that there is a public interest value among those factors. In that mix of factors, one of them is supporting Canadian creators. Yes, it is a factor that would be considered, potentially.

Again, I would highlight that I don't want to prejudge how this would ultimately be implemented by the CRTC. There are a variety of tools it could use, this being one of them. Again, I think it is an open question whether it would actually materialize in that way. If it did—you are right, Ms. Harder—it could be one factor taken into account in terms of the ranking of content.

● (1610)

Ms. Rachael Harder: Through the chair to you, Mr. Ripley, what I'm wondering is this. To put it in a different way, creators are doing a tremendous job in terms of promoting themselves on YouTube. Let's just take that as one example. I recently learned that there are about 25,000 Canadians who are able to rely on their income from YouTube because they have designed these channels for themselves and garnered support. There are 25,000 Canadians who have been able to turn that into full-time income for themselves, which is tremendous. It's amazing: 25,000 full-time jobs were created because these individuals have a talent or an ability or something to offer. They are able to go out there and organically generate support for what it is that they want to talk about, or sing about, or whatever talent they want to share with the world.

My question for Mr. Ripley is this: If discoverability mechanisms were put in place, would these individuals have the same opportunity to promote themselves organically and garner support, as they have done thus far, or would that organic reach be impacted by the algorithms used for discoverability?

Mr. Thomas Owen Ripley: Thank you for the question, Ms. Harder.

The goal is ultimately to increase the visibility and promotion of those creators. That is the starting point, in the sense that we know that many of these services are used by Canadians to connect with cultural content they want to consume and artists they want to follow.

The goal, again, is.... Look, I certainly appreciate how you're using the term "organic", but I would submit that there are complex factors that go into that question. Again, the goal here is to insert a cultural policy objective into the mix.

Ms. Rachael Harder: Right.

Mr. Ripley, when you say that this is meant to promote Canadians, you would, to be fair, only be referring to those Canadians who fit within the definition of whatever the CRTC determines to be Canadian content. There are plenty of Canadians currently on YouTube. For the vast majority of Canadians who are on YouTube and are quite successful there, 90% of their audience is worldwide. Even though they are Canadian and they produce something in Canada—they might even be talking about Canada, or beavers or moose, who knows—they won't necessarily fall under the definition of the CRTC.

To be fair, I just want to be clear here. The definition of what is Canadian content that is going to be promoted doesn't mean that every single Canadian YouTuber is going to receive this promotion or this increased discoverability. Am I correct?

● (1615)

Mr. Thomas Owen Ripley: Thank you for the question, Ms. Harder. It's a really good one and it relates to the conversation that the committee was just having.

The answer to your question is no. The power, as currently crafted, breaks with this idea of Canadian content or Canadian program. Again, that was intentionally done, as Monsieur Champoux and Monsieur Boulerice highlighted. There's a whole definition or concept that comes with it that could be challenging to implement in a context like social media.

Again, I can't prejudge the outcome of CRTC proceedings on this, but the goal is to provide an opportunity for the CRTC to craft, to your point, a common-sense rule that makes sense in light of social media. To your point, the government's position is that it doesn't make sense to impose a definition of "Canadian program" in that context. That's why this power is crafted very specifically to be with respect to the individual creator.

Again, I would just highlight that there's a difference between.... It's "Canadian creators of programs". If you go back and look at the definition of "program", it's audio or audio-visual content. It's not "Canadian creators of Canadian programs", which would import that whole concept of Canadian content or Canadian program. That's intentional.

Ms. Rachael Harder: Okay.

Mr. Ripley, just to clarify, you're saying that it would apply to Canadian generators of content.

[*Translation*]

Mr. Martin Champoux: I have a point of order, Mr. Chair.

[*English*]

The Chair: One moment, please.

[*Translation*]

Mr. Champoux, you have the floor.

Mr. Martin Champoux: Mr. Chair, the clock is ticking. We still have some things to discuss and I don't see how this discussion relates to the proposed subamendment. We're getting into semantics and into debates held on other occasions. I wonder whether some of these questions are really relevant.

[*English*]

The Chair: Of course, relevance is covered in the Standing Orders. Suffice it to say, Ms. Harder, that if you could stay within the confines of what we're talking about here, within the subamendment to amendment G-11.1, we'd really appreciate it.

Thank you.

Ms. Rachael Harder: Chair, I do believe that I am within the parameters. I will—

The Chair: I'm sorry, Ms. Harder. I didn't say you were or weren't. I just don't want to brood on it. It's just a reminder. Thank you.

Ms. Rachael Harder: Thank you.

I'm happy to pass off the floor. I'm certainly not trying to waste time, but I would ask my colleagues to respect the fact that this is a very complex bill before us. As a legislator, it is my responsibility to have a keen understanding before I vote.

Thank you, Mr. Champoux.

The Chair: Thank you, Ms. Harder. I appreciate that and I appreciate the comments. You are exactly right.

Mr. Champoux, you have the floor.

[*Translation*]

Mr. Martin Champoux: I want to reassure my colleague that I fully agree. I think that, over the past few weeks, we've shown a great deal of respect for the process, for everyone's needs and for everyone's right to fully understand our debates. However, we want to talk about a number of things today.

I wanted to address some points. My colleague Mr. Rayes told me earlier that it wasn't only Conservative Party colleagues who had concerns, but also many Canadians. I would add that the Conservative Party colleagues have voiced the concerns of a number of Canadians.

With regard to the proposed subamendment to the amendment, in my opinion, it isn't actually necessary, but it serves to reassure people. As Mr. Rayes said, you can't be too careful. This subamendment adds a layer of safety. It won't hurt to further reassure people by adding, where possible, references to the fact that freedom of expression is paramount and that we want to preserve it in every decision made.

At the start of her remarks, Ms. Harder referred to the passage in the English version that says "freedom of expression enjoyed by users of social media." In the French version, the passage that says "*la liberté d'expression dont jouissent les utilisateurs*" doesn't seem to have exactly the same meaning. Our English-speaking colleagues will certainly be able to make a judgment. The word "enjoyed" refers to taking pleasure in doing something or benefiting from something in a playful way. However, the corresponding passage in the French version doesn't convey the same meaning as the English version and doesn't invoke the playful meaning of the word. It actually refers to a right held by users of social media services. I thought that perhaps a nuance was lost in translation. I wanted to make sure that it was clear.

If we want to continue the discussions and vote on amendment G-11.1, I move that we vote on the proposed subamendment.

● (1620)

[*English*]

The Chair: Mr. Manly.

Mr. Paul Manly: Thank you, Mr. Chair.

I just want to clarify some things for Ms. Harder about what "Canadian production" means. You can find this on the CRTC site:

> The CRTC only certifies Canadian film or television productions that meet the following criteria:

> The producer must be a Canadian and must act as the central decision-maker from the development stage until the production is ready for commercial exploitation.
>
> The production must earn a minimum number of points based on the key creative functions that are performed by Canadians [director, screenwriter, actors, etc.]. Usually, a minimum of 6 out of 10.
>
> At least 75% of the production's services costs must be paid to Canadians and at least 75% of the production's post-production and laboratory costs must be paid for services provided in Canada by Canadians or Canadian companies.
>
> The production must qualify for certification—

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I have a point of order.

[*English*]

The Chair: There is a point of order.

I'm sorry, Mr. Manly, one second.

Mr. Champoux, go ahead.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, we're totally outside the scope of the proposed subamendment.

[*English*]

The Chair: Mr. Champoux, I appreciate your comments. What he's doing is, obviously, replying to some of the comments that were made by Ms. Harder.

Mr. Manly, I'm going to let you have the floor again, if you could pare down your statements and your question to the point of the subamendment. Thank you.

Mr. Paul Manly: I'm just relating this to discoverability and the fact that we have a process in place for discoverability. All of those YouTube programmers who were mentioned before would actually benefit from discoverability.

Thank you.

The Chair: Thank you, Mr. Manly.

Seeing no further discussion on the subamendment by Mr. Champoux, we now proceed to a vote.

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

The Chair: We now go back to the main amendment, which is G-11.1. If you're following along at home, G signifies that it is an amendment put forward by the government, moved by Ms. Dabrusin. This is G-11.1 as amended.

Mr. Rayes, you have the floor.

[*Translation*]

Mr. Alain Rayes: Mr. Chair, if my colleagues have no further comments, I would like to move to a vote.

[*English*]

The Chair: Seeing no hands, I'll say yes, we can proceed to the vote.

The vote is on amendment G-11.1 as amended by Mr. Champoux, if you recall that.

(Amendment as amended agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

The Chair: Monsieur Rayes, you have the floor.

● (1625)

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

First, I want to thank everyone. Even though we voted against this amendment, we learned a great deal in this discussion.

The people who tuned in to our meeting today must have seen the importance of our discussions and the expertise of the people working with us. I want to emphasize this.

As I said at the start of the meeting, I want to move an amendment, which we sent to the clerk. I don't know whether she was able to send it to all the committee members. With your permission, Mr. Chair, I'll read it while we wait for the clerk to send it to everyone in both official languages.

[*English*]

The Chair: Just one second, I think the clerk would like to intervene.

Madam Clerk.

[*Translation*]

The Clerk of the Committee (Ms. Aimée Belmore): I'm sorry, but could you clarify which amendment this is?

Mr. Alain Rayes: It's dated May 11, 2021. I can't tell you the exact number, but it's the one that calls for clause 7 of Bill C-10 to be amended by adding after line 19 on page 8—

[*English*]

The Chair: One moment, please. I did not hear any translation.

Did everybody hear translation on that one? I don't think I heard it.

Madam Clerk, I'm assuming you're going to distribute it. Is that possible?

The Clerk: Yes, sir, I will, once I clarify exactly which amendment to send.

The Chair: Oh yes, of course—my apologies.

[*Translation*]

Mr. Alain Rayes: Mr. Chair, would you like me to read it, in the meantime?

[*English*]

The Chair: Yes, now that I'm hearing interpretation.... Can I get a thumbs-up from everyone who is on English interpretation, if they heard that?

Very well, then.

Mr. Rayes, you have the floor as we distribute the motion.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

The amendment moves that clause 7 of Bill C-10 be amended by adding after line 19 on page 8 the following:

> 9.2 This Act does not apply in respect of
>
> (a) programs that are uploaded to an online undertaking that provides a social media service by a user of the service—who is not the provider of the service or the provider's affiliate, or the agent or mandatary of either of them—for transmission or retransmission over the Internet and reception by other users of the service; and
>
> (b) online undertakings whose broadcasting consists only of such programs.

This amendment is being introduced in an effort to work with everyone, given what happened after the removal of proposed section 4.1.

My colleague, Mr. Champoux, has asked this question several times. The minister even told us that the committee was responsible for these decisions. We would like to address the situation and dispel all lingering concerns by proposing this amendment, which applies to the place in the bill that we're studying today.

We've heard from several experts. For the past three weeks, our work has been stalled because of the unwillingness of the two ministers. Actually, I shouldn't say that. Rather, the government members on the committee didn't want the ministers to appear from the beginning. In the end, everything worked out over time. I want to acknowledge that and thank everyone.

I want to propose this amendment so that we can break the deadlock in relation to the issue of freedom of expression and the protection of content. That's why this amendment is so important today.

I hope that all my colleagues will see the value in this. I'll end on that note and let them discuss the matter. When I spoke earlier about the second subamendment proposed by Mr. Champoux, I said that, as the saying goes, you can't be too careful. I think that it would be in our interest to pass the amendment. This would show the government's willingness to protect freedom of expression and to address the current concerns of a number of people across the country.

[*English*]

The Chair: Before we get into a debate on this issue, as you may have guessed, this requires some discussion, given its complexity. I'm going to turn to our clerk Aimée to intervene first.

[*Translation*]

The Clerk: Mr. Rayes, can you read the reference number of the amendment, please, so that I can make sure to send the correct amendment to the committee members?

● (1630)

Mr. Alain Rayes: I gather that my colleagues haven't received it yet. I'm sorry. I thought that they had.

Madam Clerk, I just found the reference number. I'll give it to you right away. It's 11322751. Does this reference number match the one that you have? I'm sorry. I didn't understand your request earlier.

I want to apologize to you, my colleagues, because you haven't received the amendment in both languages. I can practise by reading it to you in English, if you want.

[*English*]

The Chair: No, that's okay. Right now we have to have a discussion about this.

Folks, there are a couple of things at play here. Obviously, I need to confer with the legislative clerk to discuss the motion and the text of it. I'm sure that comes as no surprise. However, we are now one minute over our scheduled time.

Do you have a point of order, Mr. Housefather?

Mr. Anthony Housefather: Mr. Chair, I put my hand up but I think this is more a point of order, if you'll allow me.

While I totally appreciate Mr. Rayes's right to propose whatever amendment he wants, there are a number of amendments sequentially in the package that come before line 14 on page 8, including BQ-23, which is the next amendment. Mr. Rayes's amendment cannot be moved now. It should be moved at the appropriate time in the package.

The Chair: Mr. Housefather, honestly, we're going to discuss that right now and we'll get back to you. Thank you for your points of consideration.

Okay, folks, we have a couple of things. Mr. Housefather just had a question. I want to settle that point—as to whether we can debate this or not, or where it belongs—before we get into a debate. I'm going to have to break for a few moments. I know we're overdue and usually it's implied consent. However, I really would like to put that to rest before we break off today.

Let's suspend for a few moments. Watch for my screen. I'll come back onscreen when we're ready to reconvene. Thank you. It'll be just a few moments.

● (1630)

_____________________(Pause)_____________________

● (1630)

The Chair: I apologize. I wanted us to have a look at it in writing before we placed judgment on this.

As far as the actual amendments are concerned, or the purpose of what you're doing, you may be right on target, but you're wide of the mark. You're going to have to wait, sir, is what I'm trying to tell you. As you know, it is common practice for us to take this all in sequential order by clause. What we're saying to you is.... This is what I mean by saying that your amendments are fine, but they just found a wrong home.

What I can suggest to you is that there's nothing wrong with doing amendments from the floor, as I'm sure you all know. However, you may want to try, for the sake of guidance, following BQ-25. That might be the right place for what it is you hope to do. What I am proposing.... I understand what you're saying. You've put it in the right church; you've just selected the wrong pew. After BQ-25, if you wish to make a motion from the floor, you can.

That being said, we normally do not debate any rulings from the chair—I shouldn't say “normally”; we don't. However, there is a remedy by which, if you don't agree with me, you can do so.

What I have to do right now is move on to the speakers list, following the ruling. Folks, I am assuming.... I do have a speakers list. We just finished G-11.1 as amended. Mr. Rayes proposed something that I have to rule out of order, or may I say out of place. Now we move on.

Mr. Champoux.

● (1635)

[*Translation*]

Mr. Martin Champoux: Mr. Chair, I just want to clarify one thing. You said that we must proceed. What's the next step?

I want to make sure that we don't let the motion on the table fall through the cracks. Actually, I think that I would prefer that you let Mr. Rayes speak and then take the floor.

[*English*]

The Chair: Normally at this point I would move to the next one after G-11.1, which is BQ-23. That is the next one in line after the ruling I just made. However, the clock shows that we are seven minutes over time, which means that under normal circumstances we would say we would pick it up at BQ-23 at the next meeting. However, I don't want to shut it down right away without concerns being addressed.

Mr. Champoux, did you want to speak further?

I'll go to Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair.

I gather that I can't move the amendment now. However, could you confirm that, once we've addressed amendments BQ-23, CPC-9 and BQ-25, my amendment will then be considered? Does everyone on the committee agree with that?

I just want to make sure that I have unanimous consent on this and thereby give you, Mr. Chair, the great opportunity to let us return to our respective constituencies during the parliamentary break week.

[*English*]

The Chair: Yes, exactly. I'm not supposed to, but with the committee's indulgence, I will further the comments from the ruling, which is to say that, yes, after BQ-25 would be the appropriate place for you to accomplish what it is you want to accomplish—the right church, not necessarily the right pew. You have to wait for a few moments.

Okay, I see nobody else who wishes to speak. Is it safe to say that draws to a conclusion today's meeting?

I want to thank everyone for a good day, a good discussion.

Just a reminder, Monday is a holiday. It's called May Two-Four, but that's not really appropriate, is it? It's Victoria Day weekend, folks, and I want to wish you all a wonderful weekend.

We will not be having a meeting on Monday, as it is May 24. We'll meet next Friday, but just a reminder, we are still under a motion passed on March 26 that asks us to find extra meetings or extra hours. I will make sure that I give you enough notice. If they tell us at noon that we have a room open at 3 p.m., obviously I'm not going to call a meeting with three hours' notice. But with an ample amount of notice, I will call a meeting if we manage to get a room or extra hours.

That being said, you must be sick of hearing me by now, so I'm just going to say, have a great weekend, everybody, and we'll see you next Friday.

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

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: https://www.ourcommons.ca

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

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : https://www.noscommunes.ca