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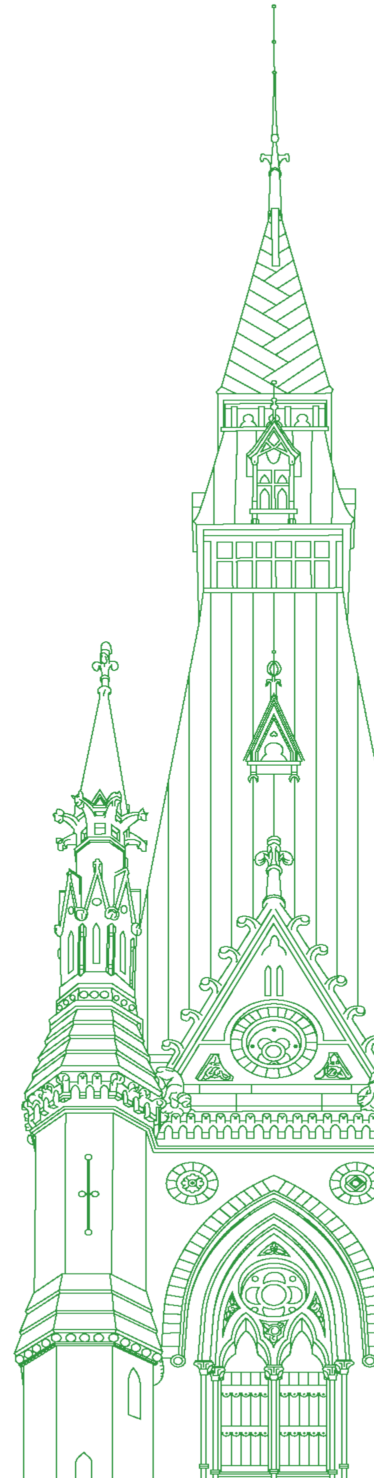

Chair: Mr. Scott Simms

Standing Committee on Canadian Heritage

Friday, May 28, 2021

● (1300)

[*English*]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): Welcome, everybody. It's been a bit of a break, but we're all back here at the Standing Committee on Canadian Heritage discussing, once again, clause-by-clause of Bill C-10.

This is meeting number 37. Pursuant to the order of reference of Tuesday, February 16, 2021, and the motion adopted by the committee on May 10, the committee resumes consideration of Bill C-10.

Today's meeting takes place in a hybrid format pursuant to the House order of January 25, 2021. I would like to remind everyone on board that screenshots or taking photos of your screen are not permitted. Also when you are not speaking your mike should be on mute. You all know that.

Since we are doing clause-by-clause, I'll give just a quick reminder. If you go back to the documents you have here, you will see in the top right-hand corner—for the people who are watching from all around the world or at least all around the World Wide Web in our universe—if I say PV and a number, PV stands for *Parti vert*, which is a Green Party-proposed amendment. If it says CPC, that would be a Conservative Party-proposed amendment. NDP would be from the New Democrats. BQ would be from the Bloc Québécois. Of course, LIB is from the Liberal members on our committee. Finally, if an amendment has G and a number attached to it, that is a proposed amendment from the government.

(On clause 7)

The Chair: If you go back to our regularly scheduled programming, you will see that we are currently on BQ-23.

For that, we're going to go to Mr. Champoux.

[*Translation*]

Mr. Martin Champoux (Drummond, BQ): Thank you very much, Mr. Chair.

I'm glad to see you again, friends and colleagues.

Amendment BQ-23 concerns a provision that, under Bill C-10, would be added to the Broadcasting Act to give the Canadian Radio-television and Telecommunications Commission the necessary verification tools to meet the regulation-related requests it receives. Among other things, persons carrying on broadcasting undertakings are asked to grant the CRTC access to certain information. With this amendment, we wish to clarify, in proposed subparagraph 9.1(1)(j)(v), that the information on broadcasting services includes "any information related to any means of programming control." We would also like to add subparagraph 9.1(1)(j)(vi) to include "information related to any means of promoting, recommending or selecting programming, including Canadian programming."

I think it's important that we give the CRTC the necessary tools to verify whether persons carrying on broadcasting undertakings meet the requirements set for them.

I'm open to discussion and await your comments.

● (1305)

[*English*]

The Chair: Thank you, Mr. Champoux.

Not seeing anyone who would like to discuss that, it is moved—put forward.

Before I go any further I have to say that I've had a couple of people contact me. I should have said this at the beginning and I apologize. They were asking members to please explain the amendment that they're putting forward in a little more of a direct manner, because people cannot see that from home if they're watching from abroad. That would be great if you could do that.

I say that in congratulations because I'm pretty sure Mr. Champoux did just that by describing BQ-23.

Mr. Rayes.

[*Translation*]

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

I'm going to add something to your comment. Yes, it's important that it be succinct, but we nevertheless need certain details, hence my first question.

I'd like Mr. Ripley or one of the other senior officials here to explain the consequences of the Bloc Québécois' amendment.

[*English*]

The Chair: Mr. Smith seems to want to take this on.

Mr. Patrick Smith (Senior Analyst, Marketplace and Legislative Policy, Department of Canadian Heritage): Yes, thank you, Mr. Chair.

Thank you, Mr. Rayes, for the question.

There are a couple of points I would mention to the committee with respect to this motion. First of all, it seems to rely on an amended definition of “programming control” that was proposed in amendment BQ-3. That amendment was negatived, so as a result, the definition of “programming control” remains the “control over the selection of programs for transmission, but does not include control over the selection of a programming service for retransmission”. This is a defined term in the bill, and it refers to it, so I just wanted to point that out.

Given that BQ-3 was not carried, the definition of “programming control” as adopted by the committee in clause 1 will be limited to the editorial function, you could say, of a person, corporate or otherwise, in choosing the program for a service or putting together programming for a schedule. It does not necessarily extend to the algorithmic control that would have been imported by the definitional change in BQ-3.

Secondly, I would bring to the committee's attention that, given the changes imported by amendment G-11.1, conditions of service relating to discoverability on social media services will be limited to the discoverability of Canadian creators. Online undertakings that are not providing a social media service will be subject to programming discoverability orders more generally. As a result, the changes imported by BQ-23 would be aimed at seeking information about recommendation algorithms employed by the platform itself, it would appear, and how it operates its algorithms generally or in relation to the order-making powers outlined in proposed section 9.1.

These algorithms are treated as trade secrets, generally, and a competitive advantage for the services that employ them. Therefore, any request for information on the matter is likely to be met with heavy resistance from the platform itself. I wanted to flag that for the committee. This would be especially so given the definition of “programming control” that was adopted by the committee.

Finally, I have a minor point, and I would defer to the expertise of the legislative clerk on this point. It's really not a question of content, but rather a point with respect to the form of the motion. The placement of the proposed amendment may not be ideal. Proposed subparagraph 9.1(1)(j)(v) is currently included as a sort of basket clause in order to provide flexibility for the CRTC in this section generally. If the committee wishes to adopt the amendment, it might be more appropriate to sever the first part and include it as a subparagraph (iv.1), for example, and similarly label the second part of the amendment as subparagraph (iv.2).

Again, I am not a drafting expert, but as written, the motion may indirectly restrict the original intent of proposed subparagraph (v), which was intended to provide some flexibility to the CRTC.

Thank you.

The Chair: Thank you, Mr. Smith.

I see, Mr. Rayes, your hand is up again. Did you want to ask another question, or did you want to go after Mr. Shields?

[*Translation*]

Mr. Alain Rayes: I'd like someone to clarify the comment I just heard.

[*English*]

The Chair: Before you do, for all members here, this happened last time. I started this thing with Ms. Harder. Ms. Harder was asking a question to the officials. I let it go back and forth as we would treat a normal witness, and before I was not doing that.

Let's set up this particular system as I do it on the fly. I apologize, but I want to get this thing running smoothly. If you're asking a question of the department, of the officials we have here, and you wish to counter that point or ask another question, physically put your hand up so that I know you're in a back-and-forth with that particular witness. Otherwise, I normally would go to the next person in line. Let's do it that way.

Is everybody okay with that? I see that everyone is.

Monsieur Rayes, why don't you go ahead? Then I'll go to Mr. Shields.

● (1310)

[*Translation*]

Mr. Alain Rayes: That's fine.

First, thank you for your explanation, Mr. Smith. Since I think you've put the ball right back in the legislative clerks' court, I'd like to hear what they have to say about the rest of your explanation.

Just before that, however, I'd like to ask you a direct question. Under this amendment, will the act make it clear whether social media sites will be considered?

[*English*]

Mr. Patrick Smith: Thank you for the question, Mr. Rayes.

The way that proposed section 9.1 is currently formulated makes it very clear the types of discoverability provisions required on undertakings that carry a social media service and those that don't. This specific amendment seems to be about information that shows how those recommendation systems or algorithms function. As a result, it's more about the functioning of those algorithms or the recommendation systems.

It's more focused in that stream, I would say.

The Chair: Okay. Mr Rayes, you have a look of puzzlement. I mean that in a nice kind of way.

[*Translation*]

Mr. Alain Rayes: How might that requirement apply to social media algorithms? A site like YouTube, for example, is updated several times a day. Could it be plausibly be applied?

[*English*]

Mr. Patrick Smith: For this to be an effective provision.... I understand what you're saying. These algorithms are constantly in flux, but I think the power speaks more generally to receiving broad information about how these algorithms work in a general sense. To get a precise snapshot of how an algorithm is working in the moment would be very difficult and likely impractical, because they do change and evolve over time based on user preferences. I would say that the motion as written is more of a general power to understand how these algorithms work.

[*Translation*]

The Chair: Thank you.

[*English*]

Mr. Shields.

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

Following up a little bit, I think you provided some excellent information on that from the department. When you see the phrase in there, “including Canadian programming”, how does separating that out as “Canadian programming” change the meaning of it? If you're talking about doing this, why would you separate out “including Canadian programming”? What are the repercussions?

Mr. Patrick Smith: Thank you for the question, Mr. Shields. I interpret this as more of a precision.

Mr. Champoux, I don't intend to speak to the intent of your motion, so I'd be happy to have you explain this as well.

I see two aspects to this motion. One is about transparency for recommendation systems in general. The second is about transparency in how they relate specifically to Canadian programming, so understanding how Canadian programming fits within a broader recommendation scheme employed by the platform.

Mr. Martin Shields: Just to follow up on that, would that, in a sense, be comparing what we see used internationally that's being used in Canada compared with what Canadians use? Would it be looking at what foreign ones do compared with what Canadian ones do?

Mr. Patrick Smith: I'm not sure I would say that. I think it's more about how they are delivering or recommending content broadly, all the programming on a platform to Canadians, and then how a subset of that programming—Canadian programming—is also being recommended to Canadians.

However, I would defer to Mr. Champoux on that.

● (1315)

Mr. Martin Shields: Maybe he can respond to that then. Thank you for your answer.

The Chair: Thank you, Mr. Shields.

Mr. Champoux, we'll go to you.

[*Translation*]

Mr. Martin Champoux: Thank you for that explanation, Mr. Smith.

Yes, Mr. Shields, the words “including Canadian programming” are added to clarify that point. I think that's one of our main concerns about the revision of this act. However, it's true that the subparagraph wouldn't necessarily lose its meaning, and would even afford a little more flexibility, if the words “including Canadian programming” were deleted.

In addition, further to the exchange between Mr. Smith and Mr. Rayes, I'd like to go back to a point concerning algorithms in general. We don't necessarily want to analyze, dissect or understand the algorithms because they are indeed changing, adaptive tools that can be updated several times a day. However, algorithms today are a predominant programming control tool and will be even more so in the future. They will likely become the tool most used by all broadcasters. If the CRTC isn't given access to all the tools it might ultimately need, including algorithms, we'll be missing an important element. I don't think we should deprive ourselves of that.

I also heard someone say there will definitely be considerable resistance from online undertakings because they view algorithms as trade secrets. However, this isn't the first time we've had to regulate sectors of the industry that have trade secrets. We nevertheless have to ensure regulatory compliance. Financial market authorities also have to deal with this kind of delicate information, and they manage to do so without betraying trade secrets.

I don't really think this is a problem we should fear, despite the potential outcry from online undertakings. It shouldn't prevent us from adding the tools the CRTC might need to do its job to the Broadcasting Act.

Thank you.

[*English*]

The Chair: Okay.

Mr. Shields, I'm assuming that your hand is still up from the last round.

I'll go to Mr. Manly.

Mr. Paul Manly (Nanaimo—Ladysmith, GP): Thank you.

I have a question for the specialists. I know that with TikTok videos, you can do 15-second videos and you can do three or four of them together to get 60 seconds. We've had TikTok videos that are maximum three minutes now. With Instagram you can do 60-second videos. Under the CRTC regulations for Canadian content, are videos under five minutes covered under the certification program for Canadian content, or are they covered under the act?

The Chair: I'm looking to Mr. Ripley.

Mr. Thomas Owen Ripley (Director General, Broadcasting, Copyright and Creative Marketplace Branch, Department of Canadian Heritage): Mr. Manly, with respect to the question of whether they would be caught under the act, the definition of "program" is broad in that it encompasses both audiovisual and audio content. It's clear that for the purposes of the act, there is no time limitation, necessarily, with respect to what may constitute a program.

With respect to the question about CAVCO certification, that answer I don't have at the tip of my finger in terms of whether there's a point in time when a video is too short that it cannot be certified as Canadian content. I don't have the answer for you on that one, at this time.

The Chair: Thank you.

Mr. Shields, can I get you to lower your hand if you're not asking a question unless you want back in? Oh, you want back in. Let me go to Mr. Waugh first and then to you.

Mr. Waugh.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Mr. Chair.

I need some clarification from the department, if I could. It's really not clear in this legislation whether or not social media companies are considered to exercise programming control over the user uploads. I guess to simplify it, do social media sites have programming control?

That question is for either Mr. Smith or Mr. Ripley.

● (1320)

The Chair: I'm looking to you, Mr. Smith. Go ahead.

Mr. Patrick Smith: Thank you, Mr. Chair.

Thanks for the question, Mr. Waugh.

Programming control, as I indicated earlier, is a defined term in the bill. Let me get the exact wording. It means:

> control over the selection of programs for transmission, but does not include control over the selection of a programming service for retransmission;

In the example of social media services, I could perhaps provide an illustrative example. There are many facets to YouTube's service. They have original programming that they themselves produce and are for all intents and purposes in a direct programming control function in that sense. They are producing it. They are commissioning it themselves, but then there is also the programming that is uploaded by users, over which they are not exercising any degree of programming control. I think that's maybe the easiest way to sort of separate the two items here.

The Chair: Okay.

We're going back to Mr. Shields.

Mr. Martin Shields: Thank you.

I'm just following up, Mr. Champoux, on how this plays in the sense of when you're talking about the possibility of divulging trade secrets and if they're foreign companies.

I know that on certain things that would come into a country, you're looking for specific information about products that may be coming in as to where they're built, what is the chemical composition and those types of things. I think that's a real interesting concept, but if.... I'm troubled in the sense of companies wanting to agree with you on that in particular. Do you believe that's something that the major tech companies would want to divulge even though you say it could be held in confidence?

The Chair: I see that we're going to Mr. Smith or Mr. Ripley.

Mr. Martin Shields: Mr. Champoux was the one who mentioned it. I just wondered if he wanted to respond.

The Chair: Okay. If that's the case, I'll look to Mr. Champoux. You have my apologies. I didn't catch that.

Mr. Champoux, would you like to interject? Then we'll go to Mr. Manly afterwards.

[*Translation*]

Mr. Martin Champoux: Absolutely.

Thank you, Mr. Shields.

I don't think we need to wonder whether undertakings may dislike the act. The question instead is how do we legislate and enforce the regulations we make.

We establish requirements under the act and hope the CRTC enforces those regulations. We also have to give the CRTC the tools it needs to verify properly whether the regulations are being enforced. We've previously adopted amendments requiring that online undertakings promote Canadian programming. So we need to create tools that enable the CRTC to do the necessary verifications.

Will online undertakings willingly provide access to their algorithms and books? We can definitely assume they won't be happy about it. However, they do business within a Canadian regulatory framework, and it's up to us to establish that framework.

Will undertakings be willing to show us the resources they use to comply with the regulations we make? It will probably be up to someone else to manage that. The potential reaction of the undertakings we want to include in our regulatory framework shouldn't be a factor preventing us from regulating them as we see fit.

[*English*]

The Chair: Mr. Manly.

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

I just want an answer to my first question to you, Mr. Ripley. I'm looking at the CRTC regulations right now. Under "What productions do not require CRTC certification?", it lists, "Commercially released music video clips of 5 minutes or less" and "Public service announcements, interstitials, and any other productions of less than 5 minutes". Just so this is clear, the CRTC regulations would not affect Instagram videos or audio. They would not affect TikTok videos.

We're talking about algorithms, and there is bias in these algorithms. A recent example was from May 5, the National Day of Awareness for Missing and Murdered Indigenous Women and Girls, Red Dress Day. Hundreds of people had their posts disappeared on Instagram and on Facebook. Activists and journalists who have been posting material about Palestinians, Crimea, Kashmir and central Sahara have had their posts disappeared by these algorithmic biases and automated content moderation.

We already have a serious problem with interference by corporate entities that are censoring Canadians, Canadian journalists and people who are trying to post about missing family members on Red Dress Day. The discussion around government interference is one thing, but we need to deal with this algorithmic interference by corporations who are censoring people. It's also come up a lot with people who are trying to share information about COVID. Whether we agree with it or not, people have a right to free speech. That includes all of these social justice movements that I mentioned. Black Lives Matter is another place where activists have complained about their posts being flagged or taken down by Facebook and Instagram. Twitter is doing the same thing. They are locking people's accounts and not letting them post. Facebook is doing the same thing.

Right here on Vancouver Island, we have activists who are fighting to save the last 1% of old-growth forest that is on the cutting block. There's less than 3% of that old-growth forest left. Activists who are posting are having their posts flagged by loggers and then having their accounts locked for 30 days.

We already have a problem of censorship from the corporate sector who controls this. This is not democracy. This is corporatocracy. We need to have a serious discussion about how this is being dealt with. Social media is not free speech. It is controlled by the corporations who own these platforms.

● (1325)

The Chair: Thank you, Mr. Manly.

Mr. Housefather.

Mr. Anthony Housefather (Mount Royal, Lib.): Thank you very much, Mr. Chair.

I wanted to get back to a pragmatic question. In response to Mr. Rayes, Mr. Smith stated that the numbering of the proposed amendment may not be the ideal place for it. I wanted to come back to that question. I'm wondering if Mr. Smith or Mr. Méla have a different preferred alternative in terms of paragraph numbering for this amendment.

It's not a question of substance. If it should be somewhere else with a different number, could you please let us know?

The Chair: Obviously, this would be a question for the legislative counsel.

I'll turn to Monsieur Méla, our legislative clerk, to shed more light on the particular issue of placement, which was brought up earlier by Mr. Smith.

Mr. Méla.

Mr. Philippe Méla (Legislative Clerk): Thank you, Mr. Chair.

[*Translation*]

Thank you for your question, Mr. Housefather.

I unfortunately don't see a better place to insert the wording of the amendment in question. As you know, amendments are drafted by legislative counsel. They're the ones who add the amendments to the bill where they see fit, having regard to members' demands. Personally, I don't have the necessary expertise to tell you where this wording should go.

[*English*]

The Chair: Okay.

Mr. Housefather, you mentioned Mr. Smith as well. Do you wish Mr. Smith to address your query?

Mr. Anthony Housefather: I do, only because Mr. Smith was the one who suggested it in the first place. If perhaps he has something to say, this will probably be the only time he gets to say it. He can let us know if he has a suggested location.

The Chair: That may be the case.

Mr. Smith.

Mr. Patrick Smith: The only reason I brought this up was because of the intent. The way that proposed subparagraph 9.1(1)(j)(v) is drafted, it is intended to be a paragraph that provides flexibility for the CRTC to consider other factors. The way that the provision is written, it seems to add a lot more specificity to that section now, which would alter the intent or purpose of that subparagraph.

I had indicated that perhaps the suggested motions could be severed into two parts, but I'm really not the person who should be directing where they go.

● (1330)

The Chair: Thank you, Mr. Smith. I'm sorry—were you finished?

Mr. Patrick Smith: I was. Thank you.

The Chair: I didn't mean to cut you off. I apologize.

Yes, they do place the amendments where they fit best, according to the drafting instructions of the members, so the drafting instructions are quite important when legislative counsel deals with this.

Mr. Shields, go ahead.

Mr. Martin Shields: Thank you.

Just one more time, Mr. Champoux, I appreciate the discussion on your particular point. One of the concerns I have is that maybe the big ones—maybe the biggest ones—have the ability to work with the CRTC and to provide that kind of information. My fear is that you're getting into a lot of the smaller platforms out there that creators go to. They may look at Canada and say, “We're not willing to go through this.” I'll give you an example.

We have Trikafta, which is a drug by a company called Vertex in the U.S. Because of the bureaucracy in Canada, or proposed bureaucracy, they will not yet bring that drug to Canada for cystic fibrosis patients, but it has a 90% cure rate.

Here's the other side of that. If we have a small market and we have a lot of creators who look to different types of smaller platforms, will they be willing to go through that kind of mechanism given their limited resources? We may lose out on platforms that creators could go to.

The Chair: I'm assuming you want to go to Mr. Champoux directly?

Mr. Martin Shields: Yes.

The Chair: Okay. Let's go to Mr. Champoux, and then, Mr. Aitchison, you'll be following that.

Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: I definitely understand my colleague Mr. Shields' concern. I understand that smaller undertakings that wish to explore and take advantage of our market might be impeded by the regulations we put in place. However, we nevertheless have to consider the specific characteristics of our country, in both the Canadian and Quebec contexts. Of course, I'm far more inclined to want to protect the French fact because that's the culture I live in every day. However, there are also the specific characteristics of Canadian culture. It's not just the francophone aspect; it's the anglophone aspect as well. We have a kind of tradition and a responsibility to protect it in our broadcasting market.

We introduce regulations that may not be that attractive or appealing to the smallest undertakings, for which compliance with these regulations may be a heavier administrative burden. However, the fact remains that we introduce them precisely in order to protect our culture here at home, in Quebec and Canada, and to promote the content our creators and artists generate.

We've also voted in favour of some of these amendments for that purpose, to require that broadcasting undertakings submit to certain practices, including discoverability and the promotion of francophone and Canadian content, as well as indigenous languages. We all agree on that. The obligations we've established may be even harder to meet for these smaller undertakings you refer to, which would like to relocate from foreign countries and carry on their undertakings in Canada. However, when they agree to take up that challenge, to come here and enrich us with their content and to introduce their clientele to ours, they also have to show how they intend to comply with our regulations.

I don't see that as a major obstacle at this point. Our system's already quite regulated. It's very different from that of the United States, for example, which may need less protection for its cultural identity. I think that's understood and accepted. There are countries like that elsewhere in the world as well.

As you say, large undertakings may be better equipped to comply with information confidentiality. Small undertakings nevertheless have ways to justify why they might need to keep certain information confidential. They have ways of preserving their information and trade secrets and of retaining their competitive advantages.

I don't think these requirements impose an undue burden, quite the contrary. They are part and parcel of the overall conditions that encourage undertakings to come and do business in Canada, take advantage of our market and provide us with their goods and services.

The idea here is simply to provide the CRTC with the necessary tools to ensure compliance with what we've already asked undertakings to do. These are merely tools that we are adding to the toolbox.

● (1335)

[*English*]

The Chair: Mr. Aitchison.

Mr. Scott Aitchison (Parry Sound—Muskoka, CPC): Thank you, Mr. Chair.

I have a bit of anxiety about giving the CRTC access to these algorithms.

I'd like to propose a subamendment, if I may. Is that possible right now?

The Chair: Yes, it is.

Mr. Scott Aitchison: Should I just read it into the record?

The Chair: If you have a copy, it would be great to pass it along, but to begin with, yes, please read it slowly into the record.

Mr. Scott Aitchison: Okay, here we go.

The subamendment would read that, in the first line of Mr. Champoux's amendment, after the words "broadcasting services" we would add "excluding social media services whose programs are primarily uploaded by users".

Then in his proposed subparagraph (vi), after the words "Canadian programming", we would add "with the exception of algorithms or other means used by a social media service to determine the presentation of programs uploaded by users of the social media service".

Is that as clear as mud?

The Chair: It's a bit of a mouthful, but nevertheless I understand what you're getting at. What you want to do is fairly straightforward, but the language is a little longer.

Do you have a copy of that in both languages?

Mr. Scott Aitchison: I believe we do, actually. If you give me a moment, I think we can get it to you.

The Chair: I have a couple of people who wish to speak to this. Let's do that first, and while we're doing that, you can send it to our clerk to distribute.

Mr. Louis.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): On that same topic, Mr. Chair, I am wondering whether we could have a copy of it in writing. For something that important, with that verbiage, this would let us study it.

It sounds as though it's on the way already, so thank you.

The Chair: Monsieur Champoux.

[*Translation*]

Mr. Martin Champoux: With regard to Mr. Aitchison's subamendment, I don't understand what would justify excluding social media undertakings from amendment BQ-23.

Amendments BQ-11 and G-8, which have been adopted, clearly state this requirement. Amendment BQ-11 proposes the following:

> (q) online undertakings must clearly promote and recommend Canadian programming, in both official languages as well as Indigenous languages, and ensure that any means of control of the programming generates results allowing its discovery;

So we weren't excluding social media. Before Mr. Aitchison moved this subamendment, we should have made substantial subamendments to those amendments, which then would have applied automatically to amendment BQ-23.

We adopted amendments like BQ-11 and G-8, but, based on what's been suggested, we wouldn't be giving the CRTC the same resources for verifying social media undertakings as for broadcasting undertakings in general. I'm trying to understand the logic. The same rules should apply to everyone in this case.

[*English*]

The Chair: Mr. Champoux, before I go to Mr. Boulerice, I'm just looking around. I know it is going to take a little bit of time for everyone to receive it.

Just as a reminder, this is a subamendment to amendment BQ-23, subamended by Mr. Aitchison. Given that, I'm assuming Mr. Boulerice would like to talk on it right now.

Let's go to Mr. Boulerice, and I'll update you as we go along about receiving a copy of it.

Mr. Boulerice.

[*Translation*]

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

I share Mr. Champoux's concerns regarding this subamendment. I think we all want to apply the principle of fairness in the broadcasting ecosystem. Excluding social media would be tantamount to denying the contemporary reality that social media are broadcasters. They are part of the digital broadcasting ecosystem and are bound increasingly to become broadcasters. By refusing to acknowledge that fact, we'd be maintaining a status quo that would undermine our system and our ability to invest in Quebec and Canadian cultural production. That would violate the principle involved in, and the very purpose of, modernizing the Broadcasting Act. This subamendment would be a step backward.

However, Mr. Champoux's amendment is entirely acceptable.

● (1340)

[*English*]

The Chair: Thank you.

Before I go to Mr. Rayes, I want to make sure that everyone has a good understanding of what we're discussing, because we are in the middle of discussing this subamendment.

I don't see any hands up showing that people want to stop for a moment, so I'm going to keep going with this.

Mr. Rayes is next.

[*Translation*]

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

I'm going to comment briefly on Mr. Champoux's remarks.

It's true that we initially didn't include this clarification in the other two amendments you mentioned. However, considering the initial version of the bill, its introduction by the minister and the version we have today, I don't think we're dealing with the same bill at all. Since the decision was made to delete clause 4.1 as initially proposed, we now have to add some clarification regarding social media.

I heard Mr. Boulerice say that social media will play a new role or an even more prominent role as broadcasters in future. I would remind you that all of us initially had the same objective for this broadcasting bill, which was to ensure that digital broadcasters such as Netflix, Spotify and Disney+, which are major players affording access to programs, documentaries and series, were subject to the act on the same fair basis as our conventional broadcasters, such as CTV, Global, Radio-Canada, TVA and others.

However, a change was made to include social media in the bill that raised concerns not only among the Conservative party, but also among many experts, former CRTC officials and university professors, as we've noted on several occasions. Like us, I believe you're getting increasing numbers of messages from concerned Canadians. More and more people are taking an interest in this issue as a result of our constructive, structured and extensive discussions in committee. The media are suddenly interested in this issue as a result of testimony by the Minister of Justice and theMinister of Canadian Heritage before the committee.

We're no longer talking just about multinationals, but also about users and the content they put online. Even the Minister of Justice declined to tell us, during his testimony, whether the Canadian Charter of Rights and Freedoms protected both individuals and the content they generate. He didn't want to venture an opinion on the matter after we produced, not a new legal opinion, but rather an explanatory document.

We've completely taken this new bill to another level, and we'll remain concerned until we've come up with an amendment to add section 9.2 to the act. Then we can determine whether it's possible to restore part of the content that was amended to ensure we protect freedom of expression and net neutrality, regardless of what it's called. These are topical and important issues.

As has been noted, we've been waiting for this bill for 30 years. We've heard the concerns of the cultural sector. There's a way to take them into consideration as well. The government is in no way prevented from supporting the cultural sector. I think it has to do so, and we all agree on that. No one is opposed to the idea of helping the cultural sector, not even Michael Geist, who was one of the country's biggest experts opposing this bill. And there are a lot of them; you need only to follow them on social media to see that's true. However, do we need to interfere with the Internet, and with these platforms that protect users, in order to help culture? They may be influencers, interlocutors or artists who, without being represented by certain groups, live solely from their work and aren't subsidized.

I'm satisfied that, over the next few minutes or meetings, we can discuss the opinion that the Minister of Justice has received requesting that he list all the platforms and apps that the CRTC would then have the authority to regulate. That even includes sports apps. While you were self-isolating, you may have downloaded a training app in an effort to stay in shape. That made me realize the impact of the bill we have before us.

Mr. Champoux, I think this is the only reason why we're concerned. Although we disagree on the very basis of the bill as it stands following the changes that have been made, we're trying in our own way to determine whether we can amend it and thus rectify the situation where we feel that's necessary.

I believe that's the intention behind this subamendment. I'm sure Mr. Aitchison can clarify it since he was the one who moved it. Personally, this is one of my concerns. I think we'll have to find a middle ground within the committee.

● (1345)

It wasn't talked about much in Quebec, but in my riding, people and artists who are on the web write me. For example, Mike Ward was upset by the fact that the government was trying to regulate the space where he is now disseminating his content. Some people might say that he's perhaps not the best example, but in my opinion, comedians are artists, just like singers, musicians and singer-songwriters. In my riding, there are artists who are only on social networks, have never asked for a grant and manage to earn a living. They want to be discovered not only by Canadians, but by the whole world. They are wondering about things and worried that other countries might be tempted to introduce similar regulations.

I think that's why we, and in fact many Canadians, are legitimately asking ourselves about all this.

I'll stop there, Mr. Chair.

[*English*]

The Chair: Before we proceed any further, yes, we do have a copy; no, you do not have it.

As you know, we passed a motion some time ago that anything sent to us has to be quality-checked with the translation bureau. We do not have a response yet from the translation bureau as to which translation to use. We have to wait for that, then, unless I can get permission to send it out.

I would have to have that permission unanimously, folks. I can't send it to you without its being checked by the translation bureau, if anyone disagrees. Does anybody object to my sending it out right now?

[*Translation*]

Mr. Martin Champoux: Could we please have the French version checked, Mr. Chair?

[*English*]

The Chair: That's perfect.

We now go on to Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you.

I believe we've strayed somewhat from the initial amendment, and even from Mr. Aitchison's subamendment.

I understand what Mr. Rayes is getting at. We've had the opportunity to properly understand the concerns about freedom of expression and all the discoverability issues raised over the past few weeks. It's true that some experts came to shore up our Conservative friends' version of things; other equally credible experts came to tell us otherwise. I can't speak for the entire committee, but I was very satisfied with some of the reassuring comments and opinions we heard, in particular those put forward by Mr. Pierre Trudel and Ms. Yale, who are also genuine experts and just as credible, in my opinion. We didn't get exactly what we were asking for from the minister, but we can nevertheless see that the information we've been given is rather credible. So I can understand how this might get people emotional here and there, but as far as I'm concerned, the matter is closed.

In response to Mr. Rayes, I would have to say that not one of my fellow citizens ever asked me that question. That doesn't mean that it can't be treated seriously, because people are worried about these issues. But I think we've dealt with their concerns.

As for Mr. Aitchison's subamendment, I understand that this too is related to apprehensions about freedom of expression and other issues. However, the requirements are there. They were in amendments BQ-11 and G-8, which were adopted. What we are proposing at the moment is simply a way of ensuring that they are implemented.

Let's look at a broadcasting undertaking like Netflix, which is required to generate Canadian content on its platform in Canada. It's only to be expected that the CRTC should be given the means to ensure that Netflix properly complies with whatever regulations it has agreed to. All we need is a mechanism to do so. It doesn't mean that the CRTC will have the power to investigate the trade secrets of broadcasting undertakings. Historically, the CRTC has not, to my knowledge, ever been that presumptuous and I don't think it's in the nature of the beast to do so in the near future.

So I think that fears like these are not necessarily justified in this instance. We're not trying to acquire means that would allow us to go and check that the regulations we are introducing are properly complied with. We don't want to pry. We simply want to make sure that the regulations we adopt are followed.

I'll stop there, because I think there are others who would like to comment.

● (1350)

[*English*]

The Chair: Thank you.

Mr. Aitchison.

Mr. Scott Aitchison: Thank you, Mr. Chair.

I just wanted to clarify.

I realize not everybody has this subamendment yet, but there are some key words in here that I'm wondering if Mr. Boulerice, for example, or Mr. Champoux didn't quite catch. We were talking about social media whose programs are primarily uploaded by users—primarily uploaded by users. It's a very specific subamendment that speaks to individual users.

I think the subamendment is a minor tweak to Mr. Champoux's amendment, but it actually helps us get this whole bill back in line with the memo that was produced by the deputy minister's office back in December, which talked about how social media was exempt from this particular bill but could be regulated if, in fact, it was acting as a broadcaster. However, it would still provide the exemption for individual users, so Mr. Champoux is quite correct.

This is about individual users. This is about freedom of expression. This is about freedom of speech online. It's not about trying to find a loophole for big broadcasters or big streaming giants to use social media tools to get around the various different big government rules that we're trying to put in. It's another example of identifying specific individual users and putting more tools in place to protect the individual users.

I'll come back to this again. I just think we have to be really careful. I hear so many comments about how we don't think the CRTC would do this or it's not in the CRTC's nature to do that. I just don't think it's wise for legislators to put legislation in place that would leave any question whatsoever about whether the CRTC might be inclined to do something it shouldn't do.

That's all this is. It speaks very specifically to those whose programs are primarily uploaded by users. It's very specific. I'm not entirely sure why there would be a problem with that.

The Chair: Before we go any further, folks, this is just a reminder. When we're on this subamendment put forward by Mr. Aitchison, I'm going to do a brief paraphrase, without using the exact wording.

Basically, on line 2, on page 8 of the general amendment, on the subamendment Mr. Aitchison wants to include “excluding social media services” and in part (vi) also wants to speak of the exception of social media services.

It's a light paraphrase. I apologize.

I'm going to go to Ms. Dabrusin.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you, Mr. Chair.

With this subamendment, which I don't believe we have the text to yet, as we've talked about before, I was just wondering if we could have a brief suspension. Beyond the fact that we're close to the one-hour health break point, it would also give me a chance to look at where we are with this whole debate.

The Chair: Okay, we'll do that.

I don't have anything back from the translation bureau as of yet regarding the subamendment, but—

Mr. Anthony Housefather: Mr. Chair, before we break, I just have a point of order, or rather a question.

The Chair: I just want to finish that sentence.

I'm not sure when we'll get that back from translation. What we'll do is, when we come back, I'll get Mr. Aitchison to repeat it one more time.

Mr. Housefather.

Mr. Anthony Housefather: I'm sorry, Mr. Chair. Just in terms of speeding things along, I just wanted to query where Mr. Aitchison got the original translation. Mr. Aitchison probably didn't translate it himself, and his office may have sent it to the translation bureau to start with.

Can we just get a clarification? Was it the translation bureau that did the original translation?

● (1355)

Mr. Scott Aitchison: No, I do not believe it was translated by the translation bureau. It was translated, and I understand we have to get it checked now.

The Chair: Yes, that is correct. I'm sorry. We have to get it checked.

Mr. Anthony Housefather: Thank you. I just wanted to check.

The Chair: What we can do is read it into the record again, Mr. Aitchison, when we return.

Folks, I know it's normally five minutes, but let's do the off-screen, on-screen business.

Go off screen for your break, and when you're ready to come back in—I ask you to please keep it within five minutes—turn your screen back on.

Thanks everybody. We'll break for about five minutes.

● (1355)

_____________________(Pause)_____________________

● (1405)

The Chair: Welcome back, everybody.

We just received an update from the translation bureau. I want to explain something to you before we go any further, because it looks like the translation bureau is quite swamped, and as of right now, it's going to be a while.

However, as was pointed out to me—and I did not realize this—we've contacted the law clerk's office. The law clerk has people working for the translation bureau—within the law clerk's office, not the translation bureau office itself. I hope this becomes crystal clear.

We have asked the folks who work in the law clerk's office who are translators to have a look at the subamendment. They will get to us as soon as possible. Hopefully, that will be shortly. I like to think that still respects the motion that we passed to have this quality-tested.

Mr. Champoux, since I see your hand is up. It was your motion to begin with, and I hope that satisfies what you were hoping for on the translation side, sir.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, would it be possible to have the version that Mr. Aitchison provided to the committee with a translation? It hasn't been checked, but we could use it as a working tool, provisionally of course, so as not to slow things down unduly.

Could we have a look at this version to see whether we are happy with it for the time being?

[*English*]

The Chair: Let me try this one more time.

Is it okay if I have the clerk send everyone the initial copy from Mr. Aitchison? I need unanimous consent. Does anybody disagree with that? Okay, there is no resistance.

Madam Clerk, the version that was sent to us by Mr. Aitchison, can you please send that?

I will also let everyone know when we receive the actual quality-tested translation from the law clerk's office.

At this point, I think I left off with Mr. Aitchison. I don't see his hand up, but he was next in line to speak.

Mr. Aitchison, would you like to speak? You have the floor.

● (1410)

Mr. Scott Aitchison: I'm happy to talk ad nauseam, but I don't want to sicken you all.

I'm just going to say, Mr. Chair, that at the commencement of our break, you indicated that you thought maybe I could reread my subamendment to Mr. Champoux's amendment into the record, but I question whether that's necessary anymore if, in fact, a printed copy, though not checked for translation, is being sent out to everybody. Will that suffice?

I defer to my colleagues who maybe don't want to listen to me any more than they have to.

The Chair: I thought you wanted to speak further on it. I was going to ask you to read it into the record.

Mr. Scott Aitchison: I may yet, but I just.... That's what you were asking me to do.

The Chair: I've just been notified that it has been sent. You have it.

Again, while you're looking that over, I will tell everyone who is looking upon us through all things Internet that what we're working on right now originally was an amendment from the Bloc Québécois, from Mr. Champoux. It is what we call BQ-23. In the middle of the debate, we had a subamendment to BQ-23 proposed by Mr. Aitchison.

Right now, you all have a copy of that. I can see you all studiously reading it.

While you read that, I would just like to take this moment to thank the people who join us each and every meeting and do such a wonderful job. In addition to our committee clerk, as well as our legislative clerk, I want to say thank you to Mr. Thomas Ripley, director general, broadcasting, copyright and creative marketplace branch; Mr. Drew Olsen, senior director, marketplace and legislative policy; Kathy Tsui, manager, industry and social policy, broadcasting, copyright and creative marketplace branch; and Patrick Smith, senior analyst, marketplace and legislative policy.

Folks, I don't see any hands up for further discussion right now. Because you have a general understanding and because of the fact that you do have the subamendment, I'm going to go to a vote on the subamendment because, even as a former TV weatherman, I can't delay it any further.

While we do that....

I've just been told to wait by the legislative clerk.

Monsieur Méla.

Mr. Philippe Méla: I'm sorry, Mr. Chair. I would just like to review the amendment. I think there is a mistake in terms of lines and where it fits, so I will take a few minutes. The French version doesn't see much change. The English is where I'm getting that.

The Chair: Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: That's exactly what I wanted to say. There would appear to be a mistake. I'd like some clarification.

I see subamendment 1 and subamendment 4 in the document I received from the clerk. Is that a mistake, or am I the one who's confused?

[*English*]

The Chair: No, I think that is the version we received from Mr. Aitchison, I believe.

Our clerk sent out, by unanimous consent, what she received from Mr. Aitchison, so that's what you have right now. We still don't have the quality-checked version from members of the translation bureau.

Mr. Rayes, do you want to continue? I see your hand is still up.

It appears that we have to work through that right now, before we move along. In the meantime, for the sake of clarification, perhaps Mr. Aitchison would like to read it again. I know I asked earlier for Mr. Aitchison to read it into the record.

● (1415)

Mr. Scott Aitchison: I would be happy to do that.

I'm sorry. I'm going to correct you again on the pronunciation of my name.

The Chair: Oh, you have my apologies. You know—

Mr. Scott Aitchison: You've been doing it so well for so long and then, I don't know, maybe you're tired. I understand. It's been a long day.

The Chair: No, you're being very generous. I have massacred your name all ways to Sunday, so thank you for the correction once again, Mr. Aitchison.

Mr. Scott Aitchison: You could just call me Scott number three or something like that, if you'd like.

The Chair: Go ahead, sir.

Mr. Scott Aitchison: Thank you, Mr. Chair.

If it's easier, maybe what I will do is just read the whole thing.

Our subamendment would read this way: “broadcasting services, excluding social media services whose programs are primarily uploaded by users, including any information related to any means of programming control, and” in proposed subparagraph (vi), “information related to any means of promoting, recommending or selecting programming, including Canadian programming, with the exception of algorithms or other means used by a social media service to determine the presentation of programs uploaded by users of the social media service.”

The Chair: Thank you.

Go ahead, Mr. Housefather.

Mr. Anthony Housefather: Thank you, Mr. Chair.

I have looked through what we received, and it looks like the clerk circulated two different amendments. One is the subamendment recently proposed by Mr. Aitchison, and one is a different subamendment for a different amendment that I guess he intends to propose at some future time.

In addition, in the French version, there is an explanation as to the purpose of the subamendment, but it is not part of the subamendment.

If it helps Mr. Méla, there is a lot of superfluous language, but I do believe the French translation of the subamendment Mr. Aitchison put forward is correct.

There is then superfluous information after it and an additional amendment that he didn't mean to move all buried in what the clerk sent us.

The Chair: Thank you.

Go ahead, Mr. Boulerice.

[*Translation*]

Mr. Alexandre Boulerice: You're right. In the document we received, not only is there subamendment 1 but also subamendment 4, which is about something else. Not only that, but after the subamendment, there is an explanation, some arguments and even an editorial comment about the importance of the subamendment.

Are we supposed to vote on the comments too, or just the subamendment?

[*English*]

The Chair: We're voting on the subamendment, but I thank you for that. It is very nice of you to say.

I'm going to ask Mr. Méla to jump in. He is our legislative clerk, and he may grant some sunshine on this.

Thank you, Mr. Méla.

Mr. Philippe Méla: Thank you, Mr. Chair.

In the French version, as pointed out by Mr. Housefather, indeed, there are explanations at the end, after the quotation marks. There are two lines of explanation that don't belong in the subamendment, so that would be that.

In terms of the lines, it says:

[*Translation*]

"Que le projet de loi C-10, à l'article 7, soit modifié par substitution, à la ligne 2, page 8 [...]"

[*English*]

That would be, in fact, line 40 on page 7, because you removed the term “*radiodiffusion*” in French, so the amendment needs to start at “*radiodiffusion*” and takes off “*services de*”. Otherwise, you would have “*services de services de radiodiffusion*” once it was all included in the text of the bill.

The other problem is that the text you have received from Mr. Aitchison is the text once the amendment of Mr. Champoux is amended, where you need to vote on the subamendment first and then, if adopted, the amendment as amended. There are two things here. If you vote on the amendment as proposed by Mr. Aitchison—what you have received—the French incorporates the whole thing. The English incorporates the whole thing as well, rather than having subamendments as it should be.

Basically, in English it should read that the amendment be amended by adding after “broadcasting services”, the following...and that would be “excluding social media” and so on. Then it would continue that the amendment be amended by adding after “Canadian programming”, the following.... Then you would vote on that. If that's adopted, then you would vote on the amendment as amended, which would look like what Mr. Aitchison sent us.

I hope that's clear.

● (1420)

The Chair: That basically outlines what we're voting on.

Just to be clear, and it may not have been communicated in the recent email you received from us about this, we're voting on this subamendment. We've explained this now a few times. I really would like to have word from our law clerk, but we don't have word as of yet as to how the translation's going to go through.

I'm sorry, folks. That is the motion that was passed by this committee, so I'm going to have to stick with that for now and wait until we get the translation before we vote on that.

In the meantime, I want to say a big welcome to Mr. Regan, who's a special guest today from the riding of Halifax West. I believe that's right.

Hon. Geoff Regan (Halifax West, Lib.): Yes, Mr. Chairman, that's the correct riding. Congratulations. Of course, you've only known me for—what?—a decade and a half or so now. I forget.

The Chair: Yes, I know, my friend. If we were here any longer, we'd be called senators.

In the absence of the translation, with your permission, we could proceed to a vote. I'm somewhat reticent to do that, for obvious reasons.

I'm going to go to Mr. Champoux right now.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, while waiting for the translation to be checked and confirmed, I'd like to speak briefly about the CRTC's handling of confidential documents and information.

This is something that already happens. The CRTC often receives requests from companies to keep information confidential. This happens frequently, and the CRTC often takes this into account for companies. Today's algorithms are probably what accounting records looked like at a certain period. I might be talking through my hat, but I would imagine that there have always been trade secrets and confidentiality to protect; it's the technology and business practices that have been changing.

I believe that government and regulatory organizations have always taken this into account for companies. I personally don't find it worrisome at all that the CRTC might, one day or another, need to request access to this type of information with due regard to any future corporate requests for the confidentiality of some information they consider more sensitive. However, this doesn't mean that it will be done systematically.

The CRTC already has that in its arsenal, and it is part of its normal working procedures. It seems to me that we are depriving ourselves once again of an extremely useful mechanism that would ensure we can monitor the implementation of the regulations we are putting in place on the basis of a fear that is not really well-founded. I have no doubt that the CRTC is fully capable of handling confidentiality cases when undertakings request it.

I wanted to comment on this before the vote on this subamendment, which I feel is superfluous. I don't think that it's necessary. On the other hand, the algorithms should be part of the information to which the CRTC has access if required.

Thank you.

[*English*]

The Chair: Mr. Aitchison.

Mr. Scott Aitchison: Thank you, Mr. Chair.

I wanted to express my absolute joy at what Mr. Champoux just said. He said that he thought that my subamendment was superfluous. He didn't say it was a bad idea. He just said it doesn't make any difference basically. From what I understand, that's what superfluous means in English.

I'm wondering if maybe he's inclined to vote in favour of it because to him it makes no difference and, therefore, he's comfortable with it.

Again, I guess we're still in a translation hell here, but does it mean the same thing? Did I understand exactly what he said there?

● (1425)

The Chair: I read here, “being more than is sufficient or required; excessive” and “unnecessary or needless” is the second meaning. This is straight from the dictionary as per my phone.

Mr. Shields.

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

I would back you up on the position that we need both languages officially translated for a vote. I've been on both sides of these issues many times in committee. When we err and do it the wrong way, there are repercussions. We should follow the rules, and I would support you in doing that.

The Chair: You are absolutely correct, Mr. Shields, if I may be so biased in a neutral position.

Mr. Boulerice.

[*Translation*]

Mr. Alexandre Boulerice: Thank you, Mr. Chair.

I can understand Mr. Aitchison's sudden expression of joy. However, I don't think he has properly understood Mr. Champoux's intent.

With respect to the subamendment and this exemption for social media, I'd like to repeat some recent comments from our former colleague, Andrew Cash, who is now the director of the Canadian Independent Music Association. The largest music streaming platform for singers is YouTube, not Spotify. We don't understand how a system could regulate Spotify, but not YouTube, which is in fact the largest platform for this category of artists.

I just wanted to remind everyone of this, Mr. Chair.

[*English*]

The Chair: Mr. Manly.

Mr. Paul Manly: I'd just like to say that I would like to see the CRTC have the ability to examine these algorithms and find out how Canadians are being censored, because that is in fact what's happening on the Internet on these platforms.

They're using automated content moderation. There is algorithmic bias, and we have a perfect example on May 5, the National Day of Awareness of Missing and Murdered Indigenous Women and Girls, Red Dress Day, where hundreds of posts were disappeared off Instagram and Facebook. How did that happen? It would be good to examine that. It would be good to examine and for the CRTC to be able to see how free speech is actually being manipulated. We've seen organizations like Cambridge Analytica undermining the democracy of the U.K.

We need to—

[*Translation*]

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

I don't want to challenge Mr. Manly's arguments, but I think we're somewhere else entirely. We're talking about allowing the CRTC to check whether broadcasting undertakings are complying with creative content regulations. We're certainly not talking about allowing the CRTC to have control over what users put online. That's an entirely different matter.

I'd like to thank Mr. Manly for his contribution to the debate, but it's important to remain within the boundaries of the discussion because at the moment, we're somewhere else entirely. I think that we need to return to the subject at hand, which is broadcasting undertakings, cultural, artistic, music and audiovisual content, and our Canadian and Quebec artists and creators. We will certainly need several meetings to talk about all these other things, but I think that at the moment, we've gone off topic.

The Chair: Thank you, Mr. Champoux.

[*English*]

Yes, that's a good point.

Mr. Manly, I noticed we were drifting aboard.

Mr. Paul Manly: We are talking about the exemption—

The Chair: Mr. Manly, if I may finish.... I'm the type of farmer who truly believes in free-ranging, but I'm afraid you're just going to have to stay on this farm. You can't leave the farm; I'm sorry.

You were drifting madly off in different directions for a moment, so I'm going to have to ask you to restrain yourself. You still have the floor, so please go ahead.

Mr. Paul Manly: We are talking about a subamendment that exempts algorithms. I'm just saying that I don't think this information should be exempt. This information should be available. That's my point, and I think I've made it fairly clear.

Thank you.

The Chair: Okay.

Mr. Housefather.

● (1430)

Mr. Anthony Housefather: Mr. Chairman, I'm going to try to stay on the farm here, but I just had some procedural things that I wanted to raise. Of course, we now are an hour and a half into the meeting, and we haven't gotten past one relatively simple amendment.

One of the issues, which seems to be a sticking point, is the very long delay for translation. I could have translated the document five times now since we received it from Mr. Aitchison.

Would it be possible at all, Mr. Chair—and I know it's very hard logistically—to have a translator available when the committee is doing clause-by-clause? For example, we're lucky enough to have a terrific clerk and a terrific legislative clerk here. Could we also, perhaps, ask if we could have a translator here so that nothing would be slowed down to this extent simply because somebody proposes a subamendment? This is really a long wait to receive a translation. It's now been 45 minutes since Mr. Aitchison proposed it.

Finishing that up, I believe that the translation is actually okay with respect to the way the clause is. Other than the lines being wrong in the French version, the actual translation is okay.

It's just a suggestion, Mr. Chair, for the next time, if we could.

The Chair: Mr. Housefather, with all due respect, this is not in any way disparaging towards your abilities to translate, but I'm afraid it's not your job to do so. We have a process here. We have people who are hired. They are experts in the field. It is exclusive to them to do this type of work.

We passed this motion to have it quality-checked by our translation bureau, as put forward by Mr. Champoux. The committee accepted that, and we're going to do that.

In saying that, I have endeavoured to look at the possibility of providing someone on a full-time basis. I will continue to look for that. It does have some precedent because I've seen it happen before, so I'm going to look into that. Thank you for that.

Now, that's all the bad news. The good news is that we have it. I should have led with that. I didn't mean to bury the lead, but we do have it.

I'm going to ask the clerk to now distribute it.

Mr. Méla.

Mr. Philippe Méla: Thank you, Mr. Chair.

I just forwarded the amendment to my colleague. I want to point out that the translator translated literally—not literally, because she's a legal translator—what the amendment of Mr. Aitchison would look like in French, if that would be of any help.

The first vote would be on the underlined parts, which are the subamendments. If these are adopted, then the whole thing would be voted on, which would become the amendment as amended.

I hope that was clear.

The Chair: Yes. I want to see some nodding heads and a thumbs-up if you have received the correspondence we received.

Looking around, I may be so bold to say that we have a pretty genuine understanding right now of what it is we're talking about.

Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: Mr. Chair, you may think that I can't let this go, but the English version I've just received includes subamendments 1 and 4, while the French version contains only the information for subamendment 1. The two versions don't match. I'd like my colleagues to tell me whether I'm the only one not to have received the right version.

Perhaps my friend Mr. Housefather could tell me if I'm wrong?

Mr. Anthony Housefather: No, you're absolutely right.

Mr. Alain Rayes: Okay, it's…

Mr. Anthony Housefather: We have subamendment 4 in the English version…

[*English*]

The Chair: Wait one second, please.

Mr. Housefather, do you want to comment on that?

Mr. Anthony Housefather: I'm sorry, Mr. Chair.

I was just seeing the same thing. Subamendment 4 is included in the English version. Mr. Rayes is correct, but he can just disregard subamendment 4, I think, because subamendment 1 is there in English and subamendment 1 is there in French.

● (1435)

The Chair: That is correct. To be quite honest, because I'm staring at the screen trying to farm my farm, I haven't seen it. I'm assuming that yes, subamendment 4....

Mr. Regan.

Hon. Geoff Regan: Mr. Chair, would I be correct in thinking that subamendment 4 has not been moved?

The Chair: That is correct, because you can't move a second subamendment when we're still on the other subamendment. What you're reading of course is just....

Mr. Méla, go ahead.

Mr. Philippe Méla: Thank you, Mr. Chair.

I just sent my colleague a cleaner version where you have only subamendment 1 in English and subamendment 1 in French. It should come to you shortly.

The Chair: Mr. Housefather.

Mr. Anthony Housefather: I apologize, Mr. Méla. We want to get it correct.

[*Translation*]

I'd like to draw your attention to the fact that, unfortunately, you have once again left the explanation added by the Conservative party at the bottom of the English version of the subamendment. There are accordingly some superfluous lines, explaining that it's the most important and relevant subamendment from the Conservatives. This explanation should be deleted.

[*English*]

The Chair: Mr. Méla.

Mr. Philippe Méla: Another email is going to be sent to you shortly. Ignore the first one.

In the new one, you'll just have the subamendment in English and the subamendment in French underneath, and that's it. There's nothing else.

The Chair: Mr. Housefather, your hand is still up. Did you want to add to that?

Mr. Anthony Housefather: No, Mr. Chair, I don't want to prolong it. I just didn't receive that one yet. I received the new one that does have the explanations, so I received a second time something that does have the explanation. I just want to make clear that the explanation is not part of the subamendment.

The Chair: That's correct. That's what we're endeavouring to do right now. Thank you.

Mr. Waugh.

Mr. Kevin Waugh: Thanks, Mr. Chair.

We apologize for the Conservative angle on this. It is Friday. Usually that's not included.

Anyway, we apologize for that explanation.

The Chair: Mr. Waugh, I don't accept your apology because I don't think one is really required. I thank you for trying, nevertheless.

The latest version has just been sent. Check your inboxes, please.

In the meantime, we'll go to Mr. Boulerice.

[*Translation*]

Mr. Alexandre Boulerice: I just want to point out that the latest version has in fact reached us. I've received it.

[*English*]

The Chair: I'm seeing a lot of thumbs and nodding heads. In the world of Zoom that usually means yes.

I'm assuming that everyone would like to take a quick read and make sure everything is in order. I think the genuine understanding is there.

For those of you who are watching from afar and wondering what the heck is going on—and there are probably a few of you—we have BQ-23. It's a motion proposed by the Bloc Québécois by Mr. Champoux. Now we're working on a proposed subamendment from Mr. Aitchison.

Now that you have a copy of that, I guess it would be safe to assume that we are ready to go to a vote.

(Subamendment negatived: nays 7; yeas 4)

The Chair: We now return to the main motion. Once again, we are on amendment BQ-23.

Do I see any further debates?

Seeing none, we now go to a vote. Shall amendment BQ-23 carry?

● (1440)

Mr. Martin Shields: No.

The Chair: Hearing no, Madam Clerk, we will go to a recorded vote.

(Amendment negatived: nays 9; yeas 2)

The Chair: Now we move to amendment CPC-9.

Mr. Rayes.

[*Translation*]

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

I believe my colleague Mr. Boulerice has his hand up. Could you allow him to speak?

[*English*]

The Chair: Mr. Boulerice, do you have something to say before Mr. Rayes moves his motion?

[*Translation*]

Mr. Alexandre Boulerice: Mr. Chair, my question is about procedure and about consistency in the adoption of the amendments.

We think that we should be studying amendment CPC-12 before studying amendment CPC-9, because amendment CPC-12 would change clause 46 by adding some elements. Amendment CPC-9 refers to unamended clause 46.

I humbly submit the following question. Ought we not, out of concern for consistency and ensuring that we are talking about the right clause 46, adopt the Conservatives' amendment CPC-12 before moving on to amendment CPC-9?

[*English*]

The Chair: Before I weigh in on that, I'm going to go to Mr. Louis first.

Mr. Tim Louis: Thank you, Mr. Chair.

I'm not sure of the order, but I know that when amendment CPC-9 came up.... I believe that this one is inadmissible. It's not really in the scope of the bill. Can we bring it up now?

The Chair: No, I don't think you're in the right spot right now. I have to make a ruling on whether it goes ahead or not, but I thank you for your intervention.

That being said, this is a motion that's going to be put forward by Mr. Rayes.

I'm sorry, Mr. Louis. Let me explain further. I think Mr. Rayes has a chance to move his motion and talk about it before a ruling takes place. Then, if the ruling is that it is admissible, we proceed. If it is inadmissible, I'll make that ruling, and then the option is not to debate but to challenge the ruling.

Mr. Rayes, you have the floor on amendment CPC-9.

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair for clarifying that.

I think that we're all learning something about procedure. From the outset, I could tell that you have a great deal of experience. I had the opportunity to replace you once and it was quite an exercise for me. I'd like to take this moment to congratulate you and to thank the experts who have have assisted us. I believe that it's important to take the time to thank you for your work.

Here is the amendment I am proposing:

> That Bill C-10, in Clause 7, be amended by adding after line 2 on page 8, the following:
>
> (k) the provision to the Commission, by the Corporation, of any information that the Commission considers necessary to determine whether the Corporation has satisfied the public interest criteria set out in subsection 46(6) and may proceed with the introduction of a new undertaking or activity.

I'm not sure whether you would like me to give my explanations right now. Mr. Louis implied that you might rule the amendment inadmissible. I hope that's not the case and that we will be able to debate it. I'll have further explanations to give afterwards.

[*English*]

The Chair: Basically, if I make a ruling one way or the other, we can't comment on it afterwards. Have you exhausted your thoughts concerning amendment CPC-9?

[*Translation*]

Mr. Alain Rayes: If you will allow me to, I'd like to make a very short comment. I don't want to drag out my presentation, because you asked us to be brief.

This amendment gives the CRTC—you'll be surprised, because it's unusual for us to ask that the CRTC be given additional power—more power to review the activities of CBC/Radio-Canada “in order”, I would like to emphasize, to ensure that it fulfils its mandate as a public broadcaster very strictly. We're not reviewing the role or the mandate of the public broadcaster, but would like to make sure that, through the CRTC, it observes the mandate entrusted to it. We have seen some instances where the corporation launched new programs that were challenged, even by broadcasting stakeholders. We would like to ensure that the bill takes this into account.

Thank you, Mr. Chair.

● (1445)

[*English*]

The Chair: Before we discuss this any further, I would like to ask a question. I get to do that once in a while.

Mr. Ripley, feel free to pass this to any one of your other officials, but again, I'll keep this within the realm of the officials. My question is quite succinct. This goes to the mandate of the CBC, the Canadian Broadcasting Corporation.

In the form of the original bill, how does Bill C-10 affect the mandate of the CBC?

Mr. Thomas Owen Ripley: If I understand what's taking place, Mr. Rayes has tabled an amendment that alludes to a future amendment that introduces, I think, something along the lines of a public interest test for the corporation.

The changes with respect to CBC/Radio-Canada in Bill C-10, as it was tabled, were very limited in the sense that the government acknowledged that there were recommendations in the Yale report with respect to CBC/Radio-Canada, but that it was not including CBC/Radio-Canada within the scope of Bill C-10 for the most part and that the role and mandate of CBC/Radio-Canada would be looked at in a future phase of reform.

The only change that was made that affected CBC/Radio-Canada flows from the expansion of the CRTC's jurisdiction over online undertakings. Right now, the mandate of CBC/Radio-Canada refers specifically to radio and television. There is a limited change being made in that context to talk about broadcasting services more broadly, to reflect the fact that CBC obviously operates as CBC Gem and ICI TOU.TV, and those are online undertakings. To ensure that the CRTC would have jurisdiction over those was the only change we proposed that affects CBC/Radio-Canada in Bill C-10.

Flowing from that, Mr. Chair, indirectly of course, CBC/Radio-Canada would also be subject to the AMP regime, the administrative monetary penalty regime, that's been put in place. All broadcasters, for example CBC/Radio-Canada, would be subject to that.

The Chair: Mr. Ripley, I want to thank you very much for that.

I wanted to put the cards on the table on exactly what we're doing here. I want to continue further if you will indulge me for just a moment.

What this amendment does is that it adds a condition that the commission may impose by orders. It adds that the CBC shall provide information demonstrating that the corporation, the CBC/Radio-Canada, has met public service criteria set out in proposed subsection 46(6) of the act, which is in CPC-12.

Let me go back to what was mentioned earlier. Of course, yes, they tie in to each other: CPC-9, CPC-10 and CPC-12, which would be proposed later. In other words, we're getting into the main part of it. Yes, it was mentioned earlier that CPC-12 is the main instigator. That is true.

Right now what I'm dealing with is CPC-9, which is a part of that, and my ruling will encompass all three: CPC-9, CPC-10 and CPC-12.

If you look on page 770 of this.... You have my apologies for using a prop, but this, of course, is the *House of Commons Procedure and Practice*. Page 770 states quite simply that we cannot go beyond the principle and the scope of the bill, because we've already voted yes at second reading.

Therefore, it is my ruling that this particular amendment does go beyond the scope and principle of the bill regarding the corporation.

Once again, I'd like to remind everyone, if you'd turn to look at your hymn books once more, you'll see that this is a ruling on CPC-9, which is inadmissible. This also applies to CPC-10 and also CPC-12, which go beyond the principle and the scope of the bill.

I see a lot of hands up. Unfortunately, I can't go into a debate on that. However, there is one option that you have. Is everyone okay with that? All right.

If you look at your song sheets, we would normally go on to BQ-24, but because BQ-1 was carried some time ago, BQ-1 also applied to BQ-24. Therefore, that brings us to BQ-25.

On BQ-25, we have Monsieur Champoux, please.

● (1450)

[*Translation*]

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

Here is the wording of amendment BQ-25:

> That Bill C-10, in Clause 7, be amended by adding after line 2 on page 8 the following:
>
> (1.1) The Commission may amend the term or conditions of any order made under subsection (1).
>
> (1.2) The Commission may also suspend or revoke any order made under subsection (1) or renew it for a term not exceeding seven years and subject to the conditions that comply with that subsection.

We are clearly not talking about requiring the commission to review all of the orders it has issued every seven years—not at all. This would be an absolutely painstaking task to which an organization like this ought not to be subjected.

However, we would like to give the CRTC the ability to do so. For example, if there were an undertaking whose name came up frequently in complaints or which was suspected of non-compliance with respect to some of the CRTC's orders, we would like to allow the commission to review the term of these orders and have this weapon in its arsenal to be able to monitor the organization's regulatory compliance.

[*English*]

The Chair: Ms. Dabrusin.

Ms. Julie Dabrusin: Thank you, Mr. Chair.

Looking at this, it looks like it just adds another bureaucratic element without its being necessary.

I was wondering, though, if I could get some clarification from the department as to how this would interplay and if this is a necessary addition that would add those teeth.

The Chair: Mr. Ripley, go ahead, please.

Mr. Thomas Owen Ripley: Thank you, Mr. Chair, and thank you for the question.

One observation I would have is—I heard Monsieur Champoux express that this wasn't his intention, but the concern would be—that this potentially imposes a seven-year cap on all proposed section 9.1 orders.

I certainly understand that the spirit of this is to ensure that the CRTC reviews orders from time to time. I would remind the committee, though, that there are a number of different kinds of section 9.1 orders, which will vary in importance. Obviously, some may be quite important in terms of their impact, but there will be others that are more minor. The question becomes whether the intention is really to impose an obligation on the CRTC to review every order on its books.

That would be one observation. The second one would simply concern the language about “conditions” of any order.

I believe the spirit there is to say “may amend any order”, rather than the “term or conditions” of it. I think Monsieur Champoux was just speaking about the ability to change an order.

Those would be my two observations, Mr. Chair.

● (1455)

The Chair: Mr. Waugh.

Mr. Kevin Waugh: Thank you, Chair.

I want to thank Mr. Ripley for that.

It's an interesting clause that Mr. Champoux puts forward. Many of us in the broadcasting field have often thought that the CRTC needs a deadline for renewals. We have seen, countless times, where you get the licence and then you walk away and don't do what was talked about in the licence. Then they'll come back in year six and look at the licence and make sure that they get the stamp for the next seven years.

I think we need some regulation of this. I don't think we need to give underlings and conventional broadcasters.... They have to be accountable to people, and I think the CRTC has to be accountable to people. To give a “we'll get back to you when you're doing something bad” isn't what I would do. I think there has to be a provision to look at everything in the CRTC's purview.

That's why, in a way, I don't know that I would support this, Mr. Champoux. I think the CRTC needs to be accountable not only to Canadians but to broadcasters and those online. Making sure that they have a deadline, whether it's five, four or seven years, gives the CRTC time to know that they're going to visit everybody. I think that's important. It's important for executives of Netflix and Amazon and all those companies to know that Big Brother is in fact looking over their shoulder—not every day, but there will be provisions here where they will sit down and look at what they've done over the past seven years.

That's just my thought. I think it's not only good for the public, but for the corporate world too.

The Chair: Mr. Shields.

Mr. Martin Shields: Thank you.

I appreciate the comments by Mr. Champoux and Mr. Waugh.

When I look at what we're talking about with this particular bill about what the CRTC could be doing, we haven't defined a number of things, but they're going to be writing a lot of regulations that apply to a much broader spectrum than they have, figuring out who gets the money and who doesn't, and who gets Canadian content.

If we broaden this into what I believe is in this particular amendment, to the department, what are we talking about? Would you view that the number of people and involvement it would take to do this would broaden the terms of this particular legislation for the role of the CRTC?

The Chair: Go ahead, Mr. Ripley.

Mr. Thomas Owen Ripley: Perhaps I'll just start by taking a step back and reminding the committee that Bill C-10 proposes transitioning from a licence-based model to what we have called a conditions of service type of model. The bill proposes that conditions of service, which could be through orders at proposed section 9.1, regulations at proposed section 10 or proposed section 11.1, not be necessarily time limited.

To Mr. Waugh's point, which is a good one right now, we know that licence renewal is the key point when the CRTC tends to turn its magnifying glass on a particular organization and look at compliance. Bill C-10 proposes a shift from that as well, in the sense that, as the committee knows, it's proposing the introduction of an administrative monetary penalty regime. That would allow the CRTC, at any point in time, to call a broadcasting undertaking before it if there's a question of compliance and potentially subject them to an AMP if they're found not compliant. The goal is also to shift the CRTC to a more regular kind of enforcement footing as opposed to waiting for seven years before a licence is up for renewal before it looks at some of those compliance issues.

Mr. Shields, indeed the bill does apply to a broader scope of undertakings, including online undertakings, as the committee knows well. The bill allows the CRTC to amend an order of its own motion or at the request of a party at any time. Again, the position is that, once an order's in place, it's not set in stone.

From that perspective, the amendment on the table, in proposed subsection 9.1(1.1), confirms what would already be the case—that the CRTC has the ability to amend an order. As I highlighted, it's proposed subsection 9.1(1.2), though, that suggests that the CRTC would be under an obligation to renew an order for a period not exceeding seven years. It again raises the question of whether it's workable or effective to require the CRTC to look at every single order that it may have on the books on a recurring seven-year basis, as opposed to identifying the biggest impact orders in terms of those that may need to be reviewed because of a change in technology, a change in business models or those kinds of things.

I hope that helps answer your question, Mr. Shields.

● (1500)

Mr. Martin Shields: Thank you.

The Chair: Go ahead, Mr. Champoux.

[*Translation*]

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

Thank you very much, Mr. Ripley, for your very helpful explanations.

I would like to underscore the fact that we are not asking the CRTC to systematically review its orders and take whatever action is needed to do so every seven years. In most instances, renewal could be automatic if there are no reasons to delay it, but it would be up to the CRTC to decide.

That being said, nothing in what we are proposing would prevent the CRTC from taking action at any moment. This occurred in 2004 in the case of CHOI-FM, a Quebec City radio station that had its licence renewed for a limited period, precisely because the CRTC had had to take action several times previously. Cautious action was therefore taken and a renewal for a shorter period was suggested as a way of telling the poor student to do the homework properly and get back on track.

That's exactly the approach we are proposing. I don't think that this amendment would represent an administrative burden for the CRTC, but rather enable it to monitor delinquents and ensure that everyone can be brought into line, for example by issuing orders for shorter renewal periods.

This amendment makes a lot of sense. The broadcasting players are used to this type of procedure. It simply establishes a level playing field for everyone.

[*English*]

The Chair: Seeing no further debate, I'm going to ask that we now go to a vote. This, of course, is on BQ-25.

Mr. Alain Rayes: No.

The Chair: You seem to be quite excited about saying no to that one, Mr. Rayes.

[*Translation*]

Mr. Alain Rayes: It's just that it's almost 3 p.m., Mr. Chair, and I'd like to let you adjourn the meeting for the weekend.

The Chair: Absolutely, sir.

[*English*]

I'm sure you will get unanimous consent for that.

I'll go to a vote on amendment BQ-25.

● (1505)

Ms. Julie Dabrusin: I think Mr. Regan is having computer issues.

The Chair: I believe we have lost Mr. Regan. Unfortunately, we'll have to move on.

(Amendment negatived: nays 8; yeas 2)

The Chair: That leaves just one thing.

Folks, as a quick note before we adjourn, we'll call it to an end here and when we come back on Monday we'll start with amendment CPC-9.1, which has been a later addition. If you don't have that amendment, can you please contact the clerk?

We have endeavoured to find either extra time during the meetings or extra days. I'm afraid we have not been successful at all. The calendar is quite full, and of course, Friday becomes problematic for extending hours because of the services.

We will continue, but for this week it's not possible and it looks as though it won't be possible next week either. If we do get an opening, I'll make sure that it's with ample notice, as I've pledged to you before and I pledge to you again. Otherwise, we'll see you on Monday at 11, eastern time.

It was a great debate today, as always, and I thank you all.

The meeting is adjourned.

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