HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

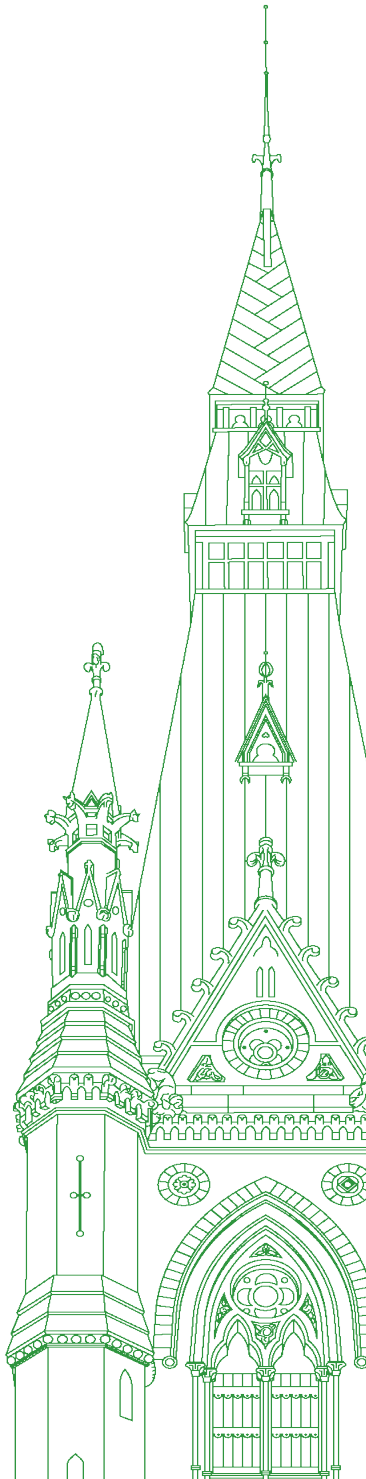
43rd PARLIAMENT, 2nd SESSION

Standing Committee on Canadian Heritage

EVIDENCE

NUMBER 039

Friday, June 4, 2021



Chair: Mr. Scott Simms

Standing Committee on Canadian Heritage

Friday, June 4, 2021

● (1320)

[*English*]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): Welcome everyone to the continuing study of Bill C-10, clause by clause.

Welcome to everyone although I know we are missing one member at this point. We'll [*Technical difficulty—Editor*] shortly.

The way this normally works is that when the bells start ringing—I'm of the understanding they will be 30-minute bells—we break at that point. However, in the past when we've faced that, I have extended it to kind of finish what we were thinking about, as it were. To do that, I would need unanimous consent.

Before we came online, Mr. Rayes and I had the discussion about whether to continue or to end or suspend when the bells start ringing.

Mr. Rayes, do you want to start?

[*Translation*]

Mr. Alain Rayes (Richmond—Arthabaska, CPC): Thank you, Mr. Chair, for letting me share some information or, at least, my opinion on the subject.

In this case, as soon as the bells start ringing, we are supposed to stop the discussion. A number of committee members are on duty in the House today. Mr. Shields and Mr. Aitchison are on duty for the Conservatives, and Mr. Champoux is on duty for the Bloc Québécois. They have to physically go to the House of Commons. I think you mentioned earlier that we had to wait for the results of the House vote before the committee's proceedings could resume, but the members in question still have to leave the House of Commons and get back to the committee room.

Given how sensitive some of the issues being discussed are, I think we should make sure all the members on the committee are here for the discussion.

[*English*]

The Chair: Mr. Rayes, thank you very much.

Normally, as I said, I would need unanimous consent to continue the debate into the bells. It appears we don't have it. I'm sorry. I am not presupposing anything. It's from what I just gathered. I'm not saying they weren't valid points, Mr. Rayes. They were valid points.

Ms. McPherson, go ahead.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Mr. Chair, thank you. I just wanted to move the motion that I had shared with the committee. I don't know if this is the right time.

The Chair: Normally I would say "yes", but here is the situation. I have discussed this and I have read your motion. I'm assuming everybody has received it. This is the way this works. We are currently on amendment PV-21.1, the Green Party's amendment. According to the recent standing orders, amendments put forward by independent parties—I should say by parties not recognized in the House. Please don't take that the wrong way, Mr. Manly—are automatically deemed moved. When we get to anything that resembles PV—Parti Vert—amendments, we have to go with that because it's already deemed moved. If this were LIB or CPC, I could tell you to go ahead because those are not automatically moved.

I'll give you a bit of background. When independent parties—or parties that are not recognized in the House—wish to appear at the committee, they can submit and debate amendments but they cannot vote on them or move subamendments. Unfortunately, therefore, because of the rules that deem it moved, we have to deal with amendment PV-21.1. I can assure you, however, as chair, and now that you've given me notice, that once PV-21.1 is dispensed, we can go to your motion. I'll recognize you first.

Mr. Waugh.

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

Thanks for the clarification. We were just wondering about the same thing. It's kind of a different circumstance, especially today with votes, and I think you've cleared it up pretty well. We do know that Mr. Champoux from the Bloc, for example, could not be with us today because of House duty. We also have two members, and I see one—

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): I have a point of order, Mr. Chair.

[*English*]

The Chair: What is your point of order?

[*Translation*]

Mr. Sébastien Lemire: This is Sébastien Lemire from the Bloc Québécois standing in for Martin Champoux, so the Bloc Québécois has a representative on the committee.

Thank you.

The Chair: Of course. Thank you.

[*English*]

I hope that was a sufficient sound check. I'm going to have to rule it wasn't a point of order, but a point of order was accepted because I think we may have managed to get the sound check from you through that.

Mr. Waugh, you have the floor.

Mr. Kevin Waugh: I was just going to say that there's a rare sighting—two members in committee. Isn't that nice to see.

Mr. Chair, you've made some good points here today. The NDP motion should be discussed. With the recent developments of today, it might be a short discussion, but we'll see.

That's all I have to say.

The Chair: Could I get everyone who doesn't want to speak to put down their hand?

I'm going to Mr. Shields now.

Mr. Martin Shields (Bow River, CPC): Just for clarification, I think what you were talking about was that, when the bells ring, you don't just cut people off mid-sentence. People get to finish up their thoughts. I assume that's what you were referring to in the sense of how we would finish up before we went to vote.

The Chair: Yes. Thank you, Mr. Shields, for the clarification.

Normally in the past, if the bells started ringing, I would look to have a conclusion of our thoughts. In order to do that, I need to have unanimous consent so that when the bells start ringing, I allow you to finish your sentence to a certain degree.

Seeing that I won't have unanimous consent, I will have to cut in when I feel it's necessary.

Ms. McPherson.

Ms. Heather McPherson: It's possible that I forgot to lower my hand. I'm sorry.

The Chair: We call those “legacy” hands now, apparently.

Seeing no further conversation, we are now in committee meeting number....

Help me, Aimée.

The Clerk of the Committee (Ms. Aimée Belmore): This is meeting number 39.

The Chair: I was going to say meeting 40, but I knew that was wrong.

This is meeting 39. We are dealing with clause-by-clause consideration of Bill C-10.

Welcome, everyone. As was pointed out earlier, we are virtual except for two members who are sitting in our committee room. That might be a positive sign of things ahead.

(On clause 7)

The Chair: Nevertheless, we will start with PV-21.1. As I mentioned, it has been deemed moved. It's from the Green Party.

Mr. Manly, you have the floor.

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

This amendment brings back proposed section 4.1. It states 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, except where the Canadian creator of a program has voluntarily chosen to be subject to the Act for discoverability purposes; and
>
> (b) online undertakings whose broadcasting consists only of such programs, except where the Canadian creator of a program has voluntarily chosen to be subject to the Act for discoverability purposes.

The idea behind this exemption is a compromise. This would exempt user-generated content from regulation under the act unless a Canadian creator of programs opts to voluntarily have their programs available for discoverability. This would address concerns about freedom of speech, which are also providing an option for Canadians in the cultural industry to be promoted through discoverability.

The process of ensuring that you're discoverable is fairly straightforward under the CRTC regulations. There's a point system where you determine whether the producer, the director or the actors are Canadian. It's a six out of 10 score. It depends on a number of factors—where it's produced, who is involved with the production—for film and television. With the MAPL system, it's fairly straightforward. MAPL stands for music, artist, performance and lyrics. You need to fulfill at least two of those criteria to be eligible for Canadian content.

I feel that this is a compromise. It respects the freedom of speech. It doesn't deal with the issues around algorithmic bias, which is another serious issue we need to be discussing. We have seen in recent cases, with the Red Dress Day on May 5, that family members and people posting about missing and murdered indigenous women and girls, posting about family members who have gone missing, had their posts removed by Instagram and Facebook through an algorithm. These social media platforms have their processes where they're determining what content will be pulled down and what content won't be pulled down.

There have been complaints by people in the Black Lives Matter movement, by the Indigenous Lives Matter movement, by people standing up for the rights of Palestinians or people in Crimea or other locations, and by people standing up for old-growth forests. They have had their posts removed. They've been blocked on these social media platforms. We talk about free speech, but this is not really a democratic space. It is a corporate space. It is something that we need to deal with.

I hope members of the committee will support this amendment. I think it's a fair compromise. Those Canadian content producers who do want to be subject to the act and have discoverability of their Canadian productions should be able to have that option.

Thank you.

● (1325)

The Chair: Mr. Shields—

Mr. Scott Aitchison (Parry Sound—Muskoka, CPC): Mr. Speaker, I have a point of order. I'm so unfamiliar with sitting in a committee room. How do I make sure that my hand is raised? I don't want to hold it up the entire time. I just want to make sure that I'm in the queue. On Zoom I would just leave my hand up, but here it might fall off.

The Chair: That's a valid point, sir. I'll have to work out a system. Let me converse with Aimée. It's been a while since we've had anybody in the room.

I'm assuming that your hand is up. Is that correct? Yes.

Mr. Paul Manly: Is it possible that they could be on Zoom at the same time?

The Chair: I'll have to try to work that out. I have a hybrid here that I'll have to work out.

The only problem I have is that I don't know in which order Mr. Aitchison falls. I have Mr. Shields, Mr. Rayes and Mr. Waugh.

Mr. Aitchison, would you be highly offended if I put you after Mr. Waugh?

Mr. Scott Aitchison: I think it's only most appropriate that I go after those three distinguished parliamentarians.

The Chair: With that endorsement, I'll do just that.

Mr. Shields, properly endorsed, the floor is yours, sir.

● (1330)

Mr. Martin Shields: That's scary. Thank you.

I assume that the staff from the department is with us today.

The Chair: Yes, they are.

Mr. Martin Shields: Okay.

My question is to the staff, to ask them how they would view this dual approach in the sense of those who voluntarily...and those who don't. Does the heritage department have an opinion? They've seen this amendment for a while. I'd be interested in knowing what they would think of this dual approach.

The Chair: Before I go to Mr. Ripley, let's try to do this as we'd worked out before. If you're asking questions to the department and you wish to follow up, can you just raise your hand towards the camera so that I can see that you want to follow up? I don't want to give someone else the floor when I shouldn't.

Mr. Ripley, you have the floor.

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

Thank you for the question, Mr. Shields. I would point out a couple of things. The first one is with respect to the reintroduction of language along the lines of proposed section 4.1.

The challenge for the committee is that this language is in a certain degree of tension with amendments that the committee has now passed. One of the challenges, as the committee may now recall, is that it has passed some language in proposed section 9.1 that speaks specifically about programs that are uploaded to an online undertaking that provides a social media service. Implicitly, there is acknowledgement that the jurisdiction of the CRTC extends to that programming. With the reintroduction of proposed section 4.1, you can see that there's a certain amount of tension now with that language that the committee previously endorsed.

The legal situation of how that would play out is extremely unclear. A court or the CRTC would presumably try to reconcile those two things and find a way for both of those provisions to stand. That could be done by reading down certain provisions of the act or trying to find a way to make sense of those two things. I think the committee should be aware that it may be creating a situation of a degree of legal uncertainty.

With respect to the question of how it would work in practice, if a social media creator wanted to opt out of that, again, it's unclear how that would be operationalized by the CRTC at this juncture. On the one hand, the committee has endorsed language that gives the CRTC certain powers to promote the discoverability of those creators, and then, on the other hand, if this language is passed, there is a suggestion that they could potentially opt out of that. Again, the legal situation of how those two things would work together is quite unclear.

[*Translation*]

Mr. Martin Champoux (Drummond, BQ): I have a point of order, Mr. Chair.

[*English*]

The Chair: On a point of order, is that you I hear, Mr. Champoux?

[*Translation*]

Mr. Martin Champoux: It is me, Mr. Chair. As you can see, I'm back. I would like to thank my fellow member Mr. Lemire for holding down the fort for a few minutes.

I want to flag something, Mr. Chair. When a vote is taking place in the House of Commons, members have to participate through one of the means available to them, in-person participation being the main one. As you know, the committee's proceedings are deemed to be suspended until the members are back in the committee room or ready to participate virtually, as the case may be.

I was in the House a short time ago for the vote, and the committee was in a rush to get started even though the results of the vote had yet to be announced. I was forced to ask a colleague on the spur of the moment to replace me on the committee, which is in the midst of some very important discussions.

I won't belabour the point, but it really bothered and concerned me. I would even go so far as to call it a lack of respect for the parliamentary procedure we are supposed to follow.

Thank you.

[*English*]

The Chair: Mr. Champoux, I can honestly say to you that you can consider me to be duly scolded. I think you have a valid point. I did not realize.... In my mind, I was thinking you were online on Zoom and not in the House. That was rather disrespectful of me to proceed without you coming. I can assure you, sir, with all my apologies, it will not happen again.

The only thing I ask is if you could update us that you're in the House or on your way. That would help us out dramatically.

My apologies to anybody as we try to get used to having people in the room and not in the room. We're going to do this right.

Again, Mr. Champoux, you have my deepest apologies.

We finished with Mr. Shields' question.

I think you wanted another question, Mr. Shields. Go ahead.

● (1335)

Mr. Martin Shields: Thank you.

Again, I appreciate Mr. Manly in the sense of bringing what he believes is a sense of compromise to deal with some of the issues that we were dealing with. I thank him for doing that.

I'm just following up again with our department. I heard two things. One was that the legislation, in the sense of amendments that have been passed.... I believe he is saying that the CRTC would view the challenge of.... They are all inclusive of all of the social media platforms and the creators. They would view that legislation as inclusive. If we adopt this amendment, it would create sort of a challenge for them to understand how they wouldn't be dealing with those who are not included. That's the first part of what I think the department was telling me.

I think the second part was that the department had a challenge trying to comprehend how the heritage department, through the CRTC, would deal with the opting in or opting out. I think that he expressed that if there's discoverability, it would be the discoverability of those who opted in and maybe not those who opted out. He had a concern. I believe he was suggesting that could arise.

Of course, that leads me to the same conclusion. If the CRTC is looking at those for discoverability more than they are of others that are Canadian, that creates the same type of process. I think the department would be somewhat stating the concern that many of us have had, which is that in doing what Mr. Manly has said—volunteering in or not—those who volunteered in with discoverability automatically would be rated higher because of that discoverability.

I think that's problematic and why we were extremely concerned that this resolution, in the sense of 4.1, will now do the same thing, which is that for those Canadian creators and culture people participating in it, there is going to be a mechanism within the CRTC that ranks and rates the discoverability of some more than others.

I think this amendment points out exactly the challenge. I think department staff is basically saying they have a concern about those who are opting in versus who are opting out. The whole process of a mechanism of opting in is one of the challenges that we have in the sense of creating programs. It's sort of like with the $5,000 for the house renovation. When 30,000 people applied to begin with, the website fell apart.

It's an interesting thought. Again, Mr. Manly, I really appreciate your looking at a solution. You have a long history of working in the industry and know it well. I really appreciate your looking at another avenue that might resolve that freedom of speech and leave those who choose not to be involved in one. I think that's significant in what you're attempting to do here.

I think the challenge, from what I'm hearing from the department, is that it may create that same thing that we believe has been created by removing that piece now.

I'll leave it at that.

Thank you.

The Chair: Mr. Rayes.

[*Translation*]

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

I want to start by thanking Mr. Manly for explaining his amendment, because it was clear he had concerns about the freedom of expression of certain creators and Canadians who post content on the web. I think he has the right idea in mind. Like us, he is trying to remedy Bill C-10's failings.

I do have a few questions for the experts, though. Perhaps Mr. Manly can chime in as well.

As per Mr. Manly's amendment, the end of new paragraph 9.2(a) reads “except where the Canadian creator of a program has voluntarily chosen to be subject to the Act for discoverability purposes”.

I have to wonder because the explanatory note provided to the minister by justice officials does not refer solely to Canadian creators of programs, as we imagine them when we think of traditional broadcasters. The purpose is to apply the act to digital broadcasters in the same way it applies to traditional broadcasters.

Like a number of experts, former senior CRTC officials and other Canadians, the Conservatives are concerned about all Canadians who upload content on social media platforms or use web-based applications, whether for exercise or gaming. The explanatory note even states that, under Bill C-10, the CRTC could possibly regulate audiobooks and podcasts. It refers not just to Canadian creators of programs as we think of them, but also to anyone who currently downloads or transmits information via web-based platforms and applications.

How will the government or CRTC make sure 38 million Canadians have prior knowledge that they can voluntarily choose to be subject to the act for discoverability purposes? That is my first question for the experts.

Second, who will that obligation fall to? The CRTC or the government? Am I mistaken to think that, should it be adopted, Mr. Manly's amendment would give rise to an obligation to inform all Canadians of this option?

Mr. Manly can give his take, if he likes, but I'd like to hear from Mr. Ripley first. Actually, Mr. Chair, you can decide who should have the floor.

● (1340)

[*English*]

The Chair: I'll go with Mr. Ripley first. Would I go to Mr. Manly afterwards? Would you like that?

Okay. Let's go with Mr. Ripley first.

[*Translation*]

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

I would like to thank Mr. Rayes for his question.

The answer is that it is up to the CRTC to oversee the matter and put a system in place, given that responsibility for implementing Canada's broadcasting system falls on the CRTC. Operationalizing that will certainly pose challenges.

On one hand, the committee proposes giving the CRTC the power to make orders regarding the discoverability of creators, and on the other, Mr. Manly's amendment would give people the option to be subject to the regime.

Once again, the two proposals seem to be conflicting. The CRTC is the one responsible for establishing a mechanism to make creators aware of their choice to be subject to the act. Operationally, implementation certainly poses a challenge.

[*English*]

The Chair: I'm going to go to Mr. Manly.

Mr. Manly, you don't have to if you're....

Mr. Paul Manly: Sure, I don't mind.

The Chair: Okay, go ahead.

Mr. Paul Manly: I'm a producer, and I've produced lots of different documentaries and films. In the process of doing that, afterwards, I've sold documentaries to CBC or to provincial broadcasters that are regulated under the CRTC and the act. When I submit a program, they ask me to fill out a form as to whether it meets Canadian content criteria or not.

If it doesn't meet Canadian content criteria, then it doesn't count towards what they're broadcasting as Canadian content, but it gives me the option of doing that. I fill out the forms—it's a fairly easy process to do—I submit them to the CRTC, I get my certification and away I go.

That's the idea behind this. It's just to have an opt-in. I guess if it conflicts with something that's already been passed, then that might create some issues in terms of the CRTC figuring out how that would work, but the idea is to have an opt-in system so that people who do want to have discoverability can have that option. Then you would have something for those online undertakings to ensure that, for people who do want to be recognized as Canadian content on their platforms, they show Canadian content in that process. Maybe that pops up a little Canadian flag on the side. Maybe it's when they're suggesting that if you like this, you might like that, or maybe it's an opt-in for users of that platform.

Currently, when I watch stuff on social media, I have no idea where it's produced. I can search YouTube under search words to find out if perhaps it was made in Canada, but a lot of producers don't bother putting tags in to say where their productions were made.

I'm just thinking about a system that could work for users of the platform to find Canadian content and for producers of Canadian content to be more easily found by people who want to support Canadian talent.

● (1345)

[*Translation*]

The Chair: Mr. Rayes, you may go ahead.

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

I heard what Mr. Manly said, but personally, when I read new paragraph 9.2(a), as proposed in the amendment, I think of Canadian creators of programs. Since Mr. Manly is a producer, he sends a lot of content, so I imagine that he has people who help him and that he's used to the process. On the flip side, I think of Canadians who post content on social media. The issue is hotly debated by members on the committee and in the House of Commons.

The minister keeps engaging in demagoguery, claiming you are either with GAFA and the web giants of the world or with Quebec and Canadian artists. He always talks about Quebec, trying to play to the crowd there. We are defending the freedom of every Canadian who uses social media and other web applications, Canadians who create audiobooks and podcasts.

In my riding, we have artists who earn their living from their craft, without asking for any assistance. When asked about it by journalists, they said they wondered why the government, through the CRTC, would want to poke its nose in social media or try to regulate such platforms. Those artists chose to have their work seen by the entire world and they are worried other countries will take similar steps, preventing the artists from showcasing their talent for all the world to see. I am talking about artists with more than 560 million subscribers on YouTube alone. Their work is also on Spotify and every other music platform, and they earn their living from their craft. They are just as much artists as are members of the Union des artistes or any other association, but they have no representation whatsoever.

Why am I so worried? Since the beginning, we have shown good faith, but we have concerns about the bill. As originally introduced, the bill had a certain purpose, and the minister touted his bill on that basis when he did the rounds of the media outlets. However, the purpose of the bill changed when the section he proposed adding to the Broadcasting Act, section 4.1, was removed. The bill now applies to social media and other applications. That puts the bill in a whole other realm, and those affected never had a chance to have their say. The minister was more than happy to talk about the fact that the committee had heard from a hundred-odd witnesses and received numerous briefs, but all of that feedback related to the bill in its original form. All of those who became subject to the bill once proposed section 4.1 was removed will have never had their voices heard or shared their concerns with the committee, not to mention that the committee refused to adopt amendment CPC-9.1, which would have remedied the problem.

We are reviewing a 30-year-old act, and it will be around for another 30 years. Further to these changes, we are giving the CRTC extreme powers without knowing everything that could happen as a result. We have no idea how many Pandora's boxes we are opening.

I am very worried. I should point out that what Mr. Manly is proposing is not what worries me. I think he is indeed attempting to fix the problem, and for that, I genuinely commend him. However, it just further goes to show that it will not be enough. I don't see how the CRTC or the government will manage to inform all Canadians in real time, whenever they upload content, that they can choose to be subject to the Broadcasting Act for discoverability purposes.

I have huge concerns, ones that call to mind the concerns I had at the beginning. The government wants to impose time allocation on debate of the bill to keep us from getting at the facts as we examine all of these amendments. They have been put forward by the government and the opposition parties, including the Green Party, which was allowed to participate in the committee's proceedings and is trying to help us make a bill that is full of flaws as good as it can be.

● (1350)

I'm not sure whether the amendment is plausible, Mr. Ripley. At the end of proposed paragraph 9.2(a), it says “except where the Canadian creator of a program has voluntarily chosen to be subject to the Act for discoverability purposes”. Would you say that refers to all Canadians who post information on social media or just to Canadian creators of programs who are registered and recognized by the CRTC?

I am eager to hear your answer.

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

Again, we need to consider things in context. Under proposed subsection 2(2.1), individuals would not be treated as broadcasters if they are not affiliated with an online undertaking or a social media service. The discoverability requirements apply to online undertakings and social media services.

The challenge lies in operationalizing the measure. First of all, it is the CRTC's responsibility to establish and oversee a regulatory framework that would apply to a number of online undertakings. YouTube is one, of course, but there are others. However, it would be up to the online undertakings to apply the regime and to know whether a Canadian creator chose to be subject to the system or not. As you can imagine, that raises a lot of questions as to how an online undertaking would apply such a measure to a social media platform.

I repeat, our concerns relate to the operational dimension, in other words, how it would be put into operation on a daily basis. That raises a number of questions.

Mr. Alain Rayes: You said that, under proposed subsection 2(2.1), users would not be subject to the act, if I understood correctly.

My question pertains not just to users, but also to the content they post on social media. When he was here, I asked the Minister of Justice whether the Canadian Charter of Rights and Freedoms protected only users, or both users and the content they share online, but he refused to answer.

That is the crux of the problem, as we see it and as a number of experts who are commenting publicly see it. Not having had the opportunity to share their views with the committee, they are having to express their concerns virtually, on various social media platforms.

I'd like to hear your answer in relation to content.

● (1355)

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

As initially proposed, section 4.1 excluded user-generated programming. As the committee members are aware, that section was replaced by a limited power granted to the CRTC under new section 9.1. We haven't yet addressed the issue as it relates to section 10.

Again, the power relating to discoverability applies to creators. The requirement applies to social media services, not to individuals. The regulatory power applies to social media, which could be required to promote creators further to a regulatory process. It does not have to do with promoting content. Again, the idea is to avoid having to determine what constitutes Canadian programming in the social media sphere. That is why the power granted to the CRTC under new section 9.1 really focuses on Canadian creators and artists.

I don't know whether that answers your question, Mr. Rayes. Mr. Manly raises a number of content-related points. Again, the amendment adopted by the committee is not meant to promote Canadian programming on social media; rather, it is meant to promote Canadian creators.

Mr. Alain Rayes: That's great.

My next question is along the same lines.

Can you confirm whether my analysis is correct? In other words, would the requirements in the amendment have repercussions for amendments G-13 and BQ-33, given the creation of a registration requirement for online broadcasting undertakings? Amendment G-13 would even extend it to social media. The registration requirements could be used to pick winners and losers—

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

With all due respect, Mr. Rayes is talking about amendments that the committee has not yet looked at, amendments that could be subject to subamendments.

I don't know how the senior officials are supposed to give us a reliable answer to a question that pertains to amendments the committee has yet to discuss and vote on.

[*English*]

The Chair: Mr. Rayes, yes, I understand some of it pertains to future amendments, but if you want to make it as part of your overall argument, I'm fine with that. The only thing is, if you start going into future amendments, that doesn't really give the person moving them a chance to debate them from the beginning.

I would ask that you try to refrain from talking about any possible future amendments, but if you want to include some of it in your current argument, I understand. I'm going to have to watch it. Police yourself accordingly.

Thank you.

● (1400)

[*Translation*]

Mr. Alain Rayes: Thank you, Mr. Chair. I will endeavour to show more discipline. Correct me if I'm wrong, but I don't think I was debating amendments G-13 or BQ-33. I agree with Mr. Champoux that the committee will discuss them in due course.

Nevertheless, when I look at the amendments, I realize that Mr. Manly's amendment will have repercussions for amendments G-13 and BQ-33. I believe the senior officials came prepared to answer our questions, so I am simply asking them to confirm whether my understanding of the situation is correct. I don't want to take it any further than that. I think it's a legitimate question, unless you say otherwise, Mr. Chair. If it is, I would like to be able to ask my question.

[*English*]

The Chair: Yes, that is fine. You can do that. I understand that sometimes these amendments can refer to one that's ahead or back and so on. I know this causes a lot of confusion sometimes, but what you just said is valid, so take that as a ruling.

Please proceed.

[*Translation*]

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

I will repeat my question for Mr. Ripley, then. Does Mr. Manly's amendment have repercussions for amendments G-13 and BQ-33?

It's clear that certain elements tie in with registration requirements that could apply to users. That could potentially introduce other restrictions.

I would therefore like to know whether the amendment could have repercussions for amendments G-13 and BQ-33. I have absolutely no intention of debating those amendments. The committee will have those discussions in due course.

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

May I answer the question, Mr. Chair?

[*English*]

The Chair: I'm sorry. I thought you were having such a great conversation that I didn't want to intervene.

Mr. Ripley, you have the floor.

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

[*Translation*]

Bill C-10 sets out the regulatory power to implement a registration system to help the CRTC administer the system. The CRTC would then know whether an online undertaking was operating in Canada, for instance. That is why the bill grants the power.

Of course, with the removal of new section 4.1, as initially proposed, and the inclusion of social media in the bill, regulations governing registration could apply to social media. However, I want to point out that the bill does not apply to users. Again, the powers granted under new sections 9.1, 10 and 11.1 really apply to online undertakings and traditional broadcasters.

The idea is not to establish a registration system that would apply to users. Again, the exclusion in new subsection 2(2.1) very clearly states that users are not considered to be broadcasters and are not subject to CRTC regulations. The requirement to register with the CRTC applies instead to social media services and other online undertakings.

Mr. Alain Rayes: Thank you.

I have one last question, Mr. Chair, and then, someone else can have the floor.

With all due respect, Mr. Ripley, I wasn't asking you whether users or the content they post online would be regulated. That debate seems to come up every time. What I would like to know in order to make the right decision is whether Mr. Manly's amendment could have repercussions for amendments G-13 and BQ-33, which the committee will examine later. That is all I want to know. There seems to be a connection between the amendments, as I understand them, and that could have repercussions going forward.

I repeat, my intention is not to debate amendments G-13 or BQ-33. I simply want to know whether a conflict could potentially arise since they deal with the same thing.

● (1405)

Mr. Thomas Owen Ripley: Not directly, no, Mr. Rayes.

I'm not sure whether the assumption is that a registration system for Canadian creators is being created. Earlier, I tried to address that. I wanted to point out that the power set out in section 10, as proposed in the amendment, would not be used to put such a system in place.

Mr. Alain Rayes: Thank you.

I'm done, Mr. Chair.

[*English*]

The Chair: Thank you, everyone.

If I could just put a little bit of clarification beyond what I talked about earlier, for the most part we realize that future amendments proposed by parties are generally confidential, yes. However, in some cases one will affect the other and it gives the current debate a proper context, so what I'm asking members to be cognizant of is this. I have no problems if you want to refer to an amendment in the future that is one of your own, but I'm reticent, and I think Mr. Champoux stressed his concern, and rightly so, about how you would draw other people's amendments into the debate without their having to debate it or move it first.

To me, that's very important, so I ask that you use discretion.

My final point before I go any further is that it has come to my attention that we do have extra time afforded to us. I say that gingerly because I don't like telling people we're extending this debate without giving you advance notice. We're well within 24 hours. I like to do that, as you know, because I like to be respectful. However, since we started around just slightly under 20 minutes late, we can extend this up to 3:30 eastern time—I guess that's 1:30 Alberta time. We can extend up to that point.

I don't need an answer right now. I'd just like for you to have a discussion amongst yourselves if you can. Text each other and let me know, because in order for me to extend I need unanimous consent to do it. That's adding an extra half-hour onto this meeting.

Just think about it for now and when the time comes at three eastern, which is when we normally break, I will ask once again.

That being said, I don't really need UC to extend, but as you understand, I would like to have unanimous consent. That's what I'm trying to say.

Let's go to Mr. Waugh.

Mr. Kevin Waugh: Thank you, Chair.

Welcome to the officials of the Department of Canadian Heritage.

I, too, want to thank Mr. Manly for his efforts in bringing forward amendments to the Broadcasting Act. As you've all talked about, it hasn't been updated for 10 years. I think for the last several months we forgot about the conventional broadcasters. We've dipped into the digital world, and when we first started this it was all about the conventional broadcasters, who are suffering badly in this country.

Many radio and television stations are leaving the airwaves almost monthly. Mr. Manly would know that because he was a part of community radio for many years. He's a producer. It gets harder and harder to sell a product when there is black on TV channels. I look at B.C. and see that all the radio stations out there have gone dark over the last year, and he's seen that too.

I want to thank Mr. Manly for talking about the point system, because it's very complicated. You need the score of six out 10. When we talk about Canadians.... Where is it being shot? Where is it being produced? Who are the actors or actresses involved? Then there's the MAPL system. Those are the discussions we can't forget about here in committee, Mr. Chair. I want to thank Mr. Manly for bringing that out, because he's been involved in community radio for decades, and as a producer he gives us some insight into that.

To the department officials, this is an interesting proposition, because Ian Scott, the current chair of the Canadian Radio-television and Telecommunications Commission, came to the committee on March 26. Now what we're seeing, and the departmental officials have acknowledged this today, is that this will be an operational challenge. Since proposed section 4.1 was eliminated in April, Mr. Scott hasn't had the ability to talk about the CRTC.

When Mr. Scott was in committee and I asked him point-blank whether he had the capability to enforce Bill C-10, the first answer coming out of his mouth was “yes” but that he had to go to Treasury Board. We all know what that's going to be, asking for more money on behalf of the CRTC to operate this. It is a concern.

Mr. Ripley, I'm just going to ask you this, because like I said, on March 26 we had the CRTC in front of us, and then we've seen all of these changes and operational challenges. What you've told us here today will be front and centre with the CRTC. Could you elaborate on those operational challenges, not only money-wise but with the capacity of the CRTC?

You have heard me and Mr. Manly talk about the capacity of the CRTC for years. They give the seven-year licences and then walk away, and then come back six and a half years later to have a peek. When I hear operational challenges tied into the CRTC, wow, I see a red flag.

I will leave it up to the department officials. I would like you to explain the operational challenges to the committee as we move forward with this amendment. What are the operational challenges that you, as a department, see the CRTC will have to be aware of going forward here?

This is for anyone in the department.

● (1410)

The Chair: Mr. Ripley.

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

Thank you, Mr. Waugh, for the question and for giving me the opportunity to clarify.

My comments to Mr. Rayes were specifically with respect to the proposal on the table by Mr. Manly to introduce a mechanism whereby creators could opt in to a discoverability framework set up by the CRTC with the implication that some creators would be outside of that. The point I was making is that this type of framework raises operational challenges for both the CRTC, which would have to think about how you actually put in place a mechanism where a creator could put up their hand and say, I want in, and others could say, I'm not in, and at the service level on a service like YouTube, which would have to navigate how you actually put that into practice in real life.

That was the point I was trying to make. I think just stepping back a level, the proposal that the committee had previously looked at and adopted with respect to proposed section 9.1, to reiterate that, the first step when it comes to thinking about how to move forward with a discoverability framework will be the CRTC doing a regulatory hearing on what makes sense.

Again, I think there are a variety of different ways we could imagine that social media services could help raise the profile or visibility of Canadian creators. Part of the job of the CRTC will be balancing those interests of creators and social media services, who are going to say they have very real practical limits in terms of what they're able to do and here's how the service operates.

Again, my comment was not so much at a general level but recognizing that the committee has previously adopted those powers, including the discoverability one, and is suggesting that it be given to the CRTC, while what Mr. Manly has put on the table is something that has a degree of tension with that. That's what I was trying to highlight, because it gives the ability for some people to be a part of it and other people not. I think it's just very challenging to think about how that would be put into practice day to day, given the nature of social media.

That was the point I was trying to make, Mr. Waugh.

● (1415)

Mr. Kevin Waugh: I have one other question if I can, Mr. Chair, to Mr. Ripley.

Really what you're saying is that this would still mean those creators approved and licensed by the CRTC would still see their social media videos and posts prioritized over those of other social media creators and the issues would still be the same, I believe.

The question of what kind of content gets deprioritized is just as important, in my mind, as those that would be prioritized. I can see a big issue here with cultural and art groups because many of them are well connected and lobby the CRTC. They'll still be able to gain a major advantage, I think, of having the CRTC force social media sites to promote their content over that of the universe of independent YouTube creators, artists and influencers who really don't have the same advantages. It's really not a level playing field.

Am I reading that right, Mr. Ripley?

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

The impetus from the government's perspective in terms of providing the CRTC with this discoverability power with respect to, again, Canadian creators, recognizes that social media can be a very powerful tool for helping individuals find and connect and discover new artists and creators. The impetus is simply recognizing the powerful role they can play.

Again, I am going to be cautious on presupposing the outcome of those regulatory proceedings at the CRTC, but the goal at a simple level would be to say, okay, when you're on a social media service and you're researching.... I don't know. Pick a genre of music that may be of interest to you, whether it's country or whatever, Mr. Waugh, because you're from the west—

Mr. Kevin Waugh: The Sheepdogs.

Mr. Thomas Owen Ripley: You're fundamentally asking those companies to think about ways they could service local Canadian artists and creators so that they're doing their part to raise their profile. When you use those services to ask, “Okay, what's the country music scene around me?” you're given the profiles of Canadian artists or creators who may be relevant to you.

Mr. Kevin Waugh: Does the CRTC have to do this nine months after this bill passes?

Mr. Thomas Owen Ripley: What the minister had said, Mr. Waugh, was that he intended to bring forward the policy direction following royal assent of the bill and to ask for the first tranche of regulatory work to be completed in the nine months. That first tranche primarily includes putting in place a framework whereby the online undertakings—the online broadcasters—would be required to contribute.

I think there is recognition that it would ambitious to expect everything related to C-10 to be completed in nine months. That's why that first phase would focus on having the online undertakings contribute, with a two-year horizon for all of the work to be completed.

Mr. Kevin Waugh: Thank you, Mr. Chair.

The Chair: Thank you, Mr. Waugh.

Thank you for referencing one of my favourite bands, the Sheepdogs, the pride of Saskatoon.

Let's now go to Mr. Aitchison, who is in the committee room.

Mr. Aitchison.

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

I want to thank Mr. Ripley for those final few comments. I automatically thought “cue the lobbyists”, because there are nine months to try to influence things to make them the way you want them to be.

I actually want to focus specifically on that issue.... In general, it relates, I think, to my problem overall with big government programs. The bigger the government, the more interference and the greater the chance for undue influence. Mr. Waugh quite capably raised that issue. I actually want to ask the question of Mr. Manly, specifically, because he has some experience with the system as it exists today. I have absolutely zero experience with the traditional broadcasting realm.

If I could start with this question, I'm curious to know, Mr. Manly, in the process of trying to get recognized as Canadian content in the traditional system, were you aware of situations where high-paid lobbyists were clearly able to get their client's product broadcast somewhere, ahead of a smaller operation like yours?

● (1420)

Mr. Paul Manly: That's exactly how the system works, actually. The number of productions that get produced in this country for the traditional broadcasters by producers.... It's about 90% to 95% of the same people who produce over and over again. To break into that system is very difficult. It's actually a small number of commissioning editors who determine what gets commissioned in this country by CTV, Global or any of the provincial broadcasters, or CBC, so it's a difficult thing to break into.

I just want to correct Mr. Waugh, as I've spent a very small amount of time in community radio. I actually worked on hundreds of TV episodes in the broadcast industry. I've produced and directed documentaries of my own and commissioned documentaries. I have worked in artist management and done record deals, international deals, international licensing agreements for artists who have succeeded all across the planet. I've done very well through the CanCon system, which helped them finance tours into the United States, because they could afford to get in a van and drive across the States based on the money they made in Canada by having radio play in Canada.

There is a system in place that is stacked towards companies that work very closely with the big broadcasters. I have produced lots of films that have just gone on to YouTube or on to my own pay-per-view through Vimeo, or other avenues. I have other things that are licensed here and there in other parts of the world. When I have had a broadcaster pick something up, then I go through the CRTC process of certification. It's a fairly straightforward process.

In terms of the comments by Mr. Ripley about how the social media could work with this, well, when you upload a video to YouTube, you can set a number of tags on there. I can say my name, where it was produced and what the key subject areas are. I don't know if anybody here has done web design, but it's a pretty straightforward process to add another line in there asking if this is Canadian content and if you have a CanCon, a CRTC certification number. When you're doing searches online, on YouTube, it would simply say, “Are you interested in Canadian content? Click here.”

These kinds of things can be done quite easily through web design. It's not rocket science anymore. I did do some work in computer engineering as well, way back in the day. It's not a black box. It's not a huge problem.

Those are my comments. Thank you.

The Chair: Mr. Aitchison, please go ahead.

● (1425)

Mr. Scott Aitchison: It was a much longer answer to my question than I expected. You must be in politics now. Well done. You actually answered it right off the hop when you said, “That's exactly how the system works.”

At the risk of precipitating another longer answer, I wonder about this. If that's the way the system works, do you not recognize the risk of actually recreating the existing system on the Internet? I thought one of the great advantages of these online tools was the remarkable democratizing effect they had, where anybody could be producing what they want. I keep coming back to the example of Justin Bieber, who didn't have to worry about some producer in some tower in Manhattan deciding that he was good enough. He became a superstar because of this tool that was available to everybody, equally.

I appreciate what you're trying to do. You're Mr. Compromise, which is lovely, but do you not fear that with your amendment this is going to just perpetuate a really bad system on the Internet?

I'm sorry. That's to Mr. Manly as well.

The Chair: Before I go to Mr. Manly, can you please refine your answer to the question only? It's only because if I allow you to go any further.... You're also in the line up, but you're going to be jumping over Mr. Shields' intervention if I allow you to go any further.

Mr. Manly, you have the floor to answer the question, please.

Mr. Paul Manly: No, I don't actually think that would be the same problem. With CTV or Global, you need to deal with a commissioning editor. You have to sell the program to them, either to have it commissioned or to be acquired afterwards.

With the Internet, it's not the same process. There's no commissioning editor. It's really just a button you click that says, this is Canadian content and I have filled out a form that says a, b, c or d—that the producer or director are Canadian, that it was shot in Canada or that the actors are Canadian, and that it meets six out of 10 points to be able to be recognized as Canadian content.

There's no commissioning editor on YouTube. That's not what I'm saying, and I think that the process would still be wide open. All I'm saying is that you would have something that would show, for discoverability purposes, that this is Canadian content and that would make it easy for Canadians to find to support Canadian talent.

Mr. Scott Aitchison: But Mr. Manly, isn't it a fairly wild assumption to think that the CRTC would only have discoverability requirements that say there has to be “Canada” in the tag? Clearly there's quite a process to adjudicate whether something is sufficiently Canadian to be promoted as Canadian. You can't just have a tag that says “Canadian”—

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): I have a point of order, Mr. Chair.

I think we've reached the point.... Right now, we are not going into CRTC regulatory-making pieces. This is going quite far afield from this amendment.

The Chair: Ms. Dabrusin—

Mr. Scott Aitchison: It's not really far afield.

The Chair: Hold on. I don't want to spur an argument here between the two.

We've talked about this before. Let's try to stay germane to the amendment at hand in this particular case.

Mr. Manly, I believe you received a question. Do you wish to answer?

Mr. Scott Aitchison: I didn't really get to finish the question that I was asking him before I was unceremoniously interrupted there.

The Chair: That's all right. You're ceremoniously recognized once again.

Mr. Scott Aitchison: I just want to get to this point about how, Mr. Manly, you feel that we won't be recreating the same bad system, because there aren't two individuals to sort of decide what gets on CTV or CBC. The CRTC, through its discoverability rules.... Do you think it's conceivable that the only thing that they will require for discoverability rules is to have a tag that says it's Canadian?

What about all of the rules that determine what is sufficiently Canadian or not? You say right now that you have to fill out these lengthy forms to describe where it was produced and all of that kind of stuff, to determine how Canadian it is and whether it meets the Canadian content requirements.

I have to assume, then, that when the CRTC starts to apply these rules online, it will have to have more than just a simple “Canadian” tag. It would have to have an awful lot more detail, would it not?

Mr. Paul Manly: The CRTC process is very simple. It's a very simple form. This film is made by Paul Manly, a Canadian, directed by Paul Manly, a Canadian. The actors are Canadian or not Canadian. This was produced in Canada—check, check, check. Here's your CRTC number, and now you are there for discoverability.

The process of getting on CTV is about acquisition or commissioning. It is about money, and it is about selling a product to a corporation. With YouTube, that is not what you're doing. It is a platform that you can upload to freely. This would be a process of just saying this is a certified Canadian project or program, with the a, b, c, d simplified form. It's really simple, basic.

● (1430)

The Chair: Mr. Aitchison, go ahead.

Mr. Scott Aitchison: I think I'm done. I think Mr. Manly has more faith in the bureaucracy than I do, but that's good for me.

Thank you, sir.

The Chair: Mr. Shields.

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

I have a question for Mr. Ripley and Mr. Manly.

Mr. Ripley, yes, I might be from Alberta, but I'm looking for classical instrumental, not that other type of music you might have referred to in reference to somebody coming from the west.

Mr. Manly, I'm going to get down to a numbers figure. Maybe you can't answer it, but maybe you can generalize. If these types of amendments we're talking about are approved, CRTC is then faced with, as you said, a conundrum. Has there been any discussion, if you're talking about implementing this at the CRTC in nine months, of cost and the number of employees it would take to do it? They have a conundrum to resolve if they implement this amendment.

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

I certainly meant no disrespect, Mr. Shields. For the record, I did my high school years out in Alberta, so I have lots of friends who like country music and lots of friends who don't like country music.

Mr. Martin Shields: Yes, it's a split.

You referred to the conundrum before. The question for you, in the sense of this amendment being adopted, is about the cost and number of people who might have to deal with this in nine months.

The Chair: Mr. Ripley, go ahead.

Mr. Thomas Owen Ripley: I apologize. I wasn't clear if the question was for me or for Mr. Manly.

Thank you for the question, Mr. Shields.

Indeed, there is a fair amount of regulatory work that needs to be completed over the course of nine months. From the get-go, the government has always acknowledged that the legislative piece is the first piece and the details do indeed get worked out through regulation. Nine months is the minister's stated intent, recognizing we need to give them some time to do that but also recognizing that, as the committee has pointed out, the Canadian broadcasting sector currently operates under a certain set of rules to which foreign online undertakings are not subject. They are really keen to ensure that there's a fair regulatory framework across the board.

The intention moving forward is that, like the current system, the CRTC's regulatory operational expenses would be recovered ultimately from the industry. The CRTC imposes what are called part I fees. Those get recovered. The idea is that moving forward, just like CTV and TVA and company have to pay in to the operation of the system, online undertakings such as Netflix or Spotify, etc., will need to contribute to the operation of the CRTC.

Mr. Martin Shields: Are you suggesting cost recovery?

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

The CRTC has the regulatory power already. The way the system works on the broadcasting side is through a cost-recovery model whereby the CRTC recovers approximately $30 million per year from the Canadian industry. This pays for the operation of the system, so to speak. The expectation is that model would continue and, moving forward, others will contribute to it.

● (1435)

Mr. Martin Shields: Thank you.

Mr. Manly, it's your amendment, so you're getting lots of questions because of that and maybe because of your background.

You referred to the 90% or 95% who may have received...in the sense of what you thought they had done, and left a small, single-digit percentage for the others. How does that relate to the money for funding in the sense of support? Where does it follow in the sense of money? Does it follow to that 90% to 95% in the support they might get or to the five single-digit numbers?

This refers to your amendment, which I'm talking about as well.

Mr. Paul Manly: The money actually follows the commissioning. If I produce something and it's acquired, I'm not eligible for funding unless I get an acquisition, which is why I have other amendments coming up to deal with that specific issue. I think that system needs to be opened up in terms of the Canada Media Fund, so that people who strictly produce for things like YouTube and don't want to deal with the traditional broadcasters can have access to funding based on producing Canadian content.

The certification process, by the way, is an attestation system. It is like when you do your taxes, you are attesting that you have followed through, that everything you've said is truthful and you could be audited later on. It's not like bureaucrats are sitting there checking every box you have checked off. The idea is not as complicated as everybody would like to try to make it out to be.

If I could call the question, I would do it, but I don't think I have that ability. Thanks.

Mr. Martin Shields: When those people tell me about the Canada Media Fund and filling out those forms, it's a different world from what you're talking about.

When you talk about it, they're your amendments. You can talk about your amendments. The chair just said that, going forward, if there are amendments, you could talk about them. Would you like to?

Mr. Paul Manly: I have been. The funding process is different from the certification process. It absolutely is, because if you're going to get funding, and if my amendments that are coming up come through, then people will have to hop through those hoops to show that what they are doing is Canadian content, produced and directed by Canadians in Canada with Canadian actors, because that's what those funds should be allocated to.

Mr. Martin Shields: Do you believe, then, that there would be more equalization?

The Chair: Mr. Shields, I'm sorry to interrupt. Let me provide a little bit of further clarification.

You can't do indirectly what you can do directly, meaning that I understand you urging him on, but he cannot argue his future amendments. He can touch on them as far as subject matter is concerned, but I ask that he not argue his future amendments.

Mr. Shields, you still have the floor.

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

We tried. I appreciate that and I'll leave it at that.

The Chair: Go ahead, Mr. Manly.

Mr. Paul Manly: I have nothing further to add. I think I have said enough. Thank you. I'd like to move along.

The Chair: Every question put to you was....

Go ahead, Mr. Housefather.

Mr. Housefather, we can't hear you.

Mr. Anthony Housefather (Mount Royal, Lib.): Can you hear me now, Mr. Chair?

The Chair: Yes, we can.

Mr. Anthony Housefather: Thank you. I think I was on the wrong speaker.

[*Technical difficulty—Editor*] for committee members and Canadians what is exactly happening and what's been happening for the last hour and a half. We have an amendment on the floor that not one member of the committee is actually voting for. It's been clear from the comments that have been made, yet we've been debating it for more than an hour. This is exactly the reason this committee—

Ms. Rachael Harder (Lethbridge, CPC): I have a point of order.

The member who was just speaking presumes to know how I am going to vote—

[*Translation*]

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

[*English*]

The Chair: Ms. Harder, I'm sorry. That's not really a point of order.

Ms. Rachael Harder: It's completely inappropriate for him to do so.

The Chair: I'm giving Mr. Housefather some latitude here, because he's talking about other people's arguments.

Let me go back to Mr. Housefather first. I don't have a sound check from you, Ms. Harder, but I'll get to it, because you're up next.

Mr. Housefather, go ahead. You have the floor.

● (1440)

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

As I was pointing out, we are now incessantly prolonging debate on an amendment that is going to be defeated. The simple goal is to stop the committee from doing its work. I think Canadians are starting to see that.

It's exceptionally frustrating, as a member of this committee, to see a committee that used to work very well descend to this level, which I think has gone far below the level any parliamentary committee should operate at. I just voice my disappointment. That really explains why I think we need to go to time allocation at this point.

Thank you, Mr. Chair.

The Chair: Ms. Harder, we don't have a sound check. Can you tell me the name of your riding, which we already know, and could you tell me in one sentence or less what's so wonderful about it?

Ms. Rachael Harder: It's pretty great, Mr. Chair. It would be difficult to do in only one sentence. I represent the best riding in the nation. I'm sorry. I know that's unwelcome news to you. Don't get me wrong; I think your riding is really great, too, but mine is a bit better.

The Chair: I have always said, as a member of Parliament, that if you don't think your riding is the best in the country, you should not be that member of Parliament.

Ms. Harder, you have the floor.

Ms. Rachael Harder: Thank you so much.

Mr. Chair, interestingly enough, the member who just spoke before me brought up a really good point, and that is that he feels the members of this committee—in particular, I think referencing the members who are on the Conservative side of the table—are frustrating the process. I can understand that he feels maybe a little bit frustrated by that process.

Nevertheless, there is something very important that is going on here. In the same way that he felt it was necessary to clarify that for the Canadian public who might be watching today, I feel that it's very important to further clarify.

Right now at committee, we are discussing Bill C-10, clause by clause, which means that we're going through it line by line and we're determining which parts of this bill are great and should move forward and which parts of this bill may be questionable. Perhaps there are some that need to be amended. Maybe there are even some subamendments that are necessary in order to help strengthen this piece of legislation. In addition to that, there may be some parts of the bill that need to come out altogether.

Ms. Julie Dabrusin: I have a point of order, Mr. Chair.

This sounds a whole lot more like debate than a point of order, and we have an amendment on the floor.

Ms. Rachael Harder: This is not a point of order, this—

The Chair: Hold on one second, everybody, please.

I gave Mr. Housefather quite a bit of latitude here to talk about the process we're working through here. I'm affording Ms. Harder the same, although Ms. Harder might.... That can only go on for so long, because, as Ms. Dabrusin pointed out, we are on PV-21.1.

Some people refer to the debate that has happened in the House. I have absolutely no instruction from the House, other than what we are doing right now, which is that we're in the middle of clause-by-clause on C-10.

Ms. Dabrusin, yes, she does have the floor following Mr. Housefather.

Ms. Harder, you have the floor.

Ms. Rachael Harder: Thank you, Chair.

What is being discussed here at this committee then is.... To your point, we are discussing an amendment that was brought forward by Mr. Manly, and that amendment has to do with discoverability.

Interestingly enough, there are a number of amendments that are before this committee that have been given notice of, and, of course, it would be great if this committee could discuss each and every one of those amendments, including Mr. Manly's, which is the one we are currently on. However, the current government has chosen to move time allocation, which would then force this committee to ignore the discussion of those amendments that have been presented, and it would cause us to have to force this piece of legislation through and back to the House.

Now, Mr. Manly's motion deserves to be discussed in the same way that every single motion that is before this committee deserves to be discussed, because that is the right legislative process.

Ms. Julie Dabrusin: I have a point of order, Mr. Chair.

I feel that we're debating the debate that was in the House and not the amendment that's on the floor. If Ms. Harder would like to discuss this amendment, that would be lovely.

The Chair: I'm not going to make a ruling on that, other than to state the fact that there have been discussions outside committee. That is true. I would not want us to get into a full-fledged conversation, although two parties in this committee have now discussed it.

I please ask, once again, that we stick to the clause-by-clause that is before us, on Bill C-10, and we are currently on PV-21.1, an amendment moved by Mr. Manly.

Ms. Harder, you have the floor again.

● (1445)

Ms. Rachael Harder: With regard to the amendment that is on the floor that was presented by Mr. Manly, essentially this would make it so that some content is still more discoverable than others. It would be picking winners and losers.

You have content creators and they work hard to display their talent on, let's say, a platform like YouTube and to garner an audience for themselves, and they work organically in order to be able to do that. They're incredibly successful in and of themselves. They're able to thrive as digital first artists or creators. Now, under this bill, and further, with this amendment, there would be this—

[*Translation*]

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

As you know, I'm loath to interrupt Ms. Harder, but I think we were listening to Mr. Housefather talk about the amendment before us. It seems as though Ms. Harder is doing the exact same thing. She appears to be debating the amendment and giving her views on it, rather than raising a point of order. What's more, Mr. Housefather had the floor.

I will leave it to you to judge the relevance of what's being said, Mr. Chair.

[*English*]

The Chair: I was under the impression that Mr. Housefather had concluded.

If Mr. Housefather agrees with you, I can put him back in the queue for debate.

In the meantime, Ms. Harder, you still have the floor. Go ahead.

Ms. Rachael Harder: Thank you, Chair.

The amendment that is before us, then, which Mr. Manly has brought to the committee for consideration, essentially is asking these different content generators, these creators, to determine on their own, to check a box to say, “Yes, I'm CanCon approved” or “No, I'm not CanCon approved”, and then they would check another box saying, “Yes, I wish to have the government's dictatorial algorithm applied to me” or “No, I don't wish to have the government's dictatorial algorithm applied to me”. This then, of course, would determine whether or not they're going to be shown the favour of being discovered, if they do meet the Canadian requirements. If they don't meet the Canadian requirements, then it's claimed by Mr. Manly—and I believe by the other members at the table from the government side—that they're fine. They'll be left alone.

That doesn't work. You can't have one artist in first place, in terms of their discoverability, or in other words, how often they're seen by the general public or the viewers who would look for them. They're in first place, and then someone else who meets the requirements, makes the grade, is going to be bumped up to first place. You can't have two at first place. It doesn't work. I played sports as a kid, and I never knew that two teams could come out in first place. That just wasn't a thing. Perhaps Mr. Manly could expand on that and show me how that's possible.

To my knowledge, if something is going to be bumped up to first place, then that original thing that was at first place has to be bumped down to second place, and so on and so forth. If you have certain artists, certain creators or certain content providers who are meeting this requirement to be “Canadian”, as determined by the government, and then you have other creators who are not meeting the criteria to be “Canadian”, then you inevitably have some who are being bumped up and some who are being bumped down.

This amendment that we're debating does nothing to protect content creators or digital first artists. My question, through you, Chair, if you would be willing to allow Mr. Manly to respond, is this: How can you have two content generators both exist at first place?

If I'm understanding him correctly, he's stating that this amendment would not result in the downgrading of one creator in order to promote another. I fail to see how that's possible. I think in order to bump one person into first place, someone has to drop down to second place. This means very quickly, then, this algorithm that the government is putting out there is going to determine who gets to be at the top and who has to fall to the bottom, which is a form of favouritism.

It's picking winners and losers. It's determining which artists get to succeed and which artists unfortunately have to fail, which artists can be discovered by Canadians and which artists have to be pushed to the back room. Last I knew, artists weren't asking for this. The government likes to say in the House of Commons that artists are wanting this bill, they need the support of the government, they need to be dictated to, and they need these algorithms that are going to bump them up or bump them down in terms of their discoverability.

I've talked to a lot of creators. None of them have said that. In fact, they've all said quite the opposite. They've said, we want the government to get out of the way. We're quite capable of thriving on our own. We've managed to be able to successfully put our talent out there for the world to enjoy and elicit an audience. Of course, as Canadians are watching them.... I should mention that it's not only Canadians but 90% of the audience of most creators in Canada are beyond our borders. That's amazing. They're enjoying phenomenal success. Kudos to them.

● (1450)

They're not telling me that they need the government to intervene. They're not telling me that they want the government to pick winners and losers, to choose favourites or to determine whether or not their content is Canadian enough to be in the first frame on someone's computer screen or have to drop down to frame 27. They're not telling me that.

I feel it's important to state that because the heritage minister in the House of Commons has advised me to speak with creators, and he has referenced a number of niche lobby groups that he has talked to, so I feel it's important to report back to the committee that I have gone and spoken to many of these creators who are doing phenomenal wonders for themselves and are generating content that Canadians are really enjoying and able to engage with.

These individuals are very successful on YouTube, not just in terms of being able to provide content that Canadians enjoy and like—and it's not only Canadian but a world-wide audience—but also in terms of being able to generate an income for themselves.

Because they're growing an audience organically and because they have that audience, then of course there are companies that wish to advertise on their channels. Those companies pay in order to do that, which allows these artists or these creators to generate a bit of an income. It's phenomenal. It's absolutely amazing.

We're talking about more than 25,000 Canadians who are able to generate a full-time income of more than $100,000 a year because of their incredible success on YouTube. They did it all on their own. Imagine that. They did it all on their own, without government support, without government getting their hands in there.

We're talking about individuals who are not only remarkably talented in whatever their craft is that they're putting on YouTube for others to enjoy, but who are also very savvy when it comes to entrepreneurship and being able to market themselves.

All that to say that I wanted to make sure the committee knew that I have had conversations with many of these individuals, as I was advised to do, and certainly, they are reporting to me that they don't really want this legislation. They don't want the government to put algorithms in place that would meddle with their business and what they're doing online, and the way that they function as creatives.

All that to say, coming back around, my understanding of Mr. Manly's amendment, based on what he said, is that it would require that these creators, those who are putting content online, check a box, and that box would either be, yes, they want to be considered within the algorithmic scheme, or, no, they don't want to be considered within the algorithmic scheme. If they decide yes, chances are they have already gone through the approval process for CanCon, which, for the sake of time I won't go into today. I'll leave it for now.

Maybe then they have CanCon approval, so they would check the box and say, yes, I want to be considered for just exactly how "Canadian" I am, and then that would, I guess, give permission for them to be bumped up or bumped down in terms of their discoverability, but that same box could also just be left blank and I guess those content creators would not be considered by the algorithm. That is what I understand Mr. Manly to be proposing.

He seems to be proposing that if you leave the box empty, if you don't choose to have it checked, then you're left unaffected. You just get to exist without being bumped up or bumped down, but coming back around to the main point here, I just don't see how that's possible. If you're going to bump up those who check the box, then inevitably, those who didn't check the box or who don't make the cut are going to get bumped down. You can't have two people in first place. It just doesn't work.

I mean, imagine watching the hockey playoffs if two or three or four teams all came in first place. It just doesn't work. Someone has to be second. Someone has to be third. Someone has to be fourth. That's just the nature of the game. If checking the box moves you up to first place perhaps, then if you're someone who didn't check the box maybe you got demoted to page 27 of the platform. We're still dealing with a significant problem here, then, in terms of censorship, accessibility and discoverability.

● (1455)

These artists deserve better. Their voices deserve to be heard. We have heard from experts who have said section 2(b) of the Charter makes sure that someone enjoys freedom of expression, freedom of belief and freedom of opinion. It is freedom of speech. That freedom of speech and freedom of expression covers two things. One is the freedom to be able to express your ideas or have them be known. Second is the freedom to be able to access someone's ideas.

There are two things going on there, then. An artist does have the right and should have the freedom to put their ideas out there. As a viewer, I should have the right to be able to see, access or read those things or listen to that content.

By preventing that—or censoring that, I should say—the government would actually be infringing upon our Charter rights as Canadians because it's the government determining to what extent something can or cannot be said, to the extent that something can be discovered or not discovered. It is this hindrance, not only of the expression being put out there, but also this barrier to the expression being found and enjoyed.... It is wrong. It is just so wrong to go in that direction.

My question still remains. I am wondering if Mr. Manly can help me understand. If creators and content generators have to pick which box to check or if they want their content to fall under the guise of the algorithm or not, how does that work for two creators to both come in at first place? How does it work that you could somehow remain not impacted by this amendment or by the legislation as a whole if you leave the box blank, in terms of being considered by the algorithm?

I am looking for some clarification there, through you, Chair.

● (1500)

The Chair: Mr. Manly, before you start, I'd ask you to keep it specifically to the question she has asked because I have Mr. Shields waiting.

Mr. Manly, you have the floor.

Mr. Paul Manly: It is simply a way of finding Canadian content. I don't know how you figure out, when you're watching YouTube, what is Canadian content or not.

I think we have had this discussion for quite a while now. This is simply a matter of continuing to talk about bumping up and bumping down and that two productions can't be first. How do you find Canadian content on YouTube? How do Canadians support Canadian content?

The filibuster is kind of just wearing thin. I will just leave it at that.

The Chair: Ms. Harder, you asked a question. That doesn't mean you cede the floor. Are you finished?

Ms. Rachael Harder: There is so much in that statement. I am being accused of filibustering, which is often referred to in a derogatory way. I kind of take exception to that.

Nevertheless, in addition to that, my question hasn't exactly been answered. I was genuinely seeking some clarification. Maybe I am missing something here, but I just don't understand how two things can both be coming in at first place.

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

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

There are two things. One, because of what Mr. Housefather said, I can call it a point of order. I don't really like to do that, but I will. I've known Mr. Housefather for a while and I find him very honourable. I find him a very good politician and parliamentarian. I very much respect him.

I ask questions, and I ask lots of questions at times. I'm looking for information. To suggest what I am doing and have done for many years here on committees.... I had a good debate with the parliamentary secretary last night in the House on this particular topic, in the late show, and I appreciated that. That was a debate where we both stated some obvious positions. To suggest that I am not looking for clarification, not looking for opportunities for discussion, getting feedback and learning more about what these things will do, I take exception to that.

I know MP Housefather's an honourable gentleman and MP. I appreciate that he's frustrated, but I take exception to his labelling of what I do as a parliamentarian as damaging and harmful to the process of democracy. It at times can be messy, but it's democracy. I object to the comments that he made.

With that, Mr. Chairman, I would move for adjournment.

The Chair: Just so you know, I gave you that latitude because Mr. Housefather brought it up. I let you answer it; that's fine.

I'm sorry, Mr. Housefather. Did you have something...?

A motion has been moved for the adjournment of the meeting.

Am I getting that correctly, Mr. Shields? Is that what you meant?

Mr. Martin Shields: Yes.

The Chair: Okay. We'll go to a vote.

(Motion agreed to: yeas 11; nays 0)

The Chair: The meeting is adjourned. We'll see everybody at the usual time on Monday.