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Chair: Mrs. Sherry Romanado



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• (1150)

[English]

The Chair (Mrs. Sherry Romanado (Longueuil—Charles-LeMoyne, Lib.)): Good morning, everyone. I call the meeting to order.

Welcome to meeting number 31 of the House of Commons Standing Committee on Industry, Science and Technology. Today's meeting is taking place in a hybrid format pursuant to the House order of January 25. The proceedings will be made available via the House of Commons website, and as usual the webcast will only show the person speaking rather than the entire committee.

To ensure an orderly meeting, I'd like to outline a few rules to follow.

Members and witnesses, you may speak in the official language of your choice. Interpretation services are available for this meeting. You have the choice at the bottom of your screen of the floor, English or French. Please select your preference now.

As a reminder, all comments by members and witnesses should be addressed through the chair. Before speaking, please wait until I recognize you by name, and when you are not speaking, please make sure your microphone is on mute. For the purpose of interpretation, please do not speak over each other so that the interpreters can do their work. Most importantly, as is my normal practice, I will hold up a yellow card for when you have 30 seconds left in your intervention, and a red card when your time for questions has expired. Please keep your screen in gallery view so that you can see the cards when I hold them up, and please respect the time available so we can make sure that everyone has a chance to ask questions.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on February 23, the House of Commons Standing Committee on Industry, Science and Technology is meeting today to continue its study on competitiveness in Canada.

I'd now like to welcome our witnesses. Today we have Vass Bednar, executive director of the master of public policy in digital society program at McMaster University; Ritesh Kotak, technology entrepreneur and strategist; and Ellis Ross, member for Skeena in the Legislative Assembly of British Columbia. We also have, from the Canadian Media Concentration Research Project, Dwayne Winseck, director, Carleton University, and Ben Klass, senior research associate; and from the First Nations Tax Commission, C.T. (Manly) Jules, chief commissioner.

Welcome, everyone. Each witness will present for up to five minutes, to be followed by rounds of questions.

We will start with Vass Bednar. You have the floor for five minutes.

Ms. Vass Bednar (Executive Director, Master of Public Policy in Digital Society Program, McMaster University, As an Individual): Thank you, Madam Chair.

My name is Vass Bednar. I'm the executive director of McMaster University's new master of public policy in digital society program.

As I'm the co-author of a forthcoming white paper on the state of competition policy in Canada, I'm going to focus my remarks on the potential for reform of the Competition Act, particularly as it relates to the digital economy. I'll also commit to circulating that paper to members of this committee when it's published in the coming days.

When I started researching competition policy in Canada, I was struck by the lack of scholarship on the subject. Most publications come either directly from government officials or from private actors. There's not a whole lot of material that sits in a neutral middle ground, so I'd love to see more of that. I also observe a striking amount of capture in the sector. I'm not sure precisely how that contributes to any policy inertia, but I do sense the Canadian public is increasingly impatient with the legislation's facilitation and maintenance of oligopolies in our economy. If we want to give our own companies a chance to compete, and protect consumers from new forms of online harm, we should proceed with a thoughtful review of the act.

It has been said that Canada doesn't treat competition policy seriously and that we tolerate high corporate concentration in an effort to be competitive internationally. In fact, former competition commissioner John Pecman has lamented that the bureau lacks the kind of independence that could make it more effective. To my mind, what it comes down to is that there are structural limitations in our legislation that hinder our ability to curb anti-competitive practices, especially for today's digital economy. This puts us at a disadvantage compared to other countries.

One quick example is the seemingly arbitrary threshold for a merger review. This leads the bureau to potentially overlook anti-competitive mergers.

Another example is fines. The current commissioner, Matthew Boswell, has acknowledged that the maximum penalties for anti-competitive behaviour lack the teeth necessary to deter anti-competitive behaviour.

There's also this bigger question: Should Canada even make an effort to emulate either the American or the European approach to competition policy? Look, we're likely to benefit from the historic antitrust investigations into global tech firms just due to natural spillover effects, but other competition authorities are not going to scrutinize troubling digital competition issues in our own backyard. That's why it's important to me that we act as more anticipatory regulators that can spot harms on the horizon and act accordingly.

Consider a company that has admitted to fixing the price of bread and may have been colluding on wages with other grocers in the pandemic: Loblaw. Now as a case study, just think about their deepening across the financial space with PC Financial; health, with Shoppers Drug Mart and the PC Health app powered by League; insurance and the grocery spaces. This is a case study of the market power that can be achieved through detailed targeted ads and reduced privacy as they refine their proprietary advertising platform, Loblaw Media, emulating a playbook refined by Facebook and Amazon. While this may impact competition, it can also harm consumers by constraining their ability to access everyday essentials at a cheaper price, while Loblaw grows market share.

Right now, Canadian competition policy is silent on such Orwellian activities because the legislation and current guidelines do not adequately comprehend or even stop to consider whether and how data creates a competitive advantage, yet issues on data collection and processing are at the centre of current antitrust cases all around the world. Put simply, Canada's Competition Bureau does not have the tool kit for a digital economy.

As part of any modernization, we're going to have to critically think about how we can redefine "dominance" via volume and maybe even richness of data, and also understand the competitive harms that can flow from dominant firms that hold large volumes of information. Maybe one of the most important lessons that Canadian policy-makers can learn from the U.S.'s recent work investigating past activity from Facebook, Amazon and Google, and also by China's efforts with Alibaba is that it's difficult and might even seem disingenuous to retroactively change the policy environment in order to rationalize investigations against massive digital firms.

To my mind, Canada's competition policy no longer serves our best interests, and digital markets are fundamentally different from traditional ones. This alone warrants modernizing the act alongside more robust privacy legislation in order to better manage these abuses and truly promote dynamism; otherwise, companies that pump up prices on bread for single moms can continue to trade on that same mother's personal information.

• (1155)

It's time for our legislation to catch up.

Thank you.

The Chair: Perfect timing. Thank you so much.

We will now go to Mr. Kotak for five minutes.

Mr. Ritesh Kotak (Technology Entrepreneur and Strategist, As an Individual): Good morning, Madam Chair.

I would like to start by thanking the committee for inviting me to share my thoughts on how Canada could become more competitive.

My name is Ritesh Kotak, and I work with organizations to help them transform their operations digitally. I've studied and worked on this issue globally for the last decade, but my journey started a lot earlier. I grew up in a small business. To be more specific, my crib was in a store. My grandparents and parents had a community grocery store, which over the years has transformed into a food manufacturing company that employs about 20 individuals, imports and exports products, and is continuously trying to innovate.

When the pandemic started, many businesses had to find alternative ways to remain competitive. The natural move was to transfer operations to an e-commerce platform, my parents included. The general consensus was that it is as simple as creating an account, adding your products and you can begin shipping to customers around the world. In theory this is correct. However, in practice it is much more complex.

I would like to take my time to break down three categories of issues that are major barriers to businesses and hinder our competitiveness. I share my thoughts from a strategic and also a practical perspective.

Number one, you are building on something existing and not on something new; number two, unclear guidelines; number three, access to a knowledge base.

The first major barrier is that many initiatives make a detrimental assumption that because they have a website, it will allow businesses to migrate their operations online. However, if you are a traditional bricks and mortar establishment, you have existing systems. Upgrading those systems is complex and expensive. I've seen frustrated business owners maintain two independent systems, which is just not economical. If you want to integrate, it requires additional software and expertise. This can cost thousands of dollars, be time consuming and complex, and many people are simply unaware of this additional investment. This can also be very stressful.

To add to the complexity, we wouldn't normally think of all of the labour challenges from a granular level, such as adding hundreds of products, descriptions, images, to shipping the product to the customer—also known as the last mile. With shipping in particular, business owners may end up covering large costs out of pocket, as major carriers base rates on weight, not volume. I can elaborate further on this point during the Q and A.

It is also extremely difficult for small businesses to compete, as shipping rates are significantly higher for small businesses compared with established big box companies. A package may cost a local business \$14 to ship; the same package will cost an established business \$4. That's three and a half times higher. This dissuades customers from completing a transaction. We see this through the number of abandoned shopping carts. Shipping companies won't give you a better rate unless you have volume, and you won't have volume if you don't offer competitive rates. Given low margins in certain industries, it makes this an impossible proposition—a catch-22.

To put a hard number to the amount of effort required, I have technical abilities and understand the different factors and complexities. It took me approximately 300 hours to figure this out. I empathize with all of the small business owners who don't have access to these skills and as a last resort have spent up to \$30,000 on consultants—money that they didn't even budget for.

The second category of issues is that there are unclear guidelines. I'll use my example of the food industry. Many retailers are unaware that shipping to other countries, especially to the U.S., has its challenges. Since CUSMA increased the de minimis value under section 321 from \$200 to \$800 for e-commerce, many organizations are unsure how this applies.

From my conversations, I found that different agencies are used to helping businesses with B2B trade, but not B2C trade. I could not find a single resource that aggregated all the necessary information, from registration and labelling requirements, to other considerations such as advertising restrictions and data protection. Businesses are expected to comply, but are unaware. I even found federal agencies who really wanted to help and answer my questions, but were just unsure on how best to address my inquiries. This is a major barrier to our competitiveness.

Finally, more needs to be done to physically help these businesses digitally transform their operations. We cannot simply put money towards the problem, as they require physical expertise and a helping hand.

As mentioned, it took me 300 hours. I have volunteered my time to assist many organizations digitize, because I truly believe that we are all in this together. There need to be more individuals who have built these hybrid businesses assisting other businesses, because personal usage is a precondition to comprehension.

There is plenty more I would like to discuss such as how we can achieve this, barriers to accessibility and other factors that impact our competitiveness.

I thank you for this opportunity and welcome your questions.

• (1200)

The Chair: That's perfect timing. Thank you very much.

We now go to Mr. Ross.

You have the floor for five minutes.

Mr. Ellis Ross (Member of the Legislative Assembly of British Columbia, Skeena, As an Individual): Thank you.

My comments come from 17 years of reviewing projects in detail from different directions in terms of their viability and process. I believe this is great context for understanding how to build and sustain an economy, which leads to the topic of competitiveness. I also understand the working end of environmental assessments at both the federal and provincial levels and the permitting regimes under the different ministries.

[Translation]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Madam Chair, the interpretation is not working.

[English]

The Chair: Mr. Ross, wait one moment, please. We are having problems with translation. I will stop the clock. I'm just going to turn to the clerk to double-check.

The Clerk of the Committee (Mr. Mark D'Amore): Mr. Ross, would you be able to unplug and replug your headset?

Hon. Pierre Poilievre (Carleton, CPC): On a point of order, Madam Chair, I just want to put on the record that all members of the committee have the right to hear every word of testimony in English and in French, and the problem seems to be that there's poor audio for our translators. I wonder if we might spend some time between now and the next meeting on that, perhaps with other committees as well, because I hear Mr. Ross and I've heard other witnesses who apparently the translators can't hear, but there is this recurring problem where, for some reason, they can't get the audio that everyone else is getting.

The Chair: Thank you very much, Mr. Poilievre.

Actually the audio requirements to be able to translate must be much higher than what you and I would normally be able to work with. It's something that's being looked at by the Liaison Committee as well, and we've made a point of trying to make sure that when we are scheduling witnesses, we ship them headsets that our translators have approved for use.

So it has been duly noted, but we're working as well as we can to make sure that our translators and interpreters are able to do the work they need to do.

Mark, if it's possible for IT to work with Mr. Ross, maybe we can go to the next witness, because we are delayed. If that's a possibility, would that be okay?

The Clerk: Yes.

The Chair: That's perfect.

We'll go to the Canadian Media Concentration Research Project. I believe Mr. Winseck is going to present, and in the interim we'll work with Mr. Ross offline to see if we can get better quality.

I turn it over to you, Mr. Winseck. You have five minutes.

• (1205)

Dr. Dwayne Winseck (Director, Carleton University, Canadian Media Concentration Research Project): Thank you very much. I will lead the discussion and hand it over at the end to my colleague Ben Klass.

Good morning and thank you for inviting us to appear before your committee. Our research at the Canadian Media Concentration Research Project examines the evolution of everything from mobile wireless Internet access and cable TV services to the quickly evolving digital media delivered over the Internet such as online video services like Netflix and Crave, Internet advertising, social media and newspapers.

In the 1990s and early 2000s, it was commonly believed that the advent of digital media and the Internet would usher in more competitive and diverse communications and media markets. However, in his summary of the results of a recent 30-country study, Columbia University professor Eli Noam concludes that concentration levels in mobile wireless, broadband Internet access and other communications markets continue to be “astonishingly high”. While the data for content media is mixed, the trend is in an upward direction.

Moreover, in the last decade, a handful of global Internet giants have remade the Internet in their image—a centralized Internet ruled by a few search engines, social media services and digital media content aggregation platforms. These conditions generally apply to Canada as well.

Where Canada does stand out, however—and not in a good way—is in its sky-high levels of vertical and diagonal integration. The figure distributed to the committee provides a snapshot of where things stand as of 2019 based on HHI measures of concentration—a point I hope we can discuss during the question and discussion period.

If the proposed mega-merger between Canada's second-largest and fourth-largest communications and media conglomerates, Rogers and Shaw, is approved, it would have four major implications. It would overturn a decade and a half of policies by successive Conservative and Liberal governments alike to foster a fourth maverick mobile operator in regions across the country. It would significantly lessen competition for the mobile wireless market at the national and provincial levels and for the national Internet access and cable television markets. It would reduce the number of doors that TV and film producers have to knock on from four to three when seeking a national distribution deal and from three to two in English-language regions of Canada. Moreover, with data combined from 18.2 million Canadians integrated across Rogers' and Shaw's multiple platforms, this deal raises substantial questions about the link between big data, market power, and privacy and data protection.

The proposed Rogers and Shaw merger is an excellent opportunity to see whether the Competition Bureau can use its existing tools to full effect and hold the line on current policies. It is also an excellent opportunity for it to turn its professed interest in the link between big data, market power, and privacy and data protection into action. This is also in sync with the recent report by the ETHI committee, “Democracy Under Threat”.

Competition policy should also go beyond assessing consolidations solely in terms of price to consider, for example, standards of data and privacy protection. For example, Facebook loudly touted its respect for people's expectations about trust and privacy when it competed with tens of other rivals during the competitive era for social media. Since taking over Instagram and WhatsApp in 2012 and 2014 and consolidating control over social media, however, it has systematically degraded the standards of privacy and data protection that it offers.

Price is, obviously, still a concern. Consider that in the oligopolistic mobile wireless industry in Canada, Bell, Rogers and Telus have been able to persistently charge high prices that are significantly higher than in comparable countries while offering mobile wireless plans with stingy data allowances that constrain how people use their phones and the mobile Internet. As a result, mobile data usage in Canada is about half the OECD average and a third of what it is in the U.S.

There is also a need to restore a focus on the broader effects of concentration on competition—for example, the creation of kill zones—as well as how the massive economy of scale, scope and network effects that are common to digital services are used to buttress dominant market positions, undercut rivals and expand into new markets.

The focus should also be on limiting the threat that concentrated corporate power poses not just to markets but to policy; society; the evolution, design and use of technology; and democracy.

Four principles drawn from the history of communications regulation should serve as guides for what a new generation of regulation for communications, the Internet and the digital economy could look like: structural separation, line of business restrictions, public obligations and public alternatives.

I'll now turn it over to Ben. I hope you can indulge him for half a minute.

• (1210)

Mr. Ben Klass (Senior Research Associate, Canadian Media Concentration Research Project): I'll just add two points to what Dwayne had to say. They are observations that I've made on the basis of the Competition Bureau's and CRTC's appearances here last week.

I was struck by the competition commissioner's telling this committee that they don't enforce mergers after the fact. I think that that's like a surgeon saying he doesn't care what happens to the patient after the operation. I can't see why approving real mergers with imaginary remedies is a good policy for Canada.

Thank you. I look forward to your questions.

The Chair: Thank you very much.

We will go to Mr. Jules first, and then we will go back to Mr. Ross.

Mr. Jules, you have the floor for five minutes.

Mr. C.T. (Manny) Jules (Chief Commissioner, First Nations Tax Commission): Madam Chair, I will take six and a half minutes. I hope you will indulge me.

The Chair: Mr. Jules, I need to you be as close to five minutes as possible, as we have a lot of witnesses and are delayed.

Please go ahead.

Mr. C.T. (Manny) Jules: Good morning, honourable members.

My name is Manny Jules. I am the chief commissioner of the First Nations Tax Commission, which is one of three institutions created by the First Nations Fiscal Management Act, or FMA. I was also chief of the Kamloops Indian Band from 1984 to 2000.

Thank you for this opportunity to address this committee as part of your study on competitiveness in Canada.

Canada's productivity challenge is real and COVID-19 has made it acute. Meeting this challenge will determine whether or not we can maintain or improve our living standards, lift first nations out of poverty, and continue to fund our social infrastructure. Despite immigration, Canada is an aging society. Service costs like health care will rise sharply. We are going to have trouble maintaining services, particularly at the provincial level, unless we can improve productivity.

There are a few factors that determine productivity. I'm going to focus on just one, which is improving the first nations' investment climate.

First nations are a younger and faster growing population than Canada as a whole. We have higher unemployment, lower pay and, often, unproductive land. Too many of our children grow up without being exposed to work opportunities and the role models those create. This puts them at a disadvantage for the rest of their lives. That is not good for Canada's competitiveness.

I have spent most of my career turning this around. I have concluded that the root of our problem is the way we are viewed.

You see a social problem that needs to be fixed with government programs. I have a different philosophy. I think our disparities are fundamentally economic. Our economic issues are a result of first nations being systematically legislated out of the economy. Government oversight has prevented investment from happening on our lands. Social problems are a result of that.

How can we fix this? We need to focus on removing the things that have taken us out of the economy. We talk about the costs of interprovincial trade barriers, and rightfully so. We also need to talk about the investment barriers that have been put up around first nation lands.

We have identified a successful, three-part formula to build a stronger first nation investment climate. It is based on putting deci-

sion-making power in first nation hands, so they can respond to opportunities. First, develop legislation that recognizes first nation jurisdiction and provides an orderly process to occupy it. Second, establish first nation institutions to provide support and standards, so that first nations implement their jurisdiction in a manner that grows their economies and enhances the economic union of Canada. Third, provide training and capacity development to first nation administrations, so they know what to do.

This approach has worked. The First Nation Fiscal Management Act is the most successful first nation-led legislative initiative in Canadian history. This committee should build on that success by supporting four proposals to improve the act.

First, first nations need more sustainable economic infrastructure. In the last year, we have worked closely with the federal government to develop the legislation for a first nation infrastructure institute. The rapid implementation of this institute will ensure that we have the foundation to compete in a competitive investment climate.

Second, we need to provide tax and decision-making power to first nations. You cannot have government decision-making power if you are entirely funded by a contribution agreement. Fiscal powers give us a strong incentive for economic success. It reward good policies in a way that program funding never will. It allows us to implement our jurisdictions so we can, in my dad's words, move at the speed of business.

This can start with two easily implemented fiscal powers: a sales tax on fuel, alcohol, tobacco, and cannabis—the FACT tax—and FACT excise tax sharing. I must note that on Monday, the Government of New Brunswick unilaterally cancelled the tax-sharing agreement with first nations in that province. The fiscal math of Canada is unrelenting. First nations need new legislated tax powers.

• (1215)

Third, we need to improve our resource economy competitiveness. First nations are often the only governments in a region that don't receive direct fiscal benefits from major resource projects in their territories. This makes it difficult to get our participation and support, and that means resource investment has fallen off relative to our competitors. Hundreds of billions of dollars have been diverted to other countries. We can fix this with a resource charge, supported with an offsetting federal tax credit. This would create transparent, standardized and stable first nation fiscal benefits from resource development. It could coordinate with federal and provincial tax systems.

The FNFC would support its implementation and coordination. This would provide many rural and remote first nations with economic opportunities and break the cycle of poverty that disadvantages so many children from an early age.

The Chair: Mr. Jules.

Mr. C.T. (Manny) Jules: Fourth, we need to expand the work of the FMA institutions and the Tulo Centre of Indigenous Economics to support these initiatives, and one day—

The Chair: Mr. Jules.

Mr. C.T. (Manny) Jules: —they should be supported by a—

The Chair: Unfortunately, Mr. Jules, I need you to wrap it up. You're way over time.

Mr. C.T. (Manny) Jules: I will.

One day they should be supported by a real land title registry system.

In 1910, my ancestors made a request of Canada for tax powers, better infrastructure, and a land title system so we could provide health care for our members and compete in the economy.

Today, I am making a similar request. I urge this committee to support these proposals. I am not asking for special rights. I am simply asking that first nations that want a chance to succeed be given a chance to do so.

Thank you.

The Chair: Thank you very much, Mr. Jules.

We'll now go to Mr. Ross.

Mr. Ross, I'm just going to remind you to keep the microphone as close to your mouth as possible. You have five minutes.

Mr. Ellis Ross: Before the five minutes starts, I was just told by the tech people not to hold the microphone close to my mouth, so how is this coming through? Can the interpreters hear this okay?

The Clerk: Yes, they're okay.

The Chair: Go ahead, Mr. Ross.

Mr. Ellis Ross: Thank you.

My comments come from the last 17 years of reviewing projects in detail in terms of their viability and process. I bring this as great context for understanding how to build and sustain an economy, which leads to our topic today of competitiveness. I also understand the working end of environmental assessments at both the federal

and provincial levels, and the permitting regimes under each ministry.

Unfortunately, now as an MLA, I understand how these processes are formed, and I also understand the ideologies and politics that help shape these processes.

The most important lesson learned is what a good, strong economy does for the strength of an individual, a community, a province and a country. I don't understand why our legislators can't wrap their heads around the idea of competitiveness. We understand competitiveness where we stifle competition from province to province, but we take a different approach when we deal with our biggest trading partner/competitor to the south of us.

When we create so much politics, red tape and taxes for, say, a Canadian concrete company to bid itself out of a Canadian contract, the United States' company that doesn't have the same cost structure comes in and secures that Canadian contract. The same approach of politics, red tape and taxes plays out when we stop the export of oil and gas to Asia, and then we turn around and ship that same resource to the United States so that the U.S.A. can supplement its own overseas export market, as well as domestic markets. This is happening as we speak in B.C., especially with LNG, with U.S.A. wanting to export B.C. LNG because it is cleaner, and we can't get LNG off our shores.

You'll hear stories from the mining industry in B.C. talking about a robust exploration industry, but what you won't hear is that no mining company wants to invest in B.C. No mining company can make an FID. We've gotten to the point where Canadian companies find other countries—which are our competitors, by the way—more welcoming than Canada. Canadian companies take their investment dollars elsewhere just because of our uncompetitive framework.

The only investors who are willing to invest in B.C. for major or semi-major projects are the large worldwide corporations that have enough cash and fortitude to bankroll a \$50-million environmental assessment—some cost. Even those corporations are starting to cut their losses and leave Canada.

No doubt you heard about Chevron's decision to take a step back from its \$32-billion LNG project in Kitimat. Chevron can't sell its 50% equity stake in that project, a project that has the support of first nations, has two LNG reserves in northeast B.C., and has a fully permitted pipeline and a fully permitted liquefaction facility. They can't get any interest from the worldwide community.

There is something wrong with Canada and B.C.'s competitive structure when a world thirsty for clean energy has no interest in doing business in Canada.

Thank you, Madam Chair.

• (1220)

The Chair: Thank you very much, Mr. Ross.

With that, we will start our rounds of questions.

For our first six-minute round, we will start with MP Poilievre.

You have the floor.

Hon. Pierre Poilievre: Thank you very much.

My questions will start with Mr. Ross.

Mr. Ross, if you listen to the media, you would think that all first nations are against all resource development.

Can you tell me the truth about where the communities you represent stand on these projects?

Mr. Ellis Ross: A lot of the communities that support LNG, for example, do so under their own community processes, under democratically elected leadership. What you see in B.C. right now is a push to silence or marginalize democratically elected first nations people. It's the politics and ideology. It's a big problem in B.C.

In fact, with everything you talked about in terms of the media, nobody has actually gone to all those first nations that signed on to Kinder Morgan or the LNG projects. There are two major LNG projects in Kitimat, and both have the support of first nations.

Nobody wants to do a story on that, because it's not sexy enough. It doesn't make headlines. Yet, already you see the benefit going to all of these communities along the way in addressing poverty, substance abuse, children in care. It doesn't make the news because it's just not sexy.

Hon. Pierre Poilievre: Right.

With regard to all of the journalists and so-called environmental activists who stand in the way of the projects that would lift your people out of poverty, once they succeed at blocking the projects, do they stay around to help your people?

Mr. Ellis Ross: No. In fact, if they don't get the support of the leadership of a community, they will find somebody else within that community to support their opposition.

It's something I have talked about as a number one principle that I see with legislatures: Do not use the first nations for your politics, for those who are among the most disadvantaged people in Canada. Especially in the last 15 years, we have seen light at the end of the tunnel where we can engage in the economy and actually say no to government funding.

Hon. Pierre Poilievre: Will UNDRIP help your people?

Mr. Ellis Ross: No, UNDRIP will not help, especially in the form of Bill 41 that was passed in the B.C. legislature. It's all rhetoric. It's narrative, and it doesn't actually speak to section 35 of the Constitution. It doesn't speak to any of the pursuant case law that defines section 35 of the Constitution. There's no definition. In fact, they have inserted it into the B.C. Environmental Assessment Act.

All that vagueness is going to create more and more uncertainty, and, unfortunately, we're going to have to go to court to find a definition of UNDRIP.

Hon. Pierre Poilievre: First nations have a constitutional right to be consulted about projects that touch upon their territories, and rightly so.

When Justin Trudeau vetoed the northern gateway pipeline, for which first nations communities had \$2 billion worth of benefit-sharing agreements, did he consult with the people who were supporting the project in first nations communities?

Mr. Ellis Ross: I don't recall, because my engagement was actually in position to Enbridge under the Conservative government. One of my biggest issues back then was that nobody truly understood the Haida court case on the duty to consult and accommodate, much less the corporations.

In fact, the LNG companies that came in after Enbridge said they would not make the same mistakes as Enbridge.

I actually had apologies from the president of Enbridge after all was said and done for their treatment of aboriginal rights and title. I went through all the processes, all the court cases. I went through all of it, and fundamentally at the core of the issue was an understanding of aboriginal rights and title.

Today it's much different. It's much better. Everybody understands the aboriginal rights and title are here to stay.

• (1225)

Hon. Pierre Poilievre: Excellent.

I understand that all of the elected communities on the right of way of the Coastal GasLink are supporting that natural gas project.

Is that your understanding as well?

Mr. Ellis Ross: Without a doubt. They all signed on, including first nations along the tanker route. They signed on. They did it for the benefit that we're all enjoying right now as we speak—for the last five years.

Hon. Pierre Poilievre: With the non-indigenous protestors who were blocking trains and standing in the way and creating these blockages, would you say they represent the first nations communities affected by the Coastal GasLink pipeline and liquefaction project?

Mr. Ellis Ross: No, not even close. In fact, they blockaded the B.C. legislature, and I was told I should support aboriginal rights and title by a protester. I had spent the better part of 15 years doing exactly that to get my people to a better place, along with 17 other first nations along the pipeline. They were all doing it under the banner of rights and title.

A lot of the protestors across Canada don't have a good understanding of what rights and title actually are.

Hon. Pierre Poilievre: This is a project that will benefit the communities that unanimously elected leaders that unanimously support it and the communities they represent. It will actually reduce global greenhouse gases by replacing foreign oil with clean, green Canadian natural gas. It helps the environment. It helps first nations escape poverty and achieve independence. Isn't that what we're continually told we should be doing?

Mr. Ellis Ross: Well, that's what I learned back in 2004. I've been reviewing LNG projects, forestry projects and solar and wind. You name it, I've reviewed it.

I always thought that was the common denominator: to protect the environment but to actually try to do something for the planet as well as trying to uplift aboriginals.

By the way, when you uplift aboriginals in any setting, you actually make the community stronger, B.C. stronger and, Canada stronger. I don't understand why we're actually allowing the opposition to dictate what's happening here in B.C., in Canada.

Hon. Pierre Poilievre: The gatekeepers—

Mr. Ellis Ross: Yes.

The Chair: Thank you very much, Mr. Poilievre.

We now go to MP Jowhari.

You have the floor for six minutes.

Mr. Majid Jowhari (Richmond Hill, Lib.): Thank you, Madam Chair, and thank you to all the witnesses for your testimony today.

I would like to start with Mr. Kotak.

Mr. Kotak, in your opening remarks you said:

Businesses are expected to comply but are unaware. I even found federal agencies who really wanted to help and answer my questions, but were unsure how best to address my inquiries. This is a major barrier to our competitiveness.

Can you expand on that, sir?

Mr. Ritesh Kotak: Absolutely, and thank you for your question.

What's happened here with e-commerce and the pandemic is that a lot of businesses have moved to online platforms. Traditionally, we had these brick and mortar locations and we've gone online to do sales channels, but they are not separate. They are actually integrated.

We have this new hybrid economy, where you have to be competent in both areas. That has also created confusion, especially amongst different agencies. From my personal experience, these were agencies that wanted to help by reaching out. For example, if you have the CFIA or the different trade commissioners, the question became, "How do I export to the United States or how do I export to different provinces?" Everything they were given, everything they were told and everything that they have dealt with was related to B2B, business-to-business sales, where you sell to another business or to a distributor and then they sell the products to stores.

Well, what e-commerce has done is that it has taken the consumer right to the business, so it falls into this new category, which many are just unaware of how to operate around. It's not their fault.

It's something that's relatively new to a lot of people. That has created a lot of confusion. That has created—

• (1230)

Mr. Majid Jowhari: I'm sorry to interrupt you, but how can the government help?

Mr. Ritesh Kotak: One of the ways the government can help—I'm a big advocate of red tape reduction and amalgamating different resources—is that if there were a tool kit, a single source that a small business or any business could go to, it would have access to information related to export, to technical resources and to different platforms and accessibility. If there were a one-stop shop or a digital tool kit, it would make life a lot easier for small businesses.

Currently what we have is that the information is available, and it's out there, but it's in different areas. If you are a small business, you might not have the ability to locate the information and then leverage and implement the information and capitalize on it through different sales channels. Amalgamation, red tape reduction and having all those resources in a single place would definitely be beneficial for small businesses.

Mr. Majid Jowhari: Thank you.

You talked about the tool kit. It's funny that Madam Bednar also talked about the tool kit.

If I may go to you, Madam Bednar, you also mentioned that we really don't have access to a tool kit to be able to remain competitive. Can you share any clarifying statements you want to make, or can you expand on that one? What type of tool kit do we need?

Ms. Vass Bednar: Recently there's been more writing about exploring whether the Competition Bureau needs the capacity to be able to conduct market studies. Authorities in the U.S. can compel particular information from businesses in order to keep pace with trends in the sector and then better understand where there might be emerging issues of concern. We don't have that.

In terms of a tool kit, I also mentioned independence. We do nest our Competition Bureau within the ministry and some people point to that as a potential opportunity for conflict.

I mentioned the somewhat arbitrary threshold for merger reviews. I worry and wonder that we're missing mergers that we should be a little bit more thoughtful about, and also fines. With regard to our capacity to levy fines, frankly, fines exist as a deterrent and may not be the deterrent that we hoped them to be.

The last thing I'll maybe offer is that we have other pieces of legislation that have a bit more of a schedule for review. I believe the Bank Act gets a little bit of a look every five years, so thinking about more of a schedule to do that spring cleaning and review this really important legislation could also be impactful.

Mr. Majid Jowhari: Thank you.

I've got about a minute left and want to continue with you, Madame Bednar. You talk about anticipatory regulations. Can you expand on that one, please?

Ms. Vass Bednar: It strikes me that competition policy is inherently retroactive. We evaluate mergers after they happen. Sometimes we're going back in time, and what I worry about, since we're not being thoughtful about the digital economy and the implications of data and consumer data held by companies, is that we're going to be stuck in a situation where years in the future we're going to be retroactively applying that lens to companies in a way that, as I've said, appears disingenuous, confusing, and punishes firms more than empowers them to understand the most effective ways to be responsible innovators.

Mr. Majid Jowhari: Thank you, I've got five seconds, which I yield back to the chair.

The Chair: Thank you very much.

[Translation]

Mr. Lemire, go ahead for six minutes.

Mr. Sébastien Lemire: Thank you, Madam Chair.

I will begin by addressing the Chief Commissioner of the First Nations Tax Commission, Mr. Jules.

Kwe.

What is your reaction to the exchange you just heard between Mr. Poilievre and Mr. Ross? Do you agree with those statements being attributed to first nations?

You know that we are currently debating in the House Bill C-15, which recognizes more indigenous rights, including the right to self-determination. Do you consider this to be a worthwhile process? It includes the obligation to consult first nations. Would you prefer that?

• (1235)

[English]

Mr. C.T. (Manny) Jules: I agree with Ellis. He's got long-standing experience in this area. What we need in this country is economic reconciliation, fundamentally. We've been legislated out of the economy and I believe that what we need, really, is a first nation federal-provincial table so that we can look at and establish a better fiscal relationship, focused on investment and competitiveness. I think that's the fundamental way we've got to move forward, addressing the myriad of concerns.

One of the things Ellis was saying that I agree full-heartedly with is that just having one piece of legislation doesn't lead to true reconciliation. If we're looking at the piece of legislation to deal with UNDRIP, we need a myriad of different pieces of legislation to implement the constitutional rights that Canada has recognized for first nations.

The other thing that's clear in the discussions is that first nations operate under telegraph technology, as opposed to a digital age technology. All of these matters have to fundamentally change, and if Canada is going to regain its competitive edge, we have to move to ensure that first nations are fully a part of the solutions that are going to come post pandemic.

One of the things that's going to be critically important, of course, is fiscal relationship discussions based on the health care and indebtedness that Canada as a whole is going to be facing. Without harnessing the youth and the abilities to —

The Chair: One moment, Mr. Jules. Unfortunately we're losing the translation.

The quality of the sound is a little patchy. Is it possible for you to get a little closer?

Mr. C.T. (Manny) Jules: Yes, when I spoke I was moving a little farther away. I'll do that and I'll speak a little more slowly.

The Chair: I'll start the clock back.

Thank you.

Go ahead.

Mr. C.T. (Manny) Jules: We need economic reconciliation in this country.

I agree with Ellis Ross in his statements about UNDRIP. You can't have one piece of legislation when you've got constitutionally recognized rights. You have to have a myriad of different pieces of legislation that facilitate our being a fundamental economic and competitive partner in this federation.

Right now we've got a situation whereby we've been completely legislated out of the economy. We first nations operate under technology that was developed during the telegraph era. We need to be a part of the digital age. That means fundamentally changing how we operate in this country.

One of the fundamental recommendations I would make to this committee is that we establish, or that you recommend the establishment of, a first nations federal-provincial table to deal with competitiveness and the myriad of complex issues that this country is facing in getting our commodities to market.

[Translation]

Mr. Sébastien Lemire: *Meegwetch.*

Indeed, recognizing first nations as stakeholders is a first step.

I would now like to address Mr. Winseck or Mr. Klass, from the Canadian Media Concentration Research Project.

I would like you to list the elements that contribute to the administrative and regulatory burden telecommunications companies are facing and, more specifically, to tell us what the solutions for reducing that burden are.

[English]

Dr. Dwayne Winseck: I will make a short answer to that.

I'm not quite sure how onerous the administrative burdens on telecommunications companies are as opposed to, say, members of the public who want to participate in regulatory proceedings. The Competition Bureau itself has very non-existent public proceedings; it does not even meet the standards of the CRTC.

I'm less concerned with whatever burdens the telecom companies have. In fact, they may not be facing enough pressure to meet the policy objectives that have been set for them, or to address public interest considerations that are raised before either the CRTC or the Competition Bureau.

• (1240)

[Translation]

Mr. Sébastien Lemire: I have a question that is possibly related to what you told us during our latest study, but it also applies in the current context.

What can the federal government do in terms of regulations to help small service providers better compete with historical giants such as Bell, Rogers and Telus?

[English]

Dr. Dwayne Winseck: I'll turn that to Ben.

Mr. Ben Klass: I think we're expecting to hear a decision from the CRTC later today that might impact the competitiveness of the mobile wireless market, one of the most important telecom markets.

If the CRTC does opt to adopt the regulatory regime that encourages and allows more competition, then I think we'll be looking forward to its implementation. If they neglect to do that, I think Parliament may want to investigate why the CRTC isn't addressing this problem sufficiently.

The Chair: Thank you very much, Mr. Klass.

With that, we will now turn to MP Masse.

You have the floor for six minutes.

Mr. Brian Masse (Windsor West, NDP): Thank you, Madam Chair.

Mr. Klass, you're exactly correct: Four o'clock today will define a lot of different competition issues. It'll be interesting to see what happens.

Ms. Bednar, in your studies right now, have you come across and do you have any commentary on the efficiency provisions in the Competition Act right now? We've heard testimony at this committee of this archaic component that's very unusual for any country to have, let alone Canada. Its consequences are quite significant. Can you provide some commentary on that, please?

Ms. Vass Bednar: Of course. Just to start, I'll say that I echo the previous comments. Economist Robin Shaban is my collaborator on the white paper that I mentioned is coming up. As such, I do defer to her criticism and observations, and I think it would be smart, and it feels inevitable for us, to re-evaluate the efficiencies defence and what it's helping and what it's hurting.

I wonder about and observe the proposed Rogers-Shaw merger. You know, this is an opportunity for people to learn about the efficiencies defence. I don't think the general public—and I hope it's not too much of a reach for me to say this—is as concerned with the minutiae of competition policy as it is with the feeling or sentiment that it is not evaluating proposed large mergers in the way consumers are.

Again, in an effort to rebalance private interests, public interests and worker interests, now would be a great time for Canada to hit “refresh” on the Competition Act. I hope we hear a lot of really interesting voices for more ideas on that.

Mr. Brian Masse: Yes, when it was reviewed here last time, its scope was very narrow. I had many amendments, which were ruled out of order. In fact, it was designed to prevent a further review. At this committee, I had several amendments that addressed issues but they were deemed out of the scope of the study. The government had made it so descriptive and limited that it wasn't even a holistic review of the Competition Act. It was basically a piecemeal approach, so it would be erroneous to assume it's had a thorough review.

I want to continue with Ms. Bednar and then go to Mr. Winseck, as well, because it's important. Mr. Pecman, the former commissioner of the Competition Bureau, acknowledged the “scarce enforcement resources” they have. He also noted that this erodes the ability of the bureau to actually take the initiative.

Is that the evidence you're seeing as well? From my experience here, it seems that the Competition Bureau is almost on a defensive perimeter, having to deal with a number of different things. The current commissioner didn't say that they stopped doing files, but he clearly indicated that when they had new ones pop up, they had to put other work aside.

Could you comment on that? I'll go to Mr. Winseck as well, please.

Ms. Vass Bednar: We've certainly seen the comparative under-resourcing of our own Competition Bureau when it's put in that international context. I can't speak to the bureau having to pick and choose where to enforce. However, I can also say that I believe that a review of the Competition Act was hinted at, maybe in one of the more recent mandate letters, in an interview in the Globe and Mail with the outgoing minister of innovation. It was previewed that the Competition Act might be reviewed or that it was a policy priority. Again, I wonder and I worry that we're all just dancing around the same conversation.

Second, there's more public discourse on competition policy right now. That's really healthy and good, but I pointed to the capture in the sector. Earlier this week, there was an op-ed in the National Post by three Bay Street lawyers that was framed as a kind of response to something Robin and I had written. That's wonderful and I'm happy to hear other perspectives, but I do wonder about their client list and the other interests they're protecting. We need more transparency. Let's just call a spatula a spatula here.

Thank you.

• (1245)

Mr. Brian Masse: Thank you. I had noticed that exchange as well. I do have a subsequent question relating to conflict of interest. It involves this actual department having the Competition Bureau within it, as part of its structure. It's absurd.

Ms. Vass Bednar: You know, my understanding historically is that the policy function of the Competition Bureau was minimized in about 2011. I can follow up on this.

Yes, in terms of their intellectual independence, it's very difficult. I believe there was concern expressed that having the governance institution responsible for enforcement could create internal conflicts if they were also drafting the policy. Again, it's one of the reasons our bureau has fewer teeth than others.

Mr. Brian Masse: The industry committee is the most lobbied place outside of the finance committee. They get it all with the budget consultations, including MPs. It's absurd that the Competition Bureau is in the same type of element.

I'll have to come back to Mr. Winseck for my second round because I've taken up time here. I will provide you an opportunity, as the chair has given me 30 seconds. I thought this was very important because there's a cultural and a structural problem with having the Competition Bureau policing itself versus all of the lobbying that takes place in the House.

The Chair: Thank you very much.

We will start our second round.

MP Dreeshen, you have five minutes.

Mr. Earl Dreeshen (Red Deer—Mountain View, CPC): Thank you, Madam Chair.

When I first entered politics in 2008, the first book I read was by Calvin Helin, *Dances with Dependency, Out of Poverty Through Self-Reliance*. It has helped guide me, having spent a number of years focused on aboriginal affairs and northern development, in my thoughts about how we should be looking at aboriginal leaders and the advances they should be able to use to help in their communities.

I've spoken with you, Mr. Jules, on a number of occasions as we've discussed different ways that which governments could allow first nations people to help look after themselves, rather than continue with the malaise they are in because governments seem to feel they know best how to run their lives.

This is where I'm coming from when I address these questions to both you, Mr. Jules, and Mr. Ross.

Mr. Jules, you've talked about the importance of decision-making for unemployment and about being able to look after the land. It's as though, if there were such a dirty thing as oil and gas being developed, or mining, somehow the first nations people would all of a sudden throw up their hands and say, well, obviously we want to be in on that; we don't want to look after the land we've lived on for so many generations.

Mr. Jules, what can we do to stop the concept that political people understand what you need and instead start listening to what is required to help all of our economy move forward?

Mr. C.T. (Manny) Jules: Fundamentally, the biggest issue we face is that when governments begin to deal with first nation issues, we're viewed as a liability. My understanding is that the government, when it looks at a myriad of issues, sees more than a trillion

dollars' worth of liability, and that hampers much of the innovative methods by which we can begin to move forward.

What I've always maintained and said is, let us take on the responsibility of liability. Let us look after ourselves, because we know the priorities of our first nation people's needs.

This means recognizing the fundamental powers of first nation governments, meaning access to the resources that are exploited within our traditional territories. The way to do that would be to ensure that we have a resource charge; that we have skin in the game. One of the best incentives is not federal government or provincial government programs, but economic power. That is the biggest incentive for creating wealth and not managing poverty.

• (1250)

Mr. Earl Dreeshen: Thank you so very much.

But then, there are decisions that are made by government: let's stop moving our energy to the east; let's not allow northern gateway to proceed; let's put other barriers in place. In Bill C-69, there are additional regulations that, as far as they are concerned, seem to be barriers to the general industry, but they're barriers to your people as well.

Mr. Ross, you mentioned that there are concerns involving Chevron. They have thrown up their hands in despair and essentially walked away from this large job and wealth-creating projects, rather than take what we need to sell to the world to help where greenhouse gases are concerned and to sell our technology.

Can you explain how much the regulatory processes we put in place are damaging that opportunity?

You mentioned before, in talking about the U.S., how our stopping what we do is going to help supplement their markets. Yes, we know who it is that benefits from all of the eco-activists who stop investment in Canada.

Could you quickly comment on that?

Mr. Ellis Ross: Yes, that's all out there.

By the way, I was never a fan of self-governance for first nations. I was a fan of basically being involved in the economy. My band is not suffering under the Indian Act anymore. Back in 2003, we were. We have enough resources now, within the current system, that we're making our own decisions and developing our own program, without self-governance. We're actually buying private land.

In term of how we're actually—

The Chair: Unfortunately, Mr. Ross, the time is up in this round. I want to make sure everyone gets their time.

Mr. Ellis Ross: That's no problem.

The Chair: We'll now go to MP Lambropoulos. You have five minutes.

Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.): Thank you, Madam Chair.

I'd like to thank all of our witnesses for being with us today. There have been lot of interesting discussions [*Technical difficulty—Editor*] comment, and say that obviously with COVID-19 our economy has taken a very big hit, but I believe that our government is trying to find ways to help us and businesses back on their feet. Obviously it's a good time to be looking into how we can allow for better competition and more companies to have some kind of stake in our economy.

That said, do you agree that one of the better and lower-cost ways forward is to eliminate or cut red tape? In what ways would you recommend doing this? What are the first steps you would take if we were to cut red tape?

I'll ask Ms. Bednar first.

Ms. Vass Bednar: I've focused my testimony on the Competition Act specifically. I don't view the act as a form of red tape. It's kind of the guidance and guardrail to protect against anti-competitive behaviour.

If I could, I'll pick up on something Mr. Kotak shared about the pandemic and going digital and bringing more companies online. I think that's another thing to consider as you look at red tape, for sure. Recognize the growing e-commerce competition for consumer data from a loyalty perspective and the loyalty programs trying to offer people hyperpersonalized ads. This is also worthy of scrutiny.

My point about being anticipatory and spotting harms on the horizon is about recognizing these patterns and trends and then making sure that our legislation properly captures them and isn't silent. The silence and the distance between what's happening in the economy and what our legislation thinks about is really concerning.

Ms. Emmanuella Lambropoulos: Thank you.

Mr. Kotak, would you like to comment as well?

• (1255)

Mr. Ritesh Kotak: I'll be brief in my remarks.

I'll use the example of a small flower shop. The flower shop, because of COVID, has been forced to essentially rethink how they're going to do business so they've gone online. That's opened up a lot of opportunities but also challenges. Consider, for example, cybersecurity, privacy and all those things that a small business might not think about. I have some stats here: 38% of small businesses get breached and one in four doesn't even know they've been breached. It's a whole other area of issues that they might not have traditionally budgeted for or might not have thought of. They might not be aware of their obligations or all of the legislative requirements.

If we were able to aggregate and reduce the burden through red tape reduction, it would allow them to compete and stay secure, and that's good for Canada in general.

Ms. Emmanuella Lambropoulos: Thank you very much.

My next question goes to Mr. Jules.

What are the main barriers you think stand in the way of indigenous communities when it comes to competitiveness?

Mr. C.T. (Manny) Jules: There are a myriad of barriers. I think they're some of the most important barriers this country has to deal with.

One of the fundamental changes that I believe would really address our economic well-being is a proper land title system, so that we can trade among ourselves. We have created about \$170 billion worth of a credit gap.

The other thing that could be done is getting the federal and provincial governments to share the tax revenues they collect on reserve lands right now. According to our statistics, through real property tax, first nations—about 110 across the country—are collecting \$110 million. The federal and provincial governments, for the same lands, are collecting \$700 million. That imbalance should be fixed.

Ms. Emmanuella Lambropoulos: Thank you very much.

I saw the yellow card waved and my next question would take too long to ask, so I'm done.

Thank you.

The Chair: Thank you very much.

[*Translation*]

We will begin our next round of questions and answers.

Mr. Lemire, go ahead for two and a half minutes.

Mr. Sébastien Lemire: Thank you, Madam Chair.

I will continue with Mr. Winseck and Mr. Klass, from the Canadian Media Concentration Research Project.

Tax evasion heavily favours major U.S. digital media such as Netflix, Disney, Facebook and other web giants, to the detriment of the prosperity of Quebec and Canadian media. This is a serious problem for the present and the future of Quebec's and Canada's media ecosystems. To address this, Australia adopted a code of conduct.

What measures do you think the federal government and the Government of Quebec should consider to ensure that Quebec's and Canada's media companies would decreasingly suffer from the negative effects of unfair competition from American big tech companies?

[*English*]

Dr. Dwayne Winseck: There seem to be a couple of questions there.

Regarding the idea of the tax question, I think that's pretty low-hanging fruit, and we can standardize the HST and GST across the like services. I think we're waiting on a developments agreement at the OECD on a digital services tax that would harmonize that across the OECD countries. I think that's fine.

I think once we get into the other questions about how we regulate Netflix, for example, or Facebook and Google, is the Australian model a good one, for example? I think there is much of interest in that model: the recognition of these companies' dominant market power; the idea that Google controls vertically integrated...with its own online ad exchange and all the data around which that ad exchange works, and that we need to open up the kimono to allow regulators and others to access that data to see how the algorithm works. I think these are good things.

The idea, though, that somehow this just ends up with transferring buckets of cash from the so-called web giants to domestic players, I think, is a real Achilles heel here that we need to avoid. We need to deal with the market power, black box technologies, and it cannot just go to delivering buckets of cash from foreign players to domestic ones.

• (1300)

[Translation]

Mr. Sébastien Lemire: Ms. Bednar, would you like to answer in 15 seconds?

[English]

Ms. Vass Bednar: My big observation for the competition environment with telecommunications is just recognizing that we allow providers to compete on both the infrastructure and the services, and this kind of structural function contributes to a lot of the challenges that have been documented. I hope that's helpful.

The Chair: Thank you very much.

Our next round of questions goes to MP Masse for two and a half minutes.

Mr. Brian Masse: Thank you, Madam Chair.

Mr. Winseck, I had previous questions directed to Ms. Bednar. Could you provide some thoughts as to those questions, or do I need to repeat them? Are you comfortable just to go?

Dr. Dwayne Winseck: I think I'm just good to go here—

Mr. Brian Masse: Thank you.

Dr. Dwayne Winseck: I'm going to hand this off to Ben as well.

I think there are four things I'd say in response to your earlier question.

I would say that the Competition Bureau seems to be handcuffed by a lack of a mandate and resources to look at what's happened after a deal has already been approved, so we need to have a retrospective assessment.

Second, we need to be able to understand the cumulative effects over time so that we're not just treating deals like the Rogers-Shaw deal as a one-off; but we need to see it as the second shoe falling after Bell MTS in 2017, and look forward from that.

There are also some problems with information disclosure powers that the Competition Bureau has, I understand, relative to the U.S. Those should be beefed up.

I really think a great big consideration is that we need to open up the Competition Bureau's review processes to much higher levels of

public disclosure and participation, with support for the latter. There's an opportunity for us to participate, but it's all on our own dime, and that's a big ask.

Ben.

Mr. Ben Klass: Yes. I'll just add that when the CRTC commissioner was here last week, he correctly pointed out that the telecommunications regulator really has no input into a change in ownership or a merger in this case, which strikes me as being pretty strange. We have the Competition Bureau saying they don't have the resources to assess after the fact. We have the CRTC saying that we check to make sure that the merging parties come out as Canadian, but beyond that we just look at TV licences.

You have the industry saying let's go, go, go. This is hear no evil, see no evil, do no evil. But consumers know that there is something wrong with this, and I think it's Parliament's place to look at this particular issue. I think one place to start would be with this presumption. If I could just quickly read from this, the Competition Bureau's page on mergers, it says, "Mergers are generally viewed as a positive way to increase competitiveness, allowing Canadians to benefit from lower prices, better product choice and higher quality services." It says further, "All parties contemplating business mergers are strongly encouraged to contact the Bureau at the earliest opportunity, or before submitting a notification filing."

The idea that we have a CRTC that does not look at this, a Competition Bureau that cannot assess whether its policies are successful or not, and an industry that's gung-ho on mergers, just reeks to high heaven to me.

The Chair: Thank you very much.

Our next round of questions will go to MP Baldinelli.

You have five minutes.

Mr. Tony Baldinelli (Niagara Falls, CPC): Thank you, Madam Chair. I'd like to thank all of the witnesses for being with us today. As a McMaster alum, I think I'll start with Ms. Bednar and follow up on some of her comments. I look forward to her paper with regard to the Competition Bureau being shared.

Over the past couple of hearings, we've had a number of individuals come forward and talk about section 96 and the efficiency defence, the abuse of dominance, private right of action, and today we're hearing about anticipatory regulations. We've heard from the commissioner of competition about the lack of resources. As part of your paper, are you going to be coming forward with ideas on amendments that you would like to see or proposing be put into the act to improve Canada's competitiveness and ultimately the economic recovery?

Ms. Vass Bednar: Yes, the paper does conclude by identifying about 10 or 11 areas of opportunity for us to start to reconsider. We're hoping it's a catalyst to more conversations. We don't want to be too prescriptive in proposing something as distinct as an amendment quite yet, but we do look forward to being, hopefully, an active and productive part of a more rigorous process going forward. Certainly, we'll be looking at considering dropping that efficiency defence, which may have served Canada quite well in a historic context, but again, I think is dated and not serving the public interest any longer and often confusing people, unfortunately.

• (1305)

Mr. Tony Baldinelli: As well, there's the notion—I think it was indicated earlier—about not having the power to go back and examine. Is that something to consider as well?

Ms. Vass Bednar: Yes, like thinking of the legislation as a time machine.... Right now, the Competition Bureau has this ability to issue something called an “advance ruling certificate”. It's an ARC for mergers. This commits the bureau to never reviewing a merger again after it's already been reviewed, so we could consider whether that's truly useful and helps us. But again, unless we also take another look at the thresholds that prompt a merger review, I think we are probably missing a lot of really thoughtful interrogation that we could have in Canada, which, once again, no one else is going to do for us. It's truly up to us to be thoughtful about what's occurring in our own backyard.

Mr. Tony Baldinelli: Thank you.

I'd like to go on now to Mr. Jules and thank him for his presentation.

It's interesting and I was taking notes when you mentioned the First Nations Fiscal Management Act. You indicated that it has been the most successful first nation initiative in Canadian history. I'd like to see if you could elaborate on that and why you feel that.

Mr. C.T. (Manny) Jules: It's optional, first of all, I think, which is really critical. There were very few communities that initially started to be involved in the optional legislation, and now we have over 300 communities right across the country that we work with. Through the real property tax system, we've seen our properties increase in value some \$3 billion over the last 15 years, an incredible amount of growth. We see annual growth of about 13%. Of course, this is going to be impacted by COVID-19, so we have to be able not to go back to normal, but build back better to ensure that our economies will continue to be successful.

We've had over a billion dollars' worth of bonds through the First Nations Finance Authority. We've helped the federal government enact its 10-year grant funding program for first nation communities through the first nations management board. We are currently developing the concept of our own infrastructure institute, which would allow the federal government to monetize capital contributions to first nations, which would really accelerate business-ready infrastructure within reserves right across the country.

Mr. Tony Baldinelli: Thank you, Mr. Jules.

Madam Chair, I think I have less than 20 seconds, so I'll cede any further time.

Thank you.

The Chair: Thank you very much.

Next we'll go to MP Ehsassi.

You have five minutes.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Madam Chair.

Thank you to all the witnesses.

If I could, I'll start off with Ms. Bednar.

Let me first acknowledge that I share your concern that the Competition Act over the decades hasn't really attracted the attention one would hope, especially considering that Canada has been a pioneer in this area—it was the first country to adopt antitrust legislation.

Given your deep understanding of the structural elements of the Competition Act, you did refer to decisions that were made in 2011 that stripped away at the policy capacity of the Competition Bureau. For the benefit of the members and the public, would you mind elaborating on that, on what happened in 2011 and what the implications were?

Ms. Vass Bednar: I'll do my best. I wish I had a little bit more detail. This is kind of a factoid that's come up in some of my background conversations with a range of experts and scholars. My understanding is that maybe I need to go back and take a look and go on LinkedIn and count how many policy analysts there are. There's fundamentally less public policy capacity at the bureau than there used to be, and I think coupling that with the funding over time.... If you just think about the exponential acceleration, the exponential growth of the digital economy and our increasingly digital society, of course that puts additional pressure on policy-makers and on the bureau.

I'll do my best to sleuth out a bit more detail, but that is my best understanding, and it's certainly worthy of fact-checking.

• (1310)

Mr. Ali Ehsassi: Thank you for that explanation.

In your opening remarks, you expressed concern about the lack of independence that the Competition Bureau has. Could you, again, elaborate on that? It's a hugely significant issue, and it's something that, obviously, is of concern to everyone. If you could provide us with your insights on that issue, it would be greatly appreciated as well.

Ms. Vass Bednar: Sure.

It's a common thread. I also lamented that lack of scholarship, but of course, there is scholarship, and that's a common criticism of how we've structured our Competition Bureau. Other competition authorities have more independence. They have, of course, more power and more funding, but they also almost have a ministerial-like authority to pursue reviews, to publish papers.

If you look at our bureau, a lot of the publications are summaries of a meeting that took place. They're explanatory. You can get context on a decision that was made. However, it lacks that, perhaps, proactiveness or forward-looking view. Of course, yes, the criticism from potentially being conflicted.... You're in a ministry that's fundamentally concerned with competitiveness and innovation. That might lead some people to advocate for the comfort and inertia of the status quo, because for a lot of companies, maybe it's more productive if our competition policy is totally silent on the creative ways they're looking to establish, assert and preserve their market dominance.

Mr. Ali Ehsassi: Thank you for that.

Now perhaps I will open it up to other witnesses.

Are there any other witnesses who believe that the Competition Bureau lacks independence?

Dr. Dwayne Winseck: I'll just say one thing on that. I think it's more about what we could call "regulatory hesitance". I'm not so sure about the independence part. I don't have enough knowledge and experience with that.

A Harvard study back in 2009 pointed to something that it called "regulatory hesitance" among Canadian regulators. We have good legislation and regulatory measures on the books, but when it comes down to brass tacks, regulators seem to lose their spine. I think that's the big issue here.

Mr. Ali Ehsassi: We're talking about independence, Mr. Winseck, so do you have anything regarding the independence of the bureau?

Dr. Dwayne Winseck: I myself can't speak enough on that.

Mr. Ali Ehsassi: Okay.

Mr. Winseck, if I could follow up, you said there has to be greater transparency. One of the issues, obviously, is that much of the work that the Competition Bureau does has to do with business proprietary information. That's one thing.

I'm out of time. I apologize, Mr. Winseck.

The Chair: My apologies, MP Ehsassi.

With that, we have finished the second round.

As I mentioned, we'll go to 1:30. We'll be able to have a slot for each of the parties.

I want to ask the committee if they would indulge MP Masse and allow him to go first, as he needs to leave at 1:15. If you're all in agreement, he'll go quickly and then we'll go to the next three parties.

Is that okay with everyone?

Some hon. members: Agreed.

The Chair: I appreciate it.

Please, Mr. Masse, go ahead.

Mr. Brian Masse: Thank you, Madam Chair.

Thank you to my colleagues and to all the witnesses.

The analysts know that I'm like a dog with a bone when it comes to issues, so I'm going to ask my last question to Ms. Bednar again.

With regard to international investment, do you believe that our current laws with the Competition Bureau are also perhaps dragging our innovation domestically, because we're out of sync with the United States and Europe?

Ms. Vass Bednar: I think so. This is something I'm learning more about. My appreciation and understanding of it is not sophisticated, but I think you're quite savvy to link that up. Such a conversation should be part and parcel of moving ahead with reviewing the Competition Act.

Mr. Brian Masse: With that, Madam Chair, I want to thank you, my colleagues and all the witnesses here today for allowing that.

Have a nice day.

• (1315)

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

I will next go to MP Généreux.

[*Translation*]

You have the floor for five minutes.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you very much, Madam Chair.

[*English*]

I'd like to give a warm welcome to Mr. Jules. We met in 2010 on your reserve when we visited. I think it was the finance committee. You surprise me. I'd like to know your secret. You seem to be younger and younger instead of older. Anyway, it's good to see you.

I was really stunned when I went to your reserve to see everything there that you have done, and everything you're still doing for your friends and people. It's quite amazing.

You said before that you think we should do more for first nations. I agree with you. Economically, we need you. Actually, we need your young people.

Talk to us about your young generation. Even if they might still be working with the telegraph—I think they're more ahead than that—we could still improve everything they need to be a part of the economy of today.

Mr. C.T. (Manny) Jules: I believe that our youth are going to be an incredibly important part of the rebuilding after COVID-19 here in Canada. They're the future. Whenever I look into their eyes, that's what I see. I see their potential. I see their willingness to think outside the box. That's what needs to be nurtured from a very young age. That starts with the child in the womb, right through to kindergarten and through to grade 12. They have to have good role models.

Schooling is critically important, not just learning who we are, but also learning the maths and sciences so that we can prepare first nations for a trip to Mars one day. It's these kinds of innovations that our future will be able to offer to this country and to us. I believe wholeheartedly in our future generations through our youth.

We need the institutional support, the fiscal wherewithal to be able to make the changes within our communities, without dependence on the federal and provincial governments, because that has hampered our development.

Mr. Bernard Généreux: It's music to my ears.

Mr. Kotak, you talked a lot about the new technologies and big data. For small businesses, it's really costly to have those tools. What do you suggest we should do to improve the new economy for young businesses and even start-up businesses?

Mr. Ritesh Kotak: Absolutely. Thank you for your question.

First of all, connectivity is going to be absolutely essential. If you're not connected and if you don't have access to high-speed Internet, there's not much you can do to participate in the new digital economy or the hybrid economy, for that matter.

The second thing that would really be beneficial when you speak about data or big data in general is that it doesn't need to be super expensive. With technology now—with software as a service—there are a lot of ways that technology can become accessible to the masses. For example, if we ensure that platforms, if they want to operate in Canada, must have at the very minimum the ability to conduct transactions in English and French and must have accessibility plug-ins as a built-in feature, which is not necessarily the current case.... You might have small or local businesses that want to operate, but are unable to communicate with the demographic, whether it be through a lack of tools or a lack of a user experience.

It doesn't need to be expensive. A lot of these tools are becoming a lot cheaper. They're becoming a lot simpler to use. I think the pandemic has accelerated innovation in the software space. We could actually leverage that to create a much more competitive environment.

Mr. Bernard Généreux: Thank you very much.

[Translation]

Ms. Bednar, we have been told that the Competition Bureau's approach was not archaic, but is still outdated in the current context.

Do you agree with that?

[English]

Ms. Vass Bednar: Yes, I would agree with that characterization. I would also offer that it has to operate that way because (a), we're not empowering our bureau and (b), we're not really being thoughtful about the legislation that governs the competition environment and what the bureau can do, such as what it can elevate in terms of cause of concern and what enforcement power and policy expertise it can call its own.

• (1320)

[Translation]

Mr. Bernard Généreux: Thank you very much.

[English]

The Chair: Thank you very much.

We will now go to MP Erskine-Smith for five minutes.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much, Chair.

I want to start with Ms. Bednar.

You mentioned in your opening testimony the issue around wage fixing. It's a small issue when we look at the overall structural inadequacies of the current act, but do you think we ought to update the wage fixing provision to at least keep us in line with our American partners?

Ms. Vass Bednar: I do think we should.

That case is interesting when you think about the very high burden of proof that we have under the Competition Act for abusive dominance. A challenge in our digital age is establishing that proof. What was interesting about those conversations, from what I read about them in the newspaper and online, is the use of telephones to just have conversations—just pick up a phone. How can we expect...

We have to expand what we take as evidence and what information we can compel, and also think about whether that threshold is just too high to be realistic and productive.

Mr. Nathaniel Erskine-Smith: My read of it is that it would also require an ongoing agreement and we couldn't look back to past agreements. That seems like it might be an unnecessary limitation as well.

Ms. Vass Bednar: Yes. I think preventing us from going back could hurt us, as we're seeing in the United States taking a second look at a merger with Facebook.

However, back to the point about being anticipatory, we're also seeing some evidence from other competition authorities.... The Google-Fitbit merger is an interesting case of just looking ahead to what the implications are of both those companies having the same data. In that instance, a data wall was proposed. I find that quite novel and I think it's something we should be thinking about as we look ahead to consider refreshing this act.

Thank you.

Mr. Nathaniel Erskine-Smith: As you look to finalize your policy paper—which I look forward to receiving—have you turned your mind to the question not only of resources for the commissioner and the commission's structural limitations, but also the question of thresholds in M and A transactions? They seem to be quite high in Canada in comparison with other countries. Especially as it relates to the digital economy, where really serious upstart competitors may not be of such a large size, we may still want to maintain that competition.

Have you turned your mind to the threshold question?

Ms. Vass Bednar: Yes. We're thinking about the threshold. Again, how has the digital economy changed and challenged what we think about when it comes to evaluating those mergers? It's specifically from a start-up perspective as well, the ability of larger incumbents to snatch up smaller companies that could be growing or have information that they need. So yes, it's absolutely on our radar.

I wish I had—I was actually texting with Robin about it last night—the beautiful chart that summarizes all of those differences. If we made a giant comparative legislative document together, we could be really clear in contextualizing where we are in Canada compared with other authorities. Absolutely, the threshold for merger review is something that would really be a sore thumb on that chart.

Mr. Nathaniel Erskine-Smith: It does seem that other competition authorities are looking beyond simply protecting consumers on price—though I wish we'd be protecting consumers better on price too—and are also looking at the digital economy and how we can protect consumers on privacy.

There's another interesting area when you look at the digital economy. The Facebook acquisition of Instagram is one example. You can imagine Shopify in the Canadian context could well do the same. They have an incredible amount of information about other companies that operate on their platforms. In Facebook's case, they're companies that in some ways become competitors to them. They can use the extensive amount of information they have about companies that operate on their platform to acquire competitors.

Do you see that as a challenge that ought to be addressed in some way?

Ms. Vass Bednar: I absolutely see it as a challenge. It's not just information to acquire competitors. It's also to develop products, to set prices and to understand audiences to advertise to, right? Companies don't just compete on price anymore. They also compete on privacy, on data. I wonder and sometimes worry that....

I did mention the company Loblaw. I kind of think that Loblaw knows more about me as an individual than the Government of Canada. What they can do with that information, when it comes to both owning a platform and advertising on that platform, is similar to something we see with Amazon. It's been suggested that Amazon uses information from what people are searching for and purchasing to inform their own product development. Perhaps that's anti-competitive behaviour.

Again, that could come up in our own backyard. We need to think about it now so that we're not playing catch-up. I find playing catch-up very embarrassing.

• (1325)

Mr. Nathaniel Erskine-Smith: My last question is....

I'm out of time, apparently.

The Chair: Unfortunately, MP Erskine-Smith, you're out of time.

Mr. Nathaniel Erskine-Smith: Thanks very much. I appreciate it.

[*Translation*]

The Chair: Mr. Lemire, go ahead for two and a half minutes.

Mr. Sébastien Lemire: Thank you, Madam Chair.

My question is for Mr. Kotak.

Thank you for your presentation. I felt that it had some especially worthwhile elements.

I would like us to discuss innovation.

Would exempting small businesses with an income below a certain threshold, as set by Canadian authorities, be an effective measure to reduce the regulatory burden and foster innovation?

[*English*]

Mr. Ritesh Kotak: Yes. At the end of the day, anything that would make it easier for small businesses—to me, they are the backbone of our economy and where we're seeing a lot of innovation—and cheaper and that would reduce the red tape would be of great benefit to small businesses. But in order to actually see the benefit, we also have to, as I mentioned earlier, aggregate resources. If we're able to aggregate, if it's easier for that small business to spin up to essentially start conducting commerce, to understand the different tools that are available to them and to have point people within government to help them navigate the regulatory space, and we reduce that red tape, yes, it would increase competition, which in turn would also increase innovation in Canada as a whole.

[*Translation*]

Mr. Sébastien Lemire: Can you talk to us about obstacles businesses involved in innovation face?

At the end of the day, are regulations not limiting innovation in Quebec and in Canada?

[*English*]

Mr. Ritesh Kotak: From my personal experience, I truly believe that regulation is good. It protects Canadians. It tells us what we can and can't do. But at the same time, we need to make it easier. We need to make it more accessible.

Let me give you an example. If you're a small business trying to operate in the food space, do you really understand the regulations within the industry if you want to sell across the province? There are bilingual labelling requirements. Do you understand all of that stuff in terms of the label and the prior notices? There are so many different elements to this.

Yes, I truly believe that if we can cut the regulation but at the same time make it more accessible and put it in simple language that people can actually understand, then that in itself will make it easier and increase competition, absolutely.

Thank you so much.

The Chair: Thank you very much.

We have about two minutes remaining.

Mr. Poilievre, would you like to take the last two minutes?

Hon. Pierre Poilievre: If you don't mind, I would love to.

I'll pose a quick question to Chief Jules.

There's a major pipeline project running near your community. You're in Kamloops, of course, and the Trans Mountain pipeline is running near where you live.

Have the approval and construction of that pipeline been a net positive or a net negative for the people you represent?

Mr. C.T. (Manny) Jules: We had quite a bit of consultation with all of the communities that were impacted by the pipeline, and every one of our Shuswap communities agreed that it would be beneficial for our communities to engage, in a business way, with the Trans Mountain pipeline. Every one of our communities is benefiting to a huge degree.

What is missing from the equation is what I talked about a bit earlier: a resource charge. It's to make sure that all of these issues are dealt with up front and that we do not have to invent something every time we're dealing with a new pipeline or a new development.

We also have an agreement with New Gold, which benefits two of the communities to a substantial degree. Over 120 community members are working with New Gold, and a lot of those taksis go to the federal and provincial governments, with no real benefit for the first nation communities. There has to be greater revenue sharing among resources in a fundamental way with first nations.

• (1330)

Hon. Pierre Poilievre: Right. You're again in this strange situation where the federal government takes away money from your community and then you're expected to go to Ottawa and ask for some of it back, when in fact it makes more sense to just let you keep what should be yours.

Mr. C.T. (Manny) Jules: Exactly.

Hon. Pierre Poilievre: I know we're out of time, Madam Chair, but I have talked with all of the parties and I want to put forward an informal motion that we open up the previous study on the Shaw-Rogers merger to additional submissions and written commentary from any stakeholders that are interested, that the analyst decide on a deadline for receiving that written information and that he and his team incorporate it into the final report draft.

I think this should be unanimous. I apologize for the imperfection in the way I've uttered it, but I'm putting it forward.

The Chair: Mr. Poilievre, as we had not received notice of it, if it's okay with you—because committee members have to get to QP—would it be possible for us to get back to this at our earliest convenience? I'm happy to check with our clerk and get back to you by email, if that's okay.

Hon. Pierre Poilievre: Yes, absolutely.

The Chair: Thank you so much.

I want to thank everyone today for their flexibility, patience and collaboration to make sure that everyone had a chance to get their questions in, and I thank those who gave up their slot so that we could get to QP on time.

[*Translation*]

A huge thank you goes out to the interpreters for their hard work, as usual. We really appreciate everything they do for us.

[*English*]

To our witnesses, thank you for being here today and for your patience regarding our democracy and votes. With that, I will call this meeting adjourned.

[*Translation*]

Thank you.

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