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Chair

Mr. Bob Zimmer

Standing Committee on Access to Information, Privacy and Ethics

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• (0845)

[English]

The Chair (Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC)): I call the meeting to order.

Good morning. This is meeting number 91 of the Standing Committee on Access to Information, Privacy and Ethics. Pursuant to Standing Order 108(3)(h)(vii), we are undertaking a briefing on net neutrality.

This morning we have Rogers Communications, Quebecor Media Incorporated, Bell Canada, and Telus.

I have to let the committee know we need about five to 10 minutes for committee business at the very end just to consider PIPEDA and the draft report. There are just some formalities there.

We'll get started, starting with Rogers for five minutes.

Ms. Pam Dinsmore (Vice-President, Regulatory, Cable, Rogers Communications Inc.): Good morning, everyone. My name is Pam Dinsmore and I am vice-president, regulatory, cable, with Rogers Communications.

Rogers welcomes the opportunity to provide input to the Standing Committee on Access to Information, Privacy and Ethics. My remarks will cover the recent developments in the United States with the FCC repealing its 2015 Open Internet Order, as well as the net neutrality regime in Canada.

I will start by reiterating that Rogers fully supports net neutrality. All legal content must be treated equally by Internet service providers. We were the only major ISP to support the CRTC's differential pricing practices decision. We believe the Internet is a vital resource in our digital economy. Businesses, consumers, and families deserve fair and equal access to the Internet pipe.

Internet service providers, or ISPs, should not be allowed to abuse their position and act as gatekeepers, giving privileged access to this vital resource to a select few. Canadians win when they have the freedom to make their own choices and are not artificially forced to use a particular product or service and are not subjected to their ISP determining winners and losers in the online environment.

In 2015, the Federal Communications Commission's Open Internet Order classified broadband and wireless services under title II of the Communications Act as telecommunication services. This moved jurisdiction away from the Federal Trade Commission over to

the FCC. The order prohibited carriers from blocking, throttling, or offering paid prioritization of Internet traffic.

On December 14, 2017, an FCC panel voted along party lines to repeal the 2015 Open Order, thereby eliminating all net neutrality rules. It replaced them with a new transparency rule of disclosure. Blocking, throttling, and fast-laning or prioritizing content is no longer banned as long as the Internet service provider informs its customers of its policy on an easily accessible website.

The FTC will be responsible for policing the accuracy of disclosures and the FCC will enforce the requirement that ISPs make disclosures. The FCC order is still making its way through the legislative process in the two houses and is likely to be the subject of legal challenges. At this time, we do not believe that these changes in the U.S., if they are ultimately passed into law and upheld by the courts, will have an impact on Canadians' access to U.S.-based websites or services. Like many others, we are following developments very closely.

Unlike in the U.S., net neutrality in Canada is already well protected by our current statutory and regulatory regimes. These Canadian safeguards are based on the common carriage principles enshrined in section 27(2) of the Telecommunications Act. They ensure that no carrier will give an undue preference to themselves or another party, or subject any person to an undue disadvantage. The CRTC has used this authority in a series of key decisions to ensure the fair and equal access to information.

The first decision dates back to 2009, when the commission set out its Internet traffic management practices. In doing so, the commission recognized that there are reasons that carriers may need to manage the traffic that flows through their networks, but at the same time sought fairness and transparency around any practices the carriers might use. As such, the commission allowed carriers to engage in traffic management practices, but only when an entire class of traffic was treated in the same manner and only when there was full and transparent disclosure of the practice.

Subsequently, in 2017, the commission's decision on differential pricing practices related to Internet data plans reasserted this strict net neutrality approach. In virtually all aspects, it reflected the position put forward in the proceedings by Rogers. The CRTC determined that prohibiting differential pricing practices that favour specific content or a specific class of subscribers ensures that all stakeholders are treated fairly by ISPs.

Pursuant to the CRTC's decision, carriers are not permitted to zero-rate or advantage specific traffic, other than account management and billing traffic. Rogers believes that by virtue of section 27 (2) of the Telecommunications Act, the CRTC has all the necessary tools it needs to protect net neutrality in a fast-changing environment, while maintaining the flexibility to adapt to future changes occasioned by new technologies.

● (0850)

As an example, the next evolution of wireless service, known as 5G, may require a flexible approach to ensure continued innovation. With 5G, certain services will require different levels of connectivity.

For example, connected cars and remote medical services will require higher reliability and lower latency levels than networked parking meters. The current regime will allow the CRTC to make these essential accommodations to promote innovation without endangering fair access to information. As such, we do not consider that any changes must be made to the Telecommunications Act to in some way enshrine net neutrality in Canada. We believe it is already enshrined appropriately.

I look forward to any questions you may have. Thank you very much.

The Chair: Thank you, Ms. Dinsmore.

Next up is Dennis Béland, from Québecor.

[*Translation*]

Mr. Dennis Béland (Vice-President, Regulatory Affairs, Telecom, Québecor Media Inc.): Mr. Chairman, committee members, good morning.

My name is Dennis Béland and I am the vice-president of regulatory affairs and telecom at Québecor Media Inc. Today, I am representing Vidéotron, a wholly owned subsidiary of Québecor Media Inc. Vidéotron would like to thank the committee members for inviting me to appear before them today and providing me with an opportunity to discuss Net neutrality.

Before getting to the heart of the matter, I would like to begin by telling you that Vidéotron is the main high speed Internet service provider in Quebec, with over 1.7 million customers. Furthermore, it is an increasingly large presence in Quebec's wireless market, due to a strategic decision made at the end of 20th century to integrate this business segment into its future.

Less than a decade later, recently therefore, Vidéotron's has more than one million wireless telephony service subscribers. None of these successes would have been possible without massive investment on our part. Vidéotron has in fact invested over \$1.1 billion in its wireline network over the past five years. As to the wireless network, since 2008, it has invested over \$2.3 billion in acquiring wireless spectrum licences as well as building and

constantly upgrading its wireless network. Vidéotron made these investments while maintaining an exceptional reputation as to the quality of its services. In a recent survey conducted by Léger, Vidéotron was recognized, for the 12th consecutive year, as the most popular telecom business in Quebec.

Let me now turn to the subject of this morning's meeting, Net neutrality. As you all know, there are as many possible definitions of Net neutrality as there are passionate commentators on the topic. If you have been following the debate on neutrality for long enough, you will know that there are two recurrent themes: the importance of treating traffic in a non-discriminatory way and the fact that network operators must not dictate what citizens can access on the Internet. Those two themes are in reality two concepts that are already covered in Canadian law. Indeed, both are covered in the Telecommunications Act, more specifically in subsection 27(2) and section 36 of the act.

In other words, the CRTC already has the discretionary powers to apply Net neutrality. The challenge for the CRTC is deciding how to exercise those powers in the broader context of its policy objectives. In Canada, those policy objectives are set out in section 7 of the act and include a range of social and economic goals. The key objectives include expanding high-quality and affordable services and networks in all areas of the country, national and international competitiveness, research development, and innovation.

As everyone knows, Internet technology is evolving extremely quickly. If anything, the pace of change is only increasing. For example, wireless services are on the cusp of being revolutionized by 5G, a new technology that will transform not only the wireless industry itself, but countless other economic sectors, including retail, agriculture and the automobile sectors. New possible ways to deliver public services are also emerging, from smart cities to telemedicine.

Vidéotron wants to be part of that revolution. However, such participation will require not only massive investment in infrastructure, but also and especially a flexible and pragmatic regulatory framework that does not close the door on innovation before we can even determine what is feasible.

We urge the committee to reflect on the discretionary power that the CRTC already has with respect to Net neutrality and to listen cautiously and warily to those who want you to limit the CRTC's powers in this respect. You must ask yourselves whether any of these proposals will stimulate innovation and risk-taking among network builders.

● (0855)

That is the best way to serve the public interest.

Thank you for your attention.

[*English*]

The Chair: Thank you, Monsieur Béland.

From Bell Canada, we have Mr. Malcolmson.

Mr. Rob Malcolmson (Senior Vice-President, Regulatory Affairs, Bell Canada): Thank you, Mr. Chairman.

Honourable committee members, my name is Robert Malcolmson. I am the senior vice-president of regulatory affairs at BCE. Thank you for your invitation to provide Bell's views on the topic of net neutrality.

Bell is Canada's largest communications company, employing 51,000 Canadians and investing \$4 billion per year in advanced networks and media content. These investments allow us to provide advanced communication services that form the backbone of Canada's digital economy.

Today we serve approximately 3.8 million high-speed Internet customers. We are also in the midst of a very ambitious fibre-to-the-home deployment that will expand our high-speed fibre footprint to approximately 4.5 million locations by the end of 2018.

We are also expanding our high-speed Internet service into rural and remote areas. Whether it is Flin Flon or Lynn Lake, Manitoba, the first nation in Stratton, Ontario, Mont-Saint-Pierre in Quebec, or Cook's Harbour in Newfoundland and Labrador, both on our own initiative and in partnerships with federal and provincial government programs, we are investing capital to bring more Canadians the infrastructure they need to participate in the digital economy.

We are also a key supporter of Canada's cultural and democratic system. BCE is the country's largest television provider, with operations that include Canada's largest over-the-air television network, CTV; many of Canada's most popular specialty channels; and CraveTV, our over-the-top video streaming service.

Our broadband network also supports Fibe TV and Fibe Alt TV, a low-cost application-based TV service that does require a traditional TV set-top box. In 2017 alone, Bell invested approximately \$900 million in the creation and production of Canadian programming.

As a media company and one of Canada's largest ISPs, Bell understands and supports the concept of net neutrality. What does this mean? As Minister Bains said in January, net neutrality means "an open internet where Canadians have the ability to access the content of their choice in accordance with Canadian laws." In other words, our government believes that all legal content must be treated equally by Internet service providers. That's why our government has a strong net neutrality framework in place through the CRTC.

Today, Canada has some of the strongest net neutralities in the world. Section 27 of the Telecommunications Act prohibits any form of unjust discrimination, and section 36 of the act prohibits blocking or interfering with the content or meaning of any of the traffic an ISP carries, except with the permission of the CRTC.

Under these provisions, the CRTC has developed and enforced a robust net neutrality framework. That framework ensures Canadians have access to the free flow of legal content described by Minister Bains by prohibiting ISPs from prioritizing Internet traffic, throttling traffic, and zero-rating data. The CRTC also regulates differential pricing practices, and requires ISPs to obtain the prior authorization of the CRTC before controlling or influencing the content of a message that travels over the network.

It is important to appreciate that regardless to the changes to the net neutrality policies in the U.S., Canadians' access to and use of the

Internet will remain governed by our domestic net neutrality rules, which are developed and overseen by the CRTC.

Canada is also well positioned as a result of the competitiveness of our broadband market. Canadian ISPs operate in a highly competitive environment, with the vast majority of Canadians being able to access high-speed Internet over both multiple wireline and multiple wireless networks. There are also dozens of resellers, who use regulated access to our networks to compete aggressively on price and unlimited service offerings.

I know that one of the questions you and your colleagues may be considering is whether changes should be made to the Telecommunications Act on this topic. We do not believe that any changes to the act are needed in this regard. As I mentioned, Canada already has some of the strongest net neutrality laws in the world under the existing act. There is no need to change them simply because there's been a change in the United States. In our view, this is one of those situations that falls into the old adage, "If it ain't broke, don't fix it."

Last week, you had Christopher Seidl, the executive director of telecommunications for the CRTC, appear before you. We agree with him that enshrining something more rigid than the current provisions in the act could pose a risk to future innovation or could quickly become outdated during the development of 5G and the Internet of Things. In our view, this is simply too big a risk to take.

● (0900)

Thank you for the opportunity to provide our views on this topic. We look forward to your questions.

The Chair: Thank you, Mr. Malcolmson.

From Telus, we have Mr. Woodhead.

Mr. Ted Woodhead (Senior Vice-President, Federal Government Relations and Regulatory Affairs, TELUS): Thank you very much, Mr. Chairman.

My name is Ted Woodhead. I am the senior vice-president and strategic policy adviser at Telus Communications. With me today is Dr. Michael Guerriere, chief medical officer, vice-president, and chief strategy officer with Telus Health.

Net neutrality stands for the principle that all Internet traffic should be treated equally. There should not be fast lanes and slow lanes, or one group unjustly discriminated against or unduly preferred over another in the management of Internet access services.

Canada's Telecommunications Act gives the Canadian Radio-television and Telecommunications Commission broad discretionary powers to ensure all rates are just and reasonable, and that the offering of any service or rate to a person is not unjustly discriminatory. The principles of net neutrality are thus fully embraced by the act and the regulatory policies put in place by the CRTC.

While how to address net neutrality is not an issue in Canada, the broader issues of how other non-neutral policies can impact the provision of innovative technological solutions for services vital to Canadians wherever they live is an important issue, and one that is critical, in our view, for Canada and Canadians.

Preferring certain companies over others in auctioning spectrum assets through spectrum set-asides has led to spectrum trafficking and the allocation of urban and rural spectrum on a preferential basis to carriers who will not for the foreseeable future deploy it, if ever.

Why is this important, and why should you be concerned by this? In essence, it is a question of fairness and the proper management of a scarce public resource. There are many analogies between net neutrality and spectrum neutrality. The rationale behind the two concepts is the same. Discrimination brings similar results in that it materially impacts the provision of innovative broadband solutions. Giving more 5G spectrum to some players is no different from biasing Internet bandwidth flows. Preferential policies—in this instance, spectrum set-asides whereby only a category of companies can bid on extremely valuable and scarce spectrum—distort auction outcomes and oftentimes lead to spectrum being allocated to carriers who will not deploy it.

In the current draft consultation paper issued by Innovation, Science, and Economic Development in August of last year concerning the 600 megahertz low-band spectrum, the department proposes to set aside 30 of a total 70 megahertz of available 600 megahertz spectrum for mobile broadband, or 43% of the available spectrum. The set-aside subsidy is for regional operators, including well-financed cable companies such as Shaw, Vidéotron, and Eastlink. The 600 megahertz spectrum is important, especially for rural and remote areas, because it can travel long distances between towers and cover large geographic areas. It will be important for rolling out 5G in rural areas. The government should not pick winners or losers by leaving certain companies in the slow lane.

●(0905)

Dr. Michael Guerriere (Chief Medical Officer and Vice-President, Health Solutions, TELUS): It might be helpful to examine how non-neutral policies will impact the delivery of a range of health services and why fair access to spectrum is critical to the effective delivery of health care today and in the future.

Applications will be enabled as 5G networks are deployed over the next few years. The 5G networks using wireless spectrum, including the 600 megahertz band, will ensure remote patient treatment, better data accuracy, greater patient empowerment, and better patient outcomes, most particularly in rural areas.

To put this in context, when we look ahead to what a world of 5G will offer, we break it into three unique use cases.

The first is called enhanced mobile broadband, which will empower things like home and remote health monitoring, remote imaging diagnostic applications, and virtual reality training for physicians. The second is massive machine-type communications, which will be a true enabler of e-health, the Internet of medical things, smart buildings, hospitals, and cities. The third and final contribution of 5G is what we call ultra-reliable and low-latency communications, which will empower remote surgery; autonomous vehicles, including ambulances; and vehicle-to-vehicle communications.

For Canadians, 5G will enable more equitable access to quality health care at affordable prices, especially in rural regions. This is why fair access to 600 megahertz and other spectrum is critical to harnessing and leveraging these innovative applications and technologies to make them available to the broadest number of Canadians, both urban and rural alike.

At Telus Health, we have 5G-ready initiatives that we can make available when sufficient spectrum resources are made available. For example, we have Telus Health Exchange, which is a national, standards-based, open electronic communication platform that connects Telus and third party systems to deliver an array of new tools to health providers and citizens.

With fair access to 600 megahertz spectrum, Telus Health could further enable virtual care applications, including mobile health applications that will bring positive impacts for patients in remote and rural communities and savings to Canada's health system.

These are just a few of the benefits that Canadians will be able to take advantage of, provided that sufficient amounts of spectrum are made available and that non-neutral spectrum allocation policies—

The Chair: Excuse me, Mr. Guerriere. You had five minutes in total between the two, so I would like you to finish your comments, if you could.

Dr. Michael Guerriere: This is the last sentence.

—and that non-neutral spectrum allocation policies such as those proposed in the current 600 megahertz consultation document are eliminated.

At Telus Health we hope to make the promise of 5G available to the broadest number of Canadians possible.

●(0910)

The Chair: Thank you, Mr. Guerriere.

We'll go first of all to Mr. Saini for seven minutes.

Mr. Raj Saini (Kitchener Centre, Lib.): Good morning, and thank you very much for coming here.

I want to go back to some of the consultation papers that you guys had given as your final submission to the brief.

I'll start with Telus. In your briefing, you said:

Similarly, DPPs do not render carriers gatekeepers of content. There is generally agreement that, because a DPP by definition is unrelated to blocking content, there is no chance that a subscriber will be unable to access the content that he or she wants. The entire Internet remains available; the only difference is the price the consumer will pay for a given site.

I'm taking this directly from a brief that you submitted I think about a year ago.

Mr. Ted Woodhead: That's a Telus submission on the DPP?

Mr. Raj Saini: Yes.

I think there are some differences amongst all of you when it comes to DPPs. Assuming that a regime was permitted, what, if anything, prevents an ISP from making a particular website prohibitively expensive, rather than simply favouring one site over another with a price discount or coupon?

Mr. Ted Woodhead: In the context of the DPP proceeding, we were looking not at that....

The core of our business is providing connectivity to people to access the legal content of their choice. In the context of the statement that you just quoted, we were thinking not in the sense that you posed the question, but in the sense that of wanting to price something differently to a customer who took more of your services.

For example, there's a practice called zero rating, which my friend from Vidéotron attempted to—

Mr. Raj Saini: Yes, with the music streaming service.

Mr. Ted Woodhead: Yes. We felt that this was a legitimate practice, and the regulatory regime should not prohibit, *ex ante*, offering consumers discounts or cheaper prices for services as a static rule. That was where we were.

Mr. Raj Saini: But when you do that—let's say you're offering certain websites or certain services—you're forsaking the other companies, and if it's prohibitively expensive, then you are indirectly steering the traffic to those websites or to those services with that price discount, whether it's zero-rated or whether it's sponsored data.

Mr. Ted Woodhead: Theoretically, yes, I agree with you, sir. That's why the broad discretion encapsulated within section 27 in the Telecommunications Act exists. It gives this broad discretion to the CRTC to make determinations on a case-by-case basis, as some of the other folks have gone into in more detail, and that's what protects Canadians from non-neutral practices.

Generally speaking, for example, in virtually every.... I'm sorry if I'm being overly expansive, but in a great number of jurisdictions in the world, these kinds of practices are widespread. In the United States, T-Mobile offers unlimited access to a variety of curated websites and applications. That isn't an issue. In Canada, it would appear, it is an issue, and I question whether that's the right course.

Mr. Raj Saini: What would be the strategic advantage of doing that? It seems to me you're suggesting there is a better deal for the customer when you do that. You're looking at it in terms of a price point and saying that when you offer this bulk of services, there will be a discount for the consumer. My worry is that when you're doing that, you're forsaking other content that's on there because you're steering the traffic. To have net neutrality, the information should be equal to everybody, but indirectly, through pricing and through that

strategy, you're leading the consumer in one direction. That's where my worry is.

Mr. Ted Woodhead: You know, the most popular applications and services available today are available to everyone. They all grew up without net neutrality protections—Google, Facebook, Amazon, any of these. I think it's a hypothetical harm. I understand the premise on which your question is posed, but that is not the business we're in.

You've suggested that it's a pricing decision. Yes, because if you, sir, are a customer who pays us \$40 a month for whatever range of services, and you, ma'am, are a customer who pays us \$60 a month, we may wish, as a pricing decision or as a marketing tool, to give you a discount on accessing certain services. I don't think that's a problem.

Where I think you need to worry, and where it would be important for the regulator—and they're obviously on this file and have been very active on it—is around when there is an actual harm that is observed, and then I accept your premise.

●(0915)

Mr. Raj Saini: Ms. Dinsmore, I want to ask you a similar question. You also submitted a brief, and I'm quoting from your brief. You said:

Permitting ISPs to offer differential pricing of data services essentially places them in a position of gatekeepers, deciding which Internet services will thrive and which will not. This gatekeeping function is antithetical to the role of common carrier and would serve to undermine the principles of net neutrality.

Can you give us your take on it? You've heard Mr. Woodhead, and obviously there is a difference of opinion.

Ms. Pam Dinsmore: Fair enough. When listening to what Ted is talking about, I think there is some conflation between what is a marketing practice and what is a violation of net neutrality.

What Rogers does as a practice, as we spoke about at the hearing, is offer, in certain circumstances, a bundle of services. Maybe you take a certain level of television service, a certain level of Internet service, and a telephone service, and bundle those together, and with that we might provide you with something like a six-month discount on your Netflix subscription. It doesn't have anything to do with the zero rating. We don't zero-rate the bits that are associated with your use of that Netflix subscription, but for six months you might get it for half price. We might do the same thing with Spotify.

The Chair: Thank you.

Mr. Saini, you're out of time.

Next up is Mr. Kent, for seven minutes.

Hon. Peter Kent (Thornhill, CPC): Thank you, Chair.

Thank you all for appearing before us today.

One of the two dissenting FCC commissioners in December painted a pretty dire scene of the future, given the potential changes. As Commissioner Rosenworcel said, "As a result of today's misguided action, our broadband providers will get extraordinary new powers." She went on to essentially say there would be a rather brutal economic survival of the fittest, and there would be major winners and major losers.

I'm just wondering whether any of your companies have, since December, done strategic analysis on the potential collateral damage, given the elephant-and-mouse comparison and the size of the companies involved, and the fact that Canadian Internet traffic very often moves through the United States. Have you done any analysis in any of your companies to look at the potential collateral damage?

Mr. Ted Woodhead: We've done some analysis. We don't view this as some sort of existential threat. We believe that the Internet is based on a dynamic technology that undoubtedly has changed the way we do business and communicate with each other globally as a global network. Its whole value, both on a commercial basis and on a societal basis, is about being open to the legal exchange of information.

• (0920)

Hon. Peter Kent: Does anyone else have anything?

Ms. Pam Dinsmore: We haven't done a substantial analysis, but we have taken the position publicly that as far as Rogers is concerned, we don't believe this will have an impact on Canadians' access to U.S. websites. Where it might have an impact is if Canadians are doing business in the U.S. or if Canadians are trying to retail their products and services into the U.S., and the ISPs, for whatever reason, decide to favour some content over another.

By the way, this legislation is still a long way from being passed and is probably going to be challenged in the courts, so the road is still evolving.

That may happen. We may find that applications that might otherwise have been developed won't be developed if that happens. We may find that app developers come to Canada because of our robust net neutrality regime. These are all things that are within the realm of possibility, but so far nothing has changed because the order, although it's been repealed by the FCC, has not yet been passed by Congress or signed by Trump, and the court challenges haven't yet been heard.

Mr. Dennis Béland: I would say that I'm not aware of any specific analysis done in that regard. Clearly, we're very aware of where our traffic goes, where our peering points are, etc. Similar to what Pam just said, I would say it's best to say we're in wait-and-see mode right now on that point.

Mr. Rob Malcolmson: From a Bell perspective, Ms. Dinsmore was correct. I think if there is an impact, the impact will be on Canadian entities using the U.S. pipeline, for lack of a better phrase. They may experience an increased cost of doing business as a result of the ability of ISPs south of the border to charge differentially for bandwidth, but in Canada, thanks to our robust net neutrality laws, it will be business as usual. The pipeline will operate in a neutral fashion under the CRTC's rules.

Hon. Peter Kent: All right.

[Translation]

Mr. Gourde, do you have any questions? No?

[English]

When the CRTC appeared before us last week, we were assured that there are regular international meetings and discussions between companies like yours, companies in Europe, and those in the United States. Since December, have your companies engaged with

Europeans, for example, to get their opinions, their input, or their feedback on their reaction to the FCC decision?

Mr. Ted Woodhead: We have not been in discussions with foreign carriers about this at all. Perhaps I misinterpreted it, but I believe Mr. Seidl was referring to the fact that the CRTC is in communication with other regulators internationally. We have had no discussions on a company-to-company basis about this.

Ms. Pam Dinsmore: I think it's important to recognize that as ISPs, we operate here in Canada and we are subject in our operations to the rules that exist here in Canada.

I think it's extremely interesting to follow what's going on in different parts of the world. Certainly with the U.S. right next door, that's even more interesting, especially in the context of NAFTA ongoing and the discussions around that, but we're subject to the Canadian regime. What's going on over there is interesting, but it can be somewhat academic. If there are zero-rating plans happening in Europe and various countries or if there are these changes in the United States, it's not going to change the way we operate here in Canada, given our robust net neutrality regime.

Mr. Dennis Béland: I'm not aware of any specific company-to-company exchanges on that point. No.

Hon. Peter Kent: Thank you, Mr. Chair.

The Chair: Thank you, Mr. Kent.

Next up, for seven minutes, is Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair. Thank you to our delegations for being here today.

Carrying on for a little bit with the FCC hearing, is it potential...? I guess one of the repercussions of the decision still hasn't translated into reality yet, but it could actually act as a non-tariff barrier for Canadian competition, not only in our agreement with the Americans but also internationally, if we are now having to compete and we have issues related to throttling, for example, when dealing with American companies when our Canadian subsidiary companies have parent companies in the United States.

• (0925)

Ms. Pam Dinsmore: We have thought about this. Certainly in the digital economy, where the Internet plays such an important role, it would be an extremely great ambition to have similar net neutrality regimes in the countries with which you do trade, so that when businesses that are, in our case, Canadian, are doing business in our trading partner's country, we would have the same net neutrality regimes; *ergo*, our websites wouldn't be throttled, etc., as you're alluding to.

We're aware that this issue was raised in December by Steve Verheul. We're not aware of where that's going to go. We haven't seen the text of the CPTPP, nor that of NAFTA. When we do, it will be interesting to see whether this notion is captured, but in the context of what's happening in the U.S., it's difficult to see how you're going to get the horse back in the barn through a trade deal when you already have it running down the track through Congress.

Mr. Ted Woodhead: I don't think I really have anything to add to what Pam has said, other than that you raise an interesting point that was brought up by Professor Geist when he appeared in December. To the extent that a theoretical harm could occur, it's not really a telecom regulation issue, but a trade issue.

Mr. Brian Masse: I understand that, but it does affect a number of things.

I want to move over to deciding interpretation of legal content. You've all claimed that the current rules should stay the same, with the same framework. How do you base your decision-making if Internet traffic and competition become an issue in terms of prioritization and what it's being used for?

You mentioned, Mr. Guerriere, medical devices and medical treatment, but there is now more going on. There's much more use of devices that have not only consumer interest, but there are also autonomous cars, vehicles, real-time analysis for emergency response, and so forth.

How do you determine whether there's enough response capability in there, Mr. Woodhead?

Mr. Ted Woodhead: The way I address this kind of stuff... It's a very good question, sir. The answer is in the field of "I'll know it when I see it".

Are health applications a reasonable prioritization, or if a hospital district wants to do remote home monitoring, is that a reasonable thing to give some priority to? I haven't looked at it, but I suspect yes.

Does the federal government ask for priority on the public safety broadband network that they have an RFP out for? At the moment, absolutely.

Mr. Brian Masse: I guess one of the things I would like to hear everyone respond to has to do with blocking legal content. When in the court system do you decide or determine when you should follow the law? I don't know the answer to this question. Is it during an appeal process?

A legal case goes forward on content, or a website. It has been challenged. It goes to the court, one level of court, or it goes to a United States court. At what point do you determine whether this should be removed or impeded in terms of your site provision to your servicers?

• (0930)

Ms. Pam Dinsmore: I think what you're asking is if an ISP is ordered to block a website by a court, at what stage does the ISP actually do that blocking if, in fact, that decision gets appealed.

Mr. Brian Masse: Yes.

Ms. Pam Dinsmore: Presumably—

Mr. Brian Masse: Sorry. I could have phrased it a lot more clearly.

Ms. Pam Dinsmore: It's a fair question. Presumably, we would be obliged, under a blocking order, to block a given website unless there was a stay to the order that was applied for by the website provider. If there was a stay of the decision, pending the appeal and the conclusion of the appeal, we would not block that website for

that time period. However, unless there was a stay to the decision, we would be obliged to block.

As an ISP, in this context we wouldn't block unless there was a blocking order. We wouldn't take it upon ourselves to make the determination on whether content is legal or illegal. We would await the court order and we would follow it.

Mr. Brian Masse: And is that the same...? I get a lot of questions about that. Have there been any cases of ISPs responding differently, or has it been the standard practice of everyone to follow that approach?

Mr. Ted Woodhead: I would say that in 99.99999% of the cases, that is what happens. There aren't a lot of cases of this kind of stuff. However, there might be, theoretically—and probably actually—an example or two over a couple of decades of what are termed "exigent circumstances", when certain things are done because there's a threat to life or property.

The Chair: Next up, for seven minutes, is Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much. It's probably that 0.00001% of cases that happened in 2005 with Telus.

It's interesting that we're talking about net neutrality, but we haven't talked about the FairPlay proposal, and nobody has raised it.

I have a constituent email from Joseph Trovato. He writes:

I am writing to voice concern over the Bell coalition's website blocking proposal to the CRTC.

Censorship of the Internet is not something that I can support.

...Bell, as a content producer and service provider, should not have the power to limit access to any content.

I'll direct this to Bell and to Rogers. Can you explain how the FairPlay proposal is consistent with net neutrality?

Mr. Rob Malcolmson: With regard to the FairPlay proposal, I know you and others have referred to it as the "Bell proposal", but it's not. That doesn't reflect the broad constituency of members of the various participants in the cultural community that have participated actively: actors' unions, guilds, production companies, theatre festivals, and broadcasters. It really is quite a broad coalition of participants, and I think that reflects the understanding among the industry of just how serious the piracy problem is in Canada and what a threat it is to the cultural industries that employ thousands of Canadians.

In terms of the proposal itself, it's not a net neutrality issue. As Minister Bains has said, net neutrality is about the free flow of legal content over networks. The FairPlay proposal is addressing something that I think everyone agrees is illegal—that is, content theft and copyright infringement.

Given the difficulties of enforcing against copyright pirates, especially those who reside offshore, the FairPlay proposal asks the CRTC to consider whether or not those pirate sources—which are blatant, egregious, commercial sources of piracy—should be blocked. Why is that the remedy? Quite honestly, it's the most practical and expedient remedy: to block these websites as they come in.

Mr. Nathaniel Erskine-Smith: I'll put a similar question to Ms. Dinsmore.

Mr. Geist has written that

...the government and the CRTC should not hesitate to firmly reject the website blocking plan as a disproportionate, unconstitutional policy sorely lacking in due process that is inconsistent with the current communications law framework.

Perhaps you can explain to us why the current law is insufficient.

Ms. Pam Dinsmore: I think there are, happily, voices being raised that are counter to Professor Geist's. There are lots of arguments on the other side, as you can read in other blogs by people such as Hugh Stephens and Barry Sookman.

That said, there is an enormous amount of due process built into the application. The organization that would be set up is to be set up thus because it is an expedient way, with experts, to deal with the triage of the applications that would come in. There would be transparency and there would be a public proceeding in that process, but ultimately the Internet piracy review agency would make a recommendation to the CRTC, and the CRTC itself would make the decision as to whether a website should be put on the blocked list and therefore be required to be blocked by the ISPs.

The alleged pirate would have the full panoply of remedies available to him, if he or she disagreed with the determination of the commission: they could ask for a "review and vary" or they could appeal the decision to the Federal Court of Appeal, just as in any other case that comes before the CRTC.

• (0935)

Mr. Nathaniel Erskine-Smith: In answer to Mr. Masse's questions, you indicated that the status quo is that there's a court order and a website is taken down. Let me ask, what are the deficiencies in the current takedown process with court actions?

Ms. Pam Dinsmore: Do you mean the notice and notice regime under the Copyright Act?

Mr. Nathaniel Erskine-Smith: Right. Why is that particular process so deficient that we need a new regime?

Ms. Pam Dinsmore: That process is not deficient when we're talking about downloads. Last year, as an example, Rogers delivered 2,400,000 notices to end users. That process is working very well when we're talking about people who download copyrighted content.

What it doesn't work for is streaming, and streaming has arisen as the most-used way for consumers to access pirated content since the Copyright Act was brought in five years ago. It's the detection of streaming that doesn't work in a notice and notice context, and therefore it is not a useful method.

Mr. Nathaniel Erskine-Smith: Do you have a list of websites you can share with this committee that you think should be blocked?

Ms. Pam Dinsmore: I don't have a list on hand right now.

Mr. Nathaniel Erskine-Smith: Well, if you could, please share a list with the committee after the fact.

I'd also be interested in where it stops. Do we block VPNs? Do we block torrents? At what point do we stop blocking particular content or services that are related to illegal activity a lot of the time?

Ms. Pam Dinsmore: I think the issue is who "we" is. The issue here is—

Mr. Nathaniel Erskine-Smith: It's governments.

Ms. Pam Dinsmore: The issue here is of an independent agency of the government making a determination as to whether or not a given site is blatantly and egregiously engaging in dissemination of pirated content.

Mr. Nathaniel Erskine-Smith: We had CRTC before us, and Mr. Geist before us previously. I put the same question to the CRTC about enshrining the current principles. I think everyone—CRTC included, and Mr. Geist and you yourselves—has said that the current regime is important, that it works.

We're not asking the current regime to change with respect to subsection 27(2) or section 36, but does it make sense to enshrine the principle of net neutrality in law, or would that be superfluous?

Ms. Pam Dinsmore: We don't see a need to do that. We think it is somewhat superfluous, because the beauty in the existing regime is that it allows for the commission to look at situations on a case-by-case basis as technology evolves and determine whether or not they are in violation of the commission's net neutrality principles.

With 5G, the upcoming network slicing requirements are going to be front and centre, and there one would argue that, as Ted said, one has to allocate a lower latency to medical examples, and maybe less data if you're merely looking at dealing with parking meters. Someone will probably say that it is a violation of net neutrality, but in fact it won't be, because there's no discrimination; it's just that your network in 5G is used differently for different purposes.

That is a very good example of why we need to have a very flexible regime going forward. It's so that we can deal with all of these new technologies that are coming down the pipe.

Mr. Nathaniel Erskine-Smith: Thanks very much.

The Chair: Thank you, Mr. Erskine-Smith.

Next up, for five minutes, is Monsieur Gourde.

[*Translation*]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

I would like to thank the witnesses for being with us this morning.

I have a fairly general question that is for all the witnesses. We have heard a great deal about Net neutrality and the Internet market as well as external competition. I wonder if that competition can be reconciled with freedom of the markets, in the interest of consumers. I am concerned about one thing for the future. Companies, especially American companies, that are larger than Canadian ones, could buy you up within five or ten years, which would wipe out our industry icons.

• (0940)

Mr. Dennis Béland: I beg your pardon, I did not hear the question.

Mr. Jacques Gourde: Today, we are talking about Net neutrality. We have Canadian industry icons: Rogers, Bell and others, but I am concerned for the future, because we have a free market with our American neighbours and even with the whole world. Is there a risk that our Canadian companies could disappear in a market that is less restricted for consumers?

Mr. Dennis Béland: Are you talking about our service providers that are Canadian icons?

Mr. Jacques Gourde: Yes.

Mr. Dennis Béland: Well there are some basic protections in place against the disappearance of Canadian service providers, including the fact that the Canadian spectrum is issued by the Canadian government.

By the way, I would like to briefly reply to the comments by my friend from TELUS.

Mr. Jacques Gourde: Go ahead.

Mr. Dennis Béland: It's about the innovative concept of spectrum neutrality that he spoke about this morning.

However, in answer to your question, Canadian suppliers are well established in Canadian law. Canadian authorities award the most essential resource for the spectrum. As you heard this morning, yes, there is a potential impact on Canadian suppliers. If the Americans began to manage their interconnection and Internet traffic regime in a discriminatory way, there would be a potential impact, but we have not yet seen any intention on the part of Americans to do so, nor do we know what repercussions that would have on Canadian suppliers or suppliers of Canadian content. We will have to watch the situation closely and assess it over time.

Mr. Jacques Gourde: As for neutrality, do you have anything else to add?

Mr. Dennis Béland: Oh yes!

[English]

I'll respond in English, if you don't mind, to this innovative concept of spectrum neutrality.

In my remarks on net neutrality, I mentioned that there's probably a different definition of net neutrality for each intervenor. Well, for spectrum neutrality I think you would see multiple definitions as well.

If I were to take on the subject, I would begin perhaps with the fact in the 1980s the largest and most valuable swath of low-frequency spectrum was granted—mark the word “granted”, not “auctioned”—to Canada's three largest wireless companies. How neutral is that? If I were to engage in a debate about spectrum neutrality, I might want to take that on and hear about Telus' point of view.

We have authorities in Canada, in the industry department, that have shown competence over many years in determining how spectrum is allocated in this country and determining an appropriate balance of low-, medium-, and high-frequency spectrum among the multiple carriers, both incumbents and new entrants, and they've done a very good job. They continue to do a very good job, and we see the results concretely in terms of, for example, prices paid for wireless services by Canadians.

Prices in Quebec are lower than in the rest of Canada, and it's not just Vidéotron's prices: the incumbents' prices are also lower in Quebec than in the rest of Canada. If we want to engage in a debate about spectrum neutrality and the impacts of alternative spectrum neutrality approaches, Vidéotron would welcome the occasion. We would come back for you, and we would spend the whole day with you if you would like to discuss that subject.

The Chair: Thank you, Mr. Gourde.

Next up, for five minutes, is Ms. Vandenberg.

Ms. Anita Vandenberg (Ottawa West—Nepean, Lib.): Thank you.

I would like to continue with that question about spectrum neutrality for a moment, because we're hearing from Mr. Béland that there might be very good reasons, particularly for consumers, with pricing.

Mr. Woodhead, I believe you indicated, if I'm not paraphrasing incorrectly, that spectrum neutrality and net neutrality are actually part of the same thing. I'm hearing two different things, so I would like to have all of you comment on that. What would be the rationale for the proposal that's coming from Innovation Canada, and then what would be the impact, positive or negative, on your ISPs?

Mr. Béland—

• (0945)

Mr. Ted Woodhead: Since I started it, I suppose—

Ms. Anita Vandenberg: Sure. Okay.

Mr. Ted Woodhead: My point here is simply that the thrust of our presentation—outside of a very critical piece of it, which is health and what net neutrality means for delivering very critical social services—was that net neutrality isn't an issue in Canada. It just isn't. It has been enshrined in legislation since 1906.

My secondary point was simply that... Maybe I'll phrase it a different way. I find it curious that family-controlled cable companies controlled by billionaires are being offered spectrum on a preferential basis, spectrum that is critical to the delivery of services in rural areas, in particular using the use case that Dr. Guerriere mentioned. That's my point in a nutshell.

Ms. Anita Vandenberg: Mr. Béland, would you comment?

Mr. Dennis Béland: Spectrum allocation is obviously critically important, and the best way I can describe it to you is...

I've sat in every spectrum auction war room at Québecor since 2008. When Québecor is bidding on spectrum, we're looking at it through one calculus, which is by asking ourselves what our business case is for using this spectrum. In our case, it's for providing services to Quebecers. How much is it going to cost, and can we make that work? That's our calculus.

When incumbent carriers who were in the market 20 years before us are sitting in their war room, they have two calculuses. One is the same as ours, which is what's the spectrum worth to us in providing services, what's the business case, how much is it going to cost, and does that calculus work? Their second calculus is what economists refer to as the foreclosure incentive, which is, "How much can I hurt this disruptive new guy by keeping low-frequency spectrum out of his hands?" They add together those two calculuses, and that's how they come up with their bids.

That's the sort of inequity, that's the sort of distortion, that's the sort of non-neutrality that the industry department addresses through pro-competitive measures in the auction design—which, by the way, are widespread across the world. Don't let anyone tell you that purely free market spectrum auctions are the norm in the world. It's precisely the inverse. Very rarely do you see purely free market spectrum auctions across the world.

Mr. Ted Woodhead: Thanks for that. The point, then, I guess... Let's look at this a bit objectively. Vidéotron bought 700 megahertz and 2,500 megahertz outside the province of Quebec. It never deployed it. It bought it at subsidized prices. It's a Canadian public resource that is owned by all taxpayers in this country. If memory serves, they sold it for \$430 million to Shaw.

If that is efficient use of a public resource, then someone else can explain it to me, but I don't believe it is.

Ms. Anita Vandenbeld: I don't want to start a debate here. I did want to ask about the U.S.—

Mr. Ted Woodhead: I thought this is where debates happened.

Ms. Anita Vandenbeld: It is where debates happen. I think this is a little—

The Chair: Thank you, Ms. Vandenbeld. Your time is up.

Next up, for five minutes, is Mr. Kent.

Hon. Peter Kent: I cede my time, Chair.

The Chair: We'll go to Ms. Fortier for five minutes.

[*Translation*]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Good morning. Thank you for being here this morning.

The digital space is constantly evolving. The CRTC is currently consolidating its commitment to net neutrality, and you all seem to support that. That is the current situation.

One of my concerns is protecting consumers and ensuring that suppliers give them access to content, including francophone content, right across the country and not just in Quebec.

To facilitate an active offer of content in both official languages, what are you doing to protect Canadians in the context of net neutrality?

You are all invited to answer that question.

● (0950)

[*English*]

Ms. Pam Dinsmore: I'll respond in English.

It's interesting, because when we went to the differential pricing practices proceeding, one of the issues there was whether the commission should require or allow for the prioritization of Canadian content, whether it be French language content or English language content. This issue has come up a number of times in CRTC proceedings. As I think Chris Seidl pointed out the other day, the commission decided not to go down that path. It decided that it would be very difficult for an ISP to determine the definition of Canadian content that meets the test to get prioritized.

There's a lot of content out there. Some is Canadian by CAVCO rules and some is not; it all depends. Neither did the commission go down the path of allowing us to favour things like Internet relay service for the deaf. There were very good social goods considered at the time of that proceeding, and the commission ultimately came out and said the only things that could be zero-rated were data usage and billing. That's where we ended up on that one.

[*Translation*]

Mrs. Mona Fortier: Thank you.

Mr. Béland, what is your answer?

Mr. Dennis Béland: I can answer with respect to the Music Unlimited Program, which the CRTC unfortunately decided to end.

When we created the program, we were aware of the challenges regarding net neutrality. We opened it to all music streaming services that met the technical requirements, which in passing were not difficult to meet. As a matter of basic principle, we thought that this service should be tax free and offered to those who are able to meet the technical requirements.

At one time, at the height of things, there were approximately 18 music streaming services. We did not consider it appropriate to give preferential treatment to Canadian services in one language or the other.

At Videotron, we made a special effort to ensure that Canadian providers knew that they could offer their music for free through our service. Let me give you an example...

Mrs. Mona Fortier: Please be brief because I'd like to hear what the two other witnesses have to say.

Mr. Dennis Béland: Okay. I'm sorry.

Mrs. Mona Fortier: Mr. Malcolmson, we're listening.

[*English*]

Mr. Rob Malcolmson: When we're acting as an ISP—we're an integrated company, so we have the media business and the ISP business—we're content agnostic. We deliver the content that rides on our network and provide it to consumers with the highest-quality networks and the best user experience possible. That's wearing our ISP hat.

Similar to Vidéotron, we did look at some of what we thought were innovative content offerings. The best example is Bell mobile TV. We offered an extension of our television service on the wireless network to customers. Because the customers were paying for the content on that service, the data usage associated with the consumption of that content was zero-rated. Ultimately, the CRTC determined that in doing that we were treating one class of customers differently from others by zero-rating that content. We disagreed with that decision.

I go through it because it shows a couple of things. First of all, it shows how robust our net neutrality rules are and how vigilant the CRTC is in enforcing them. I think it also shows, when you're thinking about changes to our net neutrality laws, the need to maintain the flexibility that exists in the existing regime. Just as mobile TV was something new at the time, none of us at this table knows what is coming three or four or five years down the road. When innovative applications come up that will benefit the consumers that you worry about, I think service providers should be given an opportunity to try them out. Ultimately, if the regulator feels they're in any way discriminatory, they have the existing tools and they've used the existing tools, both with Vidéotron and with us, to tell us when we've crossed that line.

● (0955)

The Chair: Thank you, Madam Fortier.

We do have some time, so we have Mr. Masse next. There are about 30 minutes left in terms of time for questions. If you want to get put back on the list, please let me know.

Go ahead, Mr. Masse.

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

Thank you again to our witnesses.

I want to follow up with FairPlay, Mr. Malcolmson. With regard to the broad coalition that came forth with the proposal to CRTC, I guess if you don't get what you want with that, what's the next best option, in your opinion, in terms of being fair from the perspective of the creators?

I have a lot of concern over some of the things that have taken place with regard to piracy, but often it's also been.... A good example is in my area, where a satellite from the United States was accessed. It was from poor practices from the companies in not doing any type of research or whatever, and it turned into a policing problem for the Canadian side versus a weak system on the U.S. side.

What would be your next step in terms of a FairPlay option that would be good for a balance?

Mr. Rob Malcolmson: Well, we hope we don't get to the next step that you've asked me about. We think that the FairPlay proposal, given the existing range of remedies that are available, is an important addition, because it's practical, it's effective, and it lets us reach beyond our borders to find and block incoming pirate streams. That's why we've proposed it. We think it's effective.

In terms of what the future may hold if we're unsuccessful, I suppose, as we go through the reform of the Copyright Act, there may be more statutory remedies that could help the cause, but at the

end of the day, unless you can block these pirate sites at their source, it's going to be a very, very uphill battle to be able to combat this problem.

Just to give you a snapshot of the extent of the problem, I don't know if you're familiar with them, but there are streaming services called Kodi set-top boxes. You can buy one of those from your local electronics retailer. I think they retail for somewhere in the \$50 to \$100 range. When you buy one of those, you instantly get access, through a bunch of add-ons of pirate applications, to streams of content owned by the people around this table. I think the latest statistics from Sandvine were that 7% of Canadian television households are now using these Kodi boxes.

It is a pervasive problem, and the content has to be stopped at the entry point. As ISPs, we're all well positioned to do so when ordered, after there's been a finding—not by us, but by the CRTC—that a site is a legitimate pirate site. ISPs are able to engage in that blocking.

Mr. Brian Masse: I think the challenge is that another system always comes in place. In fact, we don't raise these in our trade missions abroad. They're very rarely part of trade agreements when we discuss these things. Most of the stuff—not all of it, but a great deal—comes from from China. We do have other.... I mean, this is part of a larger debate. I deal in the automotive sector, and we have copyrighted parts.

Copied materials are going into hospitals, counterfeits that say "Canadian Standards Association" on them and so forth. It happens to be predominantly in the entertainment industry that Canadian consumers are choosing to go this direction, but it's in our dollar stores and so forth.

I do want to move to one quick—

● (1000)

The Chair: Thank you, Mr. Masse. Your time is up, but if you want to come back around....

Mr. Brian Masse: I would. I have one quick question for the rest of the panel.

The Chair: We have Mr. Erskine-Smith, Madam Fortier, and Mr. Masse. That's all I have on my list so far.

Please go ahead, Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: Thanks very much.

I want to pick up again on Mr. Masse's conversation.

I understand, Ms. Dinsmore, that it's easy to go after sites where people are downloading, but it's more difficult to tackle streaming. It's not entirely clear to me how setting up a new body makes it easier to tackle these streaming sites. Perhaps you can explain why you're currently unable to identify a streaming site where there's illegal content available for streaming and you can't go to court or to the CRTC to have that shut down.

Ms. Pam Dinsmore: Just to help you understand the notice and notice system that was enshrined in our Copyright Modernization Act five years ago, it is a practice that ISPs were engaged in voluntarily for about 10 years before that. It's a solution that's not as drastic, one might say, as the notice and take down regime in the U.S. under their Digital Millennium Copyright Act.

Basically what happens is that a rights holder will send to the ISP a URL for which we then act as a post office, to match it to tombstone information—i.e., a customer's email address—and we act simply to pass that note on to the end-user, which tells the end-user that the rights holder is aware that the end-user is downloading their content illegally. That's effectively what happens. This is all done automatically. The match is done automatically. We don't even see these notices. They just pass right through our system. That's the notice and notice system. It informs the end-user that the rights holder is aware that the end-user is downloading their content and is infringing their copyright.

That cannot work in a streaming context because the software isn't there to make that detection, so it's ineffective.

Mr. Nathaniel Erskine-Smith: Quite separate from going after the end-user, what precludes you from going after the hosting of that site?

Ms. Pam Dinsmore: First of all, we're not going after the end-user.

Mr. Nathaniel Erskine-Smith: Well, you're blocking the website.

Ms. Pam Dinsmore: In the notice and notice context, the rights holder is informing the end-user that the end-user may or may not know that what they are viewing online is that rights holder's copyrighted content. That's what's going on in the notice and notice regime.

Mr. Nathaniel Erskine-Smith: Right.

Ms. Pam Dinsmore: If you ask whether we extend that to streaming, whereby the rights holder could inform the end-user—

Mr. Nathaniel Erskine-Smith: No, I don't think that's the question. You have a proposal to allow this independent body to take down websites. Where there's illegal activity, you can make an application to court for a court order to take that website down. The question is, why is that insufficient?

Mr. Rob Malcolmson: Could I take a stab at that?

I think it's important to point out that under the Telecommunications Act there's a specific provision in section 36 whereby Parliament has empowered the CRTC, as the expert telecommunications regulator, to make determination to authorize ISPs to interfere or block traffic.

To your question as to why we aren't going to court or why judicial remedies aren't sufficient, even if there were a perfect tool kit of legal remedies, at the end of the day, anyone seeking to block access to illegal content would also have to go through the CRTC.

One of the considerations in the FairPlay application is that we have an independent regulator. That independent regulator recently, in the Quebec anti-gambling law case, declared that if there is going to be any blocking of Internet content, all roads go through the CRTC, and the CRTC has to authorize it.

When the coalition formed the FairPlay proposal, there was recognition that the CRTC is in the middle of this and has to authorize it, in addition to any judicial remedies that may otherwise exist.

Mr. Nathaniel Erskine-Smith: The CRTC is currently empowered by section 36, as you say, to allow or give permission. It's

accepted that the CRTC can give you permission to block sites. Has there been an instance in which you've done the due diligence, you've proven with documentation that a certain site has made illegal material available, you've taken it to the CRTC, and they've taken no action?

• (1005)

Mr. Rob Malcolmson: That's what this proposal is all about. Rather than going to the CRTC on a one-off basis, we thought a holistic proposal from a broad-based group of stakeholders would give the CRTC the best opportunity to have a look at the implications and consider it a broad basis. That's exactly what it's about; we haven't gone on a one-off basis.

Mr. Nathaniel Erskine-Smith: It's a proposal, then, to set up an independent agency under the auspices of the CRTC. You're not attempting to bring material to the CRTC to say this is infringing and to ask the CRTC to take action in the first instance at all. Instead you're developing this alternative proposal, separate and apart.

Mr. Rob Malcolmson: As I said, I think the coalition's view is that this type of broad proposal makes the most sense. You create an independent agency that has some expertise.

Mr. Nathaniel Erskine-Smith: Okay.

I have one question that is completely unrelated.

We were talking about spectrum. I'm a TekSavvy customer. I've never downloaded *The Hurt Locker*. If TekSavvy is a reseller of the Rogers network, why would the same thing not work from a competition and consumer perspective for mobile networks?

Ms. Pam Dinsmore: Could you clarify the question?

Mr. Nathaniel Erskine-Smith: Yes. It's on the idea of reselling. We have more competition in the space for Internet service providers, TekSavvy being mine, because they're able to access network and resell Rogers network. Why would the same thing, from a consumer competition perspective, not work for mobile networks?

Ms. Pam Dinsmore: Are you talking about Wi-Fi First-type providers, MVNOs, resale of wireless networks? Is that the gist of the question?

Mr. Nathaniel Erskine-Smith: That would be the gist of the question, yes.

Ms. Pam Dinsmore: There's currently a proceeding taking place before the CRTC regarding whether or not Canada should have Wi-Fi First providers in Canada. That's ongoing. I believe we've probably all intervened in that proceeding and provided our views.

From a Rogers perspective, we don't think it's necessary. We already have low-cost plans out there in the marketplace that allow access to Wi-Fi for as low as \$10. Our view is that it will not be good for investment. The example in Europe has been that it has not been good for investment from facilities-based carriers.

We will await the ruling of the CRTC. Our thoughts are that it would be better to have a targeted voucher program to low-income families who might need that boost. That process is under way right now, and that decision is pending.

The Chair: Thank you, Mr. Erskine-Smith.

Next up is Madame Fortier.

[Translation]

Mrs. Mona Fortier: Mr. Woodhead, I would like to give you the opportunity to answer my previous question; I would appreciate it. If you do not recall the question, I can put it back into context.

[English]

Mr. Ted Woodhead: I don't remember it. Could you repeat it?

[Translation]

Mrs. Mona Fortier: That is not a problem.

I said that the digital space was constantly evolving and that we were all aware of that. The CRTC has decided to consolidate its commitment to net neutrality, and for the time being, things are going well. One of my concerns has to do with protecting consumers. I want to ensure they have access to francophone content, everywhere in Canada and not just in Quebec.

I would like to hear your position on how to ensure there will be an active supply of francophone content, among other things, right across the country.

[English]

Mr. Ted Woodhead: Thank you. I remember now. I was interested in your question for a very strange reason: it brought me back to the almost 10 years I spent at the CRTC as a policy analyst. Dennis's comments reminded me of it too.

First, the general issue of the promotion of Canadian content is an interesting one and an important one. Bell and Vidéotron are big content producers, for example, in the French language. What you see in Quebec is a very high consumption of content by people we should be concerned about. Largely, I think, that's probably for linguistic reasons. English Canada is more exposed to American content, so it has to compete with American content.

How do we deal with that? Generally, we all deal with it through mandatory carriage rules of mandatory services with the Canadian content quotas that they are required to broadcast.

I'm sorry for the long answer, but at Telus we're a bit different from all of the companies here, because we don't actually own content resources. We do it through promotion of what is branded for us as Telus Stories. Those are available online. They tell Canadian stories. They tell Canadian stories of Syrian refugees. They tell all kinds of interesting stories about accessibility and all kinds of things.

That's my answer.

•(1010)

[Translation]

Mrs. Mona Fortier: Thank you.

I can tell you all that what is happening with regard to francophone content outside Quebec is very worrisome. There are two official languages in Canada and net neutrality is a major issue that has an impact on access to Canadian content in both French and English. This issue is very dear to my heart.

Is there a complaints system? Have you received complaints from consumers regarding net neutrality? If so, how do you deal with them? Can you respond quickly? Ms. Dinsmore, would you like to answer?

[English]

Ms. Pam Dinsmore: Again, I'll respond in English.

Following the 2009 ITMP decision, Rogers decided that it would throttle upstream traffic for a time, BitTorrent traffic. Unfortunately that had an impact on some gaming applications, because they too were using peer-to-peer technology. As a result, some of the gamers got aggravated. The net neutrality activists got motivated. The commission decided to investigate, and Rogers dealt with a number of complaints, particularly around games like World of Warcraft, which require a very fast response time. We dealt with those complaints.

We ultimately abandoned our throttling in 2012 because we were able to build more capacity into the network. Since then the complaints have slowed to a trickle.

We addressed a very specific issue that people were concerned about at the time.

[Translation]

Mrs. Mona Fortier: Could you please answer quickly, Mr. Béland.

Mr. Dennis Béland: Very few consumers who call us use the term "net neutrality".

We did receive complaints from our customers, but that was when Music Unlimited was pulled. As you know, we did not challenge the CRTC's decision, but we had to manage the situation by offering other advantages to our customers. I think that all this went over relatively well.

Mrs. Mona Fortier: Thank you very much.

Mr. Malcolmson, the floor is yours.

[English]

Mr. Rob Malcolmson: We haven't received specific net neutrality complaints, with one exception, and it's an exception I mentioned earlier, the Bell Mobile TV offering.

Some of the Internet activists, as Ms. Dinsmore calls them, complained to the CRTC, and ultimately the CRTC ruled against us. That required us to begin to charge data for that service to consumers, which made it less attractive to consumers, which we thought was unfortunate. That's probably the best example of a net neutrality complaint.

[Translation]

Mrs. Mona Fortier: Mr. Woodhead, would you like to answer?

[English]

Mr. Ted Woodhead: We don't throttle. We don't do deep packet inspection. We do none of that stuff. The broad answer is no. I think Chris Seidl from the CRTC said in his comments that they'd received 19 complaints. This is an issue without a country.

I'll just go right there. In 2005, 13 years ago, during a prolonged labour disruption—and I think Mr. Erskine-Smith referred to it—we blocked a website called Voices for Change. We simultaneously sought an injunction from the Alberta Court of Queen's Bench. An injunction was issued 48 hours later, and the content was taken down.

That particular incident is trotted out by Internet activists as the poster child for the end of the world and the Internet as we know it. If you believe that this is the end of the world and the Internet as we know it, Godspeed. I think it is what it is.

• (1015)

Mrs. Mona Fortier: Thank you.

[*Translation*]

Thank you very much, Mr. Chair.

[*English*]

The Chair: Thank you, Ms. Fortier.

Next up is Mr. Masse.

Mr. Brian Masse: I have a question on decisions about legality and non-legality. We had a single-event sports betting bill that failed here in Parliament, and one of the challenges we faced was the fact that you could do this online so quickly and easily. You could bet right here. If it's against the law in Canada, how are those sites not being prohibited by your provision services? Why is it that right now Draft Kings and other types of betting services that have single-event sports betting have not changed in Canada? Ironically, we'll have changes in laws on smoking marijuana, but you still can't bet on a single-event sports game, while you can still do it online through offshore betting and accounts that don't pay Canadian taxes. Some of them are related to organized crime, and they're posting on your sites right now.

I'd like an answer from all of you as to why those sites aren't taken down, especially the ones that are connected to organized crime or money laundering.

Mr. Rob Malcolmson: I'll start, but without commenting on the particular sites that you mentioned.

Mr. Brian Masse: No, those are examples of something else.

Mr. Rob Malcolmson: All of us, as ISPs, as I said earlier, are content agnostic, so the content that travels over our network is not censored, monitored, or controlled by us. We're simply delivering the connectivity from point A to point B. Obviously, if there were a regulatory order or a court order requiring us to do something about that type of traffic, we would certainly abide by it, but really our role is to provide connectivity.

Ms. Pam Dinsmore: I'll just add that you may or may not be aware that in Quebec there is a law yet to be declared in force that would require ISPs in Quebec to block gambling sites that are not Espacejeux sites, Espacejeux being the provincial gambling organization. They have a challenge to that from the CWTA, the Canadian Wireless Telecommunications Association, on the premise that the jurisdiction lies with the commission to require an ISP to block something, as we've heard today, versus the Quebec government. That's not to even mention how difficult it might be for those of us who operate national networks to isolate only one portion of our network, which isn't configured provincially, to block only in that province.

That is an example of a province taking some action, but it's now an issue that is in the courts for jurisdictional purposes and reasons.

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

The Chair: Thank you, Mr. Masse.

It doesn't look as if we have any further questions or comments, so I want to thank you, Ms. Dinsmore, Mr. Béland, Mr. Malcolmson, Mr. Woodhead, and Mr. Guerriere, for your time today.

We'll just briefly suspend and then go into committee business in camera.

Thank you.

[*Proceedings continue in camera*]

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