House of Commons
CANADA

Standing Committee on Health

HESA • NUMBER 020 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Monday, February 14, 2005

Chair

Ms. Bonnie Brown

Standing Committee on Health

Monday, February 14, 2005

● (1530)

[*English*]

The Chair (Ms. Bonnie Brown (Oakville, Lib.)): Good afternoon, ladies and gentlemen.

It's my pleasure to call to order the 20th meeting of the Standing Committee on Health. We have several items of business to take care of this afternoon. You will see the agenda is divided into two. The first half is 3:30 to 5:00 and the second half is 5:00 to 5:30. Mr. Merrifield will be chairing the second half because he started that subject—it isn't really a half, it's a quarter.

We have a motion, but the mover of that motion is not here, so we will save it until the end of the first topic on Internet pharmacies.

We have with us today as a witness from Health Canada Mr. Ian Shugart, who is the assistant deputy minister of the policy branch and someone we see fairly frequently.

Mr. Shugart, you can introduce those with you and the floor is yours.

Mr. Ian Shugart (Assistant Deputy Minister, Health Policy Branch, Department of Health): Thank you, Madam Chair. It's always a pleasure and good exercise to come to this committee.

With me is Étienne Ouimette.

[*Translation*]

He is Acting Director, Compliance and Enforcement Coordination Division, Inspectorate Ottawa, Health Products and Food Branch.

[*English*]

The inspectorate is responsible for inspection, investigation, and compliance with respect to products regulated by Health Canada.

Also with me is Wayne Lepine. Wayne is manager of pharmaceutical policy in my branch and he has been leading a lot of the policy work for me on this issue.

I will try to keep my remarks brief and at the same time provide you with some background information on the subject. We'll try to answer questions to the best of our ability and as always provide what follow-up may be necessary if we can't answer your questions here today.

As you know, the origins of the cross-border drug sales issue are in the United States. The stakeholders there are not only the users of prescription drugs, but also the manufacturers of drugs, and many state and municipal governments and senior politicians. The U.S. Food and Drug Administration has also been interested in this issue. Previously there had been concerns expressed by the FDA to American citizens that drugs purchased from Canadian Internet pharmacies may not be safe. On that point we wanted to be clear throughout, and are satisfied at this point, that drugs approved for use in Canada are safe. Canada's regulatory requirements for the approval of drugs are among the most rigorous in the world and Canada has an enviable safety record. As you know, each country is responsible for enforcing its laws related to importation of medicines.

The issue, of course, is driven by the significant price differential between the U.S. and Canada in prescription medicine, sometimes as much as 40%. Drug pricing, however, is a global issue with similar differentials between the United States and other OECD countries. Currently, U.S. prices are the highest in the world, an average well above prices in all other OECD countries.

[*Translation*]

Health Canada's objectives are based on the needs of Canadians. We are concerned by possible—and I mean possible—drug shortages, whether they're the result of a reduced drug supply or of an increase in the volume of Internet pharmacy sales in the United States. However, I want it to be clear that, at this time, we have received no reports of drug shortages related to transborder drug sales by Internet pharmacies.

As you know, we are also concerned by the potential threat that represents to Canadian drug prices and our regulatory price system and, in overall terms, by the potential implications for the viability of our health system. We want to ensure that Canadians continue to have access to the drugs they need at affordable prices. We want to ensure that access won't be compromised.

● (1535)

[*English*]

As the minister has said on a number of recent occasions, we're also concerned about the ethical and professional practice related to this issue. We agree with the Canadian Medical Association and other professional organizations that the high standards in the practice of medicine and pharmacy must be maintained in Canada.

Exports of prescription drugs are not illegal under Canadian federal law. The control of imports and the monitoring of the integrity of drug supply and safety for American consumption is a U. S. domestic issue. American purchases of prescription drugs from Canada is by no means a new practice. Americans in border states have been coming to Canada for some time to take advantage of lower Canadian drug prices, but until recently these sales were to a small number of Americans, relatively speaking, a fraction of the number we've seen in the past year or two. The Internet has certainly had a large role in fueling the recent growth in sales. That said, increased awareness of the price differential has also played a role.

On market data, some basic information indicates that there's currently in the order of $1.35 billion—that's Canadian dollars—worth of cross-border retail drug sales into the U.S. Of that $1.3 billion, approximately $840 million is via Internet pharmacies. A further $500 million, roughly, is so-called foot traffic. This includes organized bus trips into Canada to purchase needed drugs. While foot traffic has slowly built over the past years—the growth has been stable and has not been a major concern—it's the Internet commerce component that has grown and has the greatest potential to grow in the future. As well, Internet pharmacy sales raise the most significant professional practice issues, given that the dispensing is sight unseen.

In terms of market distribution, we're well aware that there are economic aspects to this. The majority of the commerce is conducted out of Manitoba, but also in B.C., Alberta, and Ontario, where there is significant activity. As we know, in Manitoba alone there are some 2,500 jobs directly linked to Internet pharmacy activity.

[*Translation*]

Even at present levels, transborder drug sales represent a significant portion of the Canadian market, more than eight percent of a total $16 billion drug prescription market in Canada. However, current levels represent less than 0.5 percent of the U.S. market, which is estimated at more than $300 billion. Clearly, any significant increase in current transborder drug sales by Internet pharmacies could have a harmful impact on the Canadian market and on supply chains.

As I'll mention a little later, the eventual impact on Canadian price control systems must also be taken into consideration.

[*English*]

Could demand for Canadian-source prescription drugs grow? In the U.S. Congress, three Senate bills aimed at facilitating reimportation of drugs from Canada lapsed at the end of the 108th Congress last year. However, advocates of reimportation are already pursuing new opportunities to implement legislation.

Senator Kennedy, for example, has recently introduced legislation that would enable personal and wholesale import of prescription drugs from Canada and other jurisdictions. Another bill that would enable importation has been co-introduced by a Republican senator and a Republican congressman.

The response from the brand-name industry has included characterizing other countries as free riders in the area of R and D on U.S. investment, seeking global pricing for prescription drugs, calling on the Government of Canada to dismantle or soften its price controls and halt cross-border sales. So the industry in the United States is also very active on this file, quite naturally, as well as advocates of access to lower-priced products.

The administration's approach to this issue is in part manifested in the U.S. medicare bill of 2003, the medicare modernization act. The act includes provisions expanding prescription drug coverage in 2006 for 40 million American seniors and for some disabled persons under 65. In the interim, there are more than 70 types of what are called “drug discount cards” that have been put into effect to allow price reductions to certain populations.

These lower U.S. costs will dampen demand, we expect, for Canadian drugs. However, the cost of this measure to the federal treasury could increase the administration and congressional openness to less expensive alternatives, including importation from Canada.

The administration initiated two formal studies on issues related to cross-border drug sales. The medicare bill of 2003 called on the Department of Health and Human Services to create a task force to report on the safety of drug importation. The legislation also charged the Department of Commerce with studying the drug pricing practices of OECD countries. Those studies were released last December.

The drug importation report supported the status quo against legalizing drug imports, but it found that if there was a will to do that, it could be done and could be targeted at re-importation from Canada.

I'm conscious of the time. Given our concerns in this area and the reason for our concerns, let me take a couple of minutes to describe the range of activities the department has been engaged in. Health Canada, of course, is working with other departments in the federal government, notably the Departments of Industry and International Trade. All departments have been monitoring Canadian and U.S. developments, and we regularly share information and perspectives on the issue.

We have also maintained a dialogue with key stakeholders, which includes regulatory officials and bodies in the provinces, the pharmaceutical manufacturers, the Internet pharmacy industry, and for that matter the Food and Drug Administration, where there has been growing regulatory cooperation with respect to safety.

At the intergovernmental level, federal health officials are also working with our provincial and territorial colleagues to monitor and share information. The formal act of sharing of information on related issues of concern was sought by the department as far back as the fall of 2003, and then my colleague, the assistant deputy minister of the health products and food branch, wrote to all ministries of health and all the key regulatory bodies and associations and outlined the respective roles and responsibilities of Health Canada and of the licensed practitioners and their regulatory bodies to ensure collectively that we were looking after the safe use of prescription drugs.

● (1540)

In May 2004 the department co-hosted with the National Association of Pharmacy Regulatory Authorities and the Federation of Medical Regulatory Authorities of Canada a Canadian regulators meeting regarding therapeutic products. The regulatory authorities agreed to strengthen cooperation on cross-border drug sales and other issues, including sharing information to ensure access to a safe and affordable drug supply in Canada.

Health Canada has held bilateral meetings with regulators in the past, but this meeting was important because it was the first time that all regulators met together to formally discuss their roles with respect to the regulation of therapeutic products.

Health Canada also continues to fulfill its mandate with respect to drug safety for Canadians. We've interacted with this committee on that issue before. The department does undertake national compliance inspections to assess whether pharmacies that sell prescription drugs are complying with the Food and Drugs Act and regulations.

In February and March of last year we conducted inspections of 11 Canadian pharmacies selling prescription drugs via the Internet or other distant selling modes, such as mail order. These sites were also selected because they were selling drugs requiring controlled storage conditions or were selling large volumes of prescription drugs.

These inspections were designed to capture a cross-country snapshot of the activities of such pharmacies. The inspections were conducted to monitor the safety and quality of prescription drugs sold by the Internet and other forms of distance dispensing. The on-site visits included evaluations of the pharmacy facilities, the records, and inventories.

The inspections showed that pharmacist activities were generally in compliance with the Food and Drugs Act and regulations. They also showed that the products sold were approved for sale in Canada. The inspections did not find any evidence of harm to any individual receiving drugs through distance dispensing.

That being said, a few areas of non-compliance were observed. Health Canada took immediate steps to have the pharmacists implement corrective activities. All pharmacists across Canada were informed of the inspection results by letter and reminded of their regulatory obligations and responsibilities. Contravening pharmacists have confirmed in writing to the department that they have either ceased the non-compliant activities or have taken immediate steps to come into compliance with the act and regulations.

The health products and food branch inspectorate of Health Canada is preparing for the next round of compliance inspections of pharmacies that sell prescription drugs via the Internet. These inspections are to begin shortly and are to be completed by the end of March 2005. The plan to conduct an early 2005 round of inspections was communicated to all pharmacists in Canada in a November 2004 letter.

Let me conclude, Madam Chair, if I might, by outlining the three main policy avenues we are working through. I want to stress that our analysis of the constitutional—that is, the jurisdictional, the administrative, and compliance implications—and the policy implications of these options are ongoing. So I will not be able to be definitive about final policy responses.

Broadly, we have identified three options. The first could be, and I want to underline the word “could”, the regulatory change to the food and drug regulations to prohibit the sale of prescription drugs outside of an established patient-practitioner relationship. The second could be legislative and regulatory change to the Food and Drugs Act and regulations to prohibit the sale of prescription drugs when the patient is not present in or a resident of Canada. Finally, the third could be legislative and regulatory change to prohibit or limit drug exports where there was reason to believe that supply could be compromised.

I hope that is of assistance to the committee at the outset. As I say, we would be pleased to try to answer your questions.

● (1545)

The Chair: Thank you very much.

I'm feeling your option list is pretty short, because they all end up prohibiting for one reason or another. Is there any thought to not prohibiting?

Mr. Ian Shugart: No, they wouldn't necessarily prohibit per se. What they would do is constrain if there were concerns in regard to supply. For example, a limitation on export would not fundamentally change the ability of export to occur, but it would perhaps be triggered in the event of evidence of shortage of supply in Canada. One could theoretically build in thresholds that would trigger that provision coming into effect.

Another of the three options—establishing the requirement of a physician–patient relationship—would apply in all cases. The profession would be the first to say that ought to be normal practice in issuance of a prescription. That is a measure that, if taken, would apply in all cases.

There is a little bit of variation there. We have certainly not declared that those are the only options we would be open to, but those are the ones we have identified to this point and are doing extensive work on.

● (1550)

The Chair: Thank you very much.

We'll now move to the question-and-answer portion. We'll begin with the ten minutes allocated to the Conservatives, and that time will be shared between Mr. Merrifield and Mr. Fletcher.

Mr. Merrifield, I'll let you know when you're at four and a half minutes.

Mr. Rob Merrifield (Yellowhead, CPC): That would be good.

I want to thank you for coming in. This is the start of hopefully a fairly thorough study on this. It comes out of what we saw with our study on pharmaceuticals last spring as we went across this country. I appreciate the department coming in.

Let's cut to the chase on my first question. Internet pharmacy has been around for four or five years, a considerable amount of time. We could have implemented all of these "no" suggestions initially, but we didn't do that. Is the attempt to restrain the Internet pharmacy at this present time really occurring because of the fear of an expansion of the Internet pharmacy in Canada? Would that be a fair assessment?

Mr. Ian Shugart: I think that is a fair assessment. In our risk assessment of the situation, we have become more concerned that the potential for rapid acceleration exists. We don't want to jump to conclusions, but we believe it is prudent to be ready for such an eventuality. Primarily, however, the recent developments in the U.S. have triggered the greater concern.

Mr. Rob Merrifield: In looking at your suggestions on what you're potentially going to do, you would actually eliminate Internet pharmacy, you wouldn't just curtail it. Am I fair in that assessment?

Mr. Ian Shugart: If I could make a distinction about the third option, I think the major concern about bulk exports is qualitatively different from the normal use—

Mr. Rob Merrifield: But we could curtail that.

Mr. Ian Shugart: We would have to put in place the measures to do that. At the moment, there is not a mechanism for dealing with the bulk, so a lot would depend on how the growth occurred. We're working through all of that to see what is an appropriate response, a proportional response, and what the measures would be that could deal with whatever trend—

Mr. Rob Merrifield: But your responses here would effectively eliminate Internet pharmacy. What is alarming to me in one way is that we're not saying we have an industry here that we're afraid is going to grow, create shortages, and create a price problem in Canada. Your opening comments are absolutely right. You're there to protect Canadians. For each one of us at this table, our constituents are Canadian, so that's our ultimate goal. My concern with your recommendations is that none of them suggest that you're dealing with the problem of expansion rather dealing with what may be the easiest way, and that's to eliminate it. Certainly, in implementing these three, that's what would happen.

Mr. Ian Shugart: You shouldn't assume that the government has made decisions about these options; or, secondly, that all—

Mr. Rob Merrifield: No, but you're the department about to give the minister a recommendation. I'm a little nervous that your recommendations are only here, and I think this is what the chair was suggesting. There are no other alternatives that you've laid before this committee that you might be looking at. I guess that's what I'm trying to explore.

Mr. Ian Shugart: Yes. These are the ones we are working on at the present time and the ones the minister has referred to that are under consideration. We've not made a decision about all three being done, for example. We need to do the analysis to decide on the appropriate response.

For example, the third one, dealing with bulk, is there because if the first two were applied, they would not necessarily be sufficient to deal with large-scale re-importation from Canada. On the other hand, it may be the only situation that causes real concern about supply shortages in Canada, which would be the trigger for—

Mr. Rob Merrifield: It would be the trigger for a large expansion and could perhaps give us a shortage of product and compromised pricing.

● (1555)

Mr. Ian Shugart: That's right.

Mr. Rob Merrifield: Fair enough.

To get a handle on the first two, which is the relationship with the position, we have a reciprocal agreement with America, do we not? A prescription that is prescribed in Canada could be filled in the United States for snowbirds who are down there and have medication in the wintertime, and vice versa for Americans visiting Canada. Am I right?

Mr. Ian Shugart: Wayne or Étienne, would you be able to speak to that?

Mr. Étienne Ouimette (Acting Director, Compliance and Enforcement Coordination Division, Inspectorate Ottawa, HPFB Inspectorate, Health Products and Food Branch, Department of Health): Can you restate your question, please?

The Chair: Now is a perfect chance for me to move to the second questioner, because Mr. Merrifield has had five minutes.

Mr. Rob Merrifield: I'll get another round. That's all right. I'll come back.

The Chair: Mr. Fletcher.

Mr. Steven Fletcher (Charleswood—St. James—Assiniboia, CPC): Thank you, Madam Chair.

I'm going to apologize to the committee and our guests ahead of time, because I have to go right away to the House to make a speech.

I'd like to ask the representative from Health Canada this. Since you've already stated that the concerns are hypothetical, nothing has really happened yet, the supply is safe, and the price is safe, is it reasonable or would you agree that the minister should wait before acting until this committee has done its review of the industry?

Mr. Ian Shugart: As I think the committee knows, the department has paid very close attention to recommendations, particularly in your recent study of prescription drugs. Recommendations that you might make I think would be hugely important to the department and the minister. The work we are doing is to prepare for decisions the government would eventually take.

We think it's our responsibility to do the risk analysis, looking at the options, but that does not mean that our work would be concluded or that we have effectively taken decisions. We would certainly be building on what comes from the committee into future work.

Mr. Steven Fletcher: Yes, but would you agree with the statement that this health committee and Health Canada should work together to come up with a solution before the minister takes action?

Mr. Ian Shugart: I could not constrain the options of my minister, Mr. Fletcher, but I would certainly agree with the first part. We look forward to working together with the committee.

Mr. Steven Fletcher: Yes. Okay.

I have a question. Canada is a big country and we have a lot of northern communities and first nation communities. Do you believe that physicians see every single person who gets drugs or is prescribed drugs?

Mr. Ian Shugart: Clearly, I couldn't be categorical about that, Mr. Fletcher, but I can refer to the rationale for the existence of a patient-physician relationship, and I can cite the position of the regulatory and professional bodies on that.

Mr. Steven Fletcher: Okay. I'm sorry to keep you going here. So the answer is maybe, maybe not, or we don't know.

With respect to parallel trade, as there is a price differential between Canada and the United States, is there not a price differential between Canada and some European countries? Don't Canadians import drugs from Europe for the same reasons that Americans import drugs from Canada?

Mr. Ian Shugart: There certainly are price variations between OECD countries, but not beyond those between Canada and the U.S.

Wayne might want to comment further on this, but there are frequently patterns of trade between wholesalers to regulate the supply of drugs.

Mr. Steven Fletcher: I can save you time, because I actually have met with a Canadian company that does just that. I guess I'm running out of time here; I'm sorry to keep it going.

Are you aware of the phenomenon now that because of the appreciation of the Canadian dollar and regulatory uncertainties and so on, the industry is actually in contraction here in Canada, at least from my information from the industry, and that what is actually happening is that Americans are making requests of Canadian pharmacies who are either being blacklisted from the industry, and therefore don't have the drugs, or are acting as intermediaries for European distributors, who are sending the drugs directly from Europe to Americans and therefore bypassing the Canadian drug supply altogether? They're just basically using the reputation of Canada as the intermediary, which is another reason why the industry's supply or price would be affected.

● (1600)

Mr. Ian Shugart: There's no question that from time to time there are shifts in the flow of medicines. That is fundamentally the reason why the department has been committed from the outset to monitoring the levels of business, and it is why we've been careful to speak of this issue as being ready for developments. Our sense is that the level of Internet traffic certainly has plateaued, to use what might be a suitable word. But the environment in the U.S. is subject to change. I don't disagree with the characterization that...I don't know if we would have noticed the contraction, but certainly what could be described as a plateauing in the standard Internet sales.

The Chair: Thank you, Mr. Fletcher.

We'll move on to Mr. Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Before looking at the solutions, it's important to understand the system of offences we're talking about.

Internet pharmacies are illegal in Canada. I had the impression that, under the Food and Drugs Act and Regulations, it was illegal for a health professional to sign a prescription without seing the patient. Is system of offences we're talking about?

When the minister came here, we asked him a question, and he committed to certain solutions. We'll look at them later, but let's be clear about the system of offences.

Perhaps you know that the Library of Parliament has done some research into 45 known pharmacies in Canada, mainly in Manitoba. Do I properly understand the system of offences? What do you have to fight the phenomenon with right now?

Mr. Étienne Ouimette: I'm going to try to answer that question.

In Canada, in the federal jurisdiction, the Food and Drugs Act is the act governing the sale of prescription medications. That sale takes place in pharmacies. If a pharmacy sells a prescription medicine approved in Canada and prescribed in writing by a physician holding a licence in one of the provinces of Canada, it fully complies with the Food and Drugs Act.

Mr. Réal Ménard: Without having seen the patient?

Mr. Étienne Ouimette: Currently, the Food and Drugs Act states that a prescription medicine must first be approved, then sold by a pharmacist after being prescribed in writing by a physician who has a licence to practise in one of the provinces of Canada. That's all the Act states at this time.

Mr. Réal Ménard: So that's not exactly claiming that the system of offences... It isn't correct to say that a physician must not sign a prescription without seeing the patient. Under the Act, the three characteristics of the offence are those you've just stated.

Mr. Étienne Ouimette: If you're referring to an offence under the Food and Drugs Act, yes.

Mr. Réal Ménard: Now, what are we, as parliamentarians, looking for in the exercise we're engaged in? There must'n be any break in supply. There are some innovative companies that said last year they might stop their supply. I received comments from, among other people, persons with AIDS. We want to ensure there are no supply threats.

When the minister came here, he seemed to be toying with the idea—we don't have to find a solution right now because we're starting our investigation—of changing the definition of "professional" in the act and regulations. That doesn't seem to be part of what you're talking about this morning. When the minister came to defend his estimates, he headed in that direction. Do you seen the link I'm trying to establish?

● (1605)

Mr. Ian Shugart: My presentation reflects our changing obligations in this regard and a more accurate analysis of the terms and conditions for achieving this goal. The goal is to clarify the necessary conditions for writing a prescription. Do you want to add something, Étienne?

Mr. Étienne Ouimette: When we started working on these different options, we really had to bear in mind that the options to be considered had to fall under federal jurisdiction. Under its jurisdiction, the federal government has authority over prescriptions and medicine sales. We have to work with that in mind. It's quite clear that a number of options have been reviewed. We've gone through the act and regulations to determine what currently applies in the case of Internet pharmacies and what has to be improved. These three options are under study because, in our view, they are likely to improve the Canadian system.

Mr. Réal Ménard: Technically, is the export or sale of drugs to the United States illegal under Canadian law?

Mr. Étienne Ouimette: You have to differentiate between commercial exports and exports to American patients because they are two completely different things. Commercial exports from Canada to the United States are legal to the extent that the company in Canada responsible for the exports has a wholesaler's establishment licence issued by Health Canada.

[*English*]

The Chair: Thank you, Mr. Ménard.

We'll now move to five minutes for Mrs. Barnes.

Welcome.

Hon. Sue Barnes (London West, Lib.): Thank you very much, Madam Chair.

Gentlemen, thank you for your presentations.

We were all very concerned last year when we heard comments about the safety of our medicines in this country, and I'm glad that's been put to rest. We also have been hearing a lot about the ethical concerns that potentially are here. They could have an impact on some of our medical bodies, and I'm talking about both our doctors and our pharmacists here. I think they are both implicated. Even though I know there's provincial regulation, I would like you to touch on what both of those bodies are doing internally on their codes of conduct to address this issue. Some of the concerns were raised even by our own health minister, surrounding the ethical conduct that potentially is here, and I would like you, if you have enough time, to tie this to what e-health or e-medicine and telehealth are doing. To me, they seem somewhat linked and we are getting into potentially the same areas of concern. So while I understand the very easy and simplistic view that, yes, there can be concerns, at the same time we are also, for various other reasons, promoting something that I think we can be in the same area....

If you understand what I'm driving at here, please go ahead and answer.

Mr. Ian Shugart: I'll try to approach the question from the perspective, first of all, of the federal interest in this, in the Food and Drugs Act.

The reason we get into the issue of the role of the professional is because by definition these are a product that carries some threat to the patient. They are not benign products in many cases. The federal interest in the protection of the health and safety of the public requires that this product be made available to the patient mediated by an appropriate professional. In a sense, that is no different from medical practice though telehealth or e-health.

Depending on the nature of the transaction, if you like, or the procedure that is performed electronically, at a distance, good ethical practice would require an appropriate professional. If it is reading a scan digitally, for example, an appropriate radiologist or physician would be required. If it is reading the vital signs of a patient, which a nurse practitioner or a nurse would normally do professionally, that's a different matter. The fact that it's electronic is secondary to the nature of the procedure and the requirement for an appropriate professional appropriate to that procedure.

In the case of prescription medicines, the appropriate professional is a physician, not just a pharmacist but a physician. So that's the nature of the federal interest. It is pretty widely held. It's standard opinion that in prescribing medicines the patient should actually be seen. The physician should be able to review the history, to inquire as to whether other medications are being taken that could be contraindicated with the medicine being prescribed and so on. The fact that it is an electronic process is secondary to the nature of the procedure and the professional who should be associated with that procedure.

With respect to the regulatory bodies, they of course have been engaged in this. This is not something that the federal government can or should do by itself. In the last couple of weeks in British Columbia, for example, a significant enforcement action was taken by the College of Physicians and Surgeons in that province because there was an absence of this relationship; there was co-signing of many prescriptions and there was no professional involved in the process. There was no visit by the professional. So that's the way we're approaching the issue. This is going to have to be collaborative with those regulatory bodies that are appropriately constituted at the provincial level to take that enforcement action.

● (1610)

The Chair: Thank you, Mrs. Barnes.

We'll now go to Mr. Martin.

Mr. Pat Martin (Winnipeg Centre): Thank you, Madam Chair. Thank you, Mr. Shugart.

Mr. Shugart, I'm from Manitoba. I can tell you how sensitive an issue this is if you're not aware already. The way we see it, and not to put too fine a point on it, is Big Pharma got to George W. Bush and George W. Bush got to Paul Martin and simply said this is an irritant that we want eliminated. Now the Minister of Health has been charged with the task of wiping out an industry that we in Manitoba find critical, 4,000 jobs. I understand I'm not talking to the minister here, I'm talking Health Canada officials, but that's how we're viewing it.

We have reason to believe this is exactly what happened because no one has been able to tell us as a Manitoban any good reason why this industry has to have the rug pulled out from under it. I've heard the three recommendations that you had, or the three possible ideas that you had. What we're seeing now is our Minister of Health as a shill, essentially, for Big Pharma, for corporate America, to undermine what is actually a valuable program to millions of uninsured Americans who can access quality medicines through this program.

I ask you, if we were to ban the bulk wholesale export of these drugs in the United States, but allowed the continuation of doctor-verified individual prescriptions, is there any real compelling reason why this free trade, this free competition in the global marketplace should be undermined and curtailed other than to protect the high prices of Big Pharma?

● (1615)

Mr. Ian Shugart: Mr. Martin, we are very much aware of the importance of the industry across the country. It generates some interesting dynamics in both directions.

We have been concerned, for example, to see the worry among pharmacists about the displacement of community pharmacists from the hospital sector and the local pharmacy sector to the Internet pharmacy business.

I wouldn't say that is the issue that is overwhelmingly driving this, but there are interesting—

Mr. Pat Martin: Those are natural market forces as the marketplace shifts to get with the 21st century. So is the globalization of capital. As a left-wing pinko here, I haven't been a big fan of this necessarily, but we've been told it's an unstoppable force—the globalization of marketplaces is unstoppable. But all of a sudden, when it's inconvenient to Big Pharma in the United States, it has to be curtailed, even if there's no compelling reason to curtail it other than to protect the exorbitant profits of Big Pharma.

Does that make any sense to you? As a layperson, I don't know if I'm really getting this, but that's certainly the way it seems to me.

Mr. Ian Shugart: You're very clear. I know exactly what you're saying.

All I could say, with respect, in addition to my comment on Mr. Merrifield's first question, is that the major change that gives us concern on the supply side—

Mr. Pat Martin: But that is easy to fix. That's the easiest problem to fix—

Mr. Ian Shugart: But let me just say that—

Mr. Pat Martin: —unless the big companies start blackmailing Canada and saying, we won't send you even your domestic supply if you keep exporting any of it to the Americans.

Mr. Ian Shugart: I'm just restating that this is our first concern.

With respect to the movements in the position of the industry and so on, I would just cite as well that the minister has been very clear on the issue of Canada's price regime. We've been clear right from the outset that this is, in our view, a United States domestic issue. This is an issue that arises because of pricing policy in the United States.

Mr. Pat Martin: And lobbyists in the United States: Big Pharma.

Mr. Ian Shugart: Well, the economics of it are that the prices are very high in the United States, which creates this opportunity for exports in Canada. To the extent that the pharma has mused about a single global price, the department's policy very clearly is that this is not something we are open to or interested in.

Mr. Pat Martin: Isn't that musing pretty much blackmail?

The Chair: Mr. Martin, I'm sorry, your time is up. You might get a second chance.

Mr. Réal Ménard: On St. Valentine's, we need love and tenderness.

The Chair: Well, I'm trying to be at least fair.

We'll now go to Mr. Rota.

Mr. Anthony Rota (Nipissing—Timiskaming, Lib.): In keeping with the spirit of Valentine's Day, maybe I'll just continue on that note that Mr. Martin started.

Mr. Shugart, thank you for being here, first of all. One of the questions that comes to mind is the big price differential between Canada and the United States. Do we have a specific reason for that? What exactly is that differential attributable to?

Mr. Ian Shugart: Canadian drug prices are regulated in consequence of the patent regime. When the patent law was amended, the Patent Medicine Prices Review Board was put in place to ensure that the introductory price of drugs on patent would not be exorbitant.

There is a methodology that the board uses with comparator countries. We are in the company of the vast majority of industrialized countries in adopting a price regulatory system. The European community countries have price regulation; the Australians have price regulation; I believe the Japanese have price regulation. Comparatively speaking—I want to be diplomatic about it—the United States is the outlier.

It is an important element of Canadian health policy. It is an important element of the sustainability of our health system—we share this with other OECD countries—that our prices be in conformity with the vast majority of industrialized countries.

That is what creates the price differential: the United States does not have price regulation.

● (1620)

Mr. Anthony Rota: I think you may have answered my next question regarding the European Union. What does the EU do across borders? Does it actually have an Internet industry there? What does it do to regulate what happens between its members?

Mr. Ian Shugart: I'll ask my colleague to help us with that.

Mr. Wayne Lepine (Director, Pharmaceutical Policy, Quality Care, Technology and Pharmaceuticals Division, Health Care Policy Directorate, Health Policy Branch, Department of Health): Parallel importation is done within the European Union. It has a bit of a different system for that. I think we'd have to provide further information on this at a later time.

The Chair: Just to clarify, though, would you suggest that the market system is at work there, so a country would buy from another country if the price in the other country were cheaper? My understanding is that Britain buys a lot from Spain because the price is considerably cheaper.

Mr. Wayne Lepine: Individual organizations within those countries do buy from other organizations in other countries.

The Chair: So there is more free market activity then.

Mr. Wayne Lepine: Yes, there is.

Mr. Ian Shugart: But a similar dynamic occurs within the European Union.

Mr. Anthony Rota: Okay.

That leads to my next question. How much do the Americans buy from the Europeans? Is that a market that exists at all, or do they just buy from Canada, because it's cheaper?

Mr. Ian Shugart: It's primarily been Canada, but there is potential for that to shift.

Mr. Wayne Lepine: The HHS study in the United States that Mr. Shugart referred to earlier said that the U.S. was getting about $1 billion in U.S. dollars from Canada and about $1 billion from the rest of the world through Internet pharmacy activity.

Mr. Anthony Rota: Do you know if the United States is putting any pressure on other countries around the world, or is it just Canada?

Mr. Ian Shugart: I think the pharmacy industry in the United States—and globally, I would say, because the brand-name industry is not just an American industry—as a matter of business strategy would favour a single price everywhere around the globe. The proximity of Canada to the U.S. makes us somewhat unique in this regard, but in terms of pricing objectives, I think it's probably global.

Mr. Anthony Rota: If I may, I'd like to ask just one question on the Internet system and how it's working now. I come from northern Ontario, and there are a lot of remote communities. How does the Internet system affect northern Ontario or remote areas across Canada? Is it serving these areas well? Do they find a need for it? What would happen to our isolated communities if we should shut down these Internet pharmacies?

Mr. Ian Shugart: I should know more about this, and we'd be happy to follow up on your question. Either of my colleagues may know about this, but I'm not aware that the Canadian market is internally served by the Internet phenomenon. There is of course a supply chain within the country, where local pharmacies are supplied, based on normal supply and demand flows, from what are in effect pharmacy warehouses distributed across the country. The pharmacy in Thunder Bay might be a warehouse that would serve a number of smaller communities in northern Ontario, but probably not particularly through the Internet.

I'm not aware that it is a business strategy of supply for remote communities, but I'd be happy to confirm that and, if this information is wrong, to follow up with the committee.

● (1625)

Mr. Anthony Rota: I'd appreciate that.

The Chair: Thank you, Mr. Rota. Your time is up.

Mr. Lunney, please.

Mr. James Lunney (Nanaimo—Alberni, CPC): Thank you, Madam Chairman.

We've had the "I'm from Manitoba" routine and the "I'm from northern Ontario" routine, so I'm from British Columbia. We have more of what you described as foot traffic. We've had buses, trains, and indeed even boats coming up from the Seattle area to Victoria full of people who want to get their flu shot, for example. The *Victoria Clipper* recently brought up a whole load of people to get their poke and head back down. We also have busloads and even trainloads of people coming across the border to shop.

I want to pick up on an aspect Mr. Martin mentioned. He suggested that some of the companies may increase their prices in Canada in order to reduce the incentive and level the playing field. I understand that in 2003 several of the major manufacturers, including Pfizer, Wyeth, EIi Lilly, GlaxoSmithKline, and AstraZeneca, imposed various limitations on Canadian wholesalers and pharmacies with the aim of restricting the flow of drugs to Internet pharmacies. It has been reported that under their new policy, some have actually blacklisted a number of pharmacies.

Has Health Canada had any contact with representatives of these companies and were such drug restrictions discussed? Is Health Canada monitoring this? Is anybody actually collecting data on efforts of this type by the pharmaceutical industry to control or limit the supply of drugs in Canada and to raise the prices?

Mr. Ian Shugart: On the price issue, that falls under the jurisdiction of the Patented Medicine Prices Review Board. Within the limits established by the board for any particular drug, a company has a certain amount of space where it can set the price. Sometimes a company will increase a price. That may be due to market factors not related to this phenomenon at all. It is difficult to know when a price change is made for that reason as opposed to some other business decision.

Yes, we do periodically get a report. Our primary concern, Mr. Lunney, has to do with any potential impact on supply. Of course, ordinary commercial transactions will occur between the manufacturer supplying the medicine and the wholesaler pharmacy. That does not fall within the jurisdiction of Health Canada. However, sometimes we do get information that we feel obliged to follow up on, particularly if there is a concern about safety practice or a supply issue.

Étienne, is there anything we should add in response to that?

Mr. Étienne Ouimette: We know for a fact that big pharmaceutical companies do have contractual agreements with wholesalers in Canada, and part of the terms and conditions is to make sure they know where the supply goes. That's for various reasons, one of which is that they must account for all drugs that could be recalled. They need to be able to trace all the drugs so that they can conduct a recall effectively. These elements fall under federal legislation. We would follow up to make sure the wholesalers have an establishment licence, conduct business in accordance with federal legislation, and do an effective job when recalling drugs from the market, whether they were distributed domestically or abroad.

● (1630)

Mr. James Lunney: Are you telling me, then, that the pharmaceutical companies themselves are monitoring that? Or is Health Canada actually monitoring that, or both?

Mr. Wayne Lepine: Monitoring what exactly?

Mr. James Lunney: Are they monitoring attempts to restrict the supply of drugs by companies?

Mr. Wayne Lepine: We have followed the companies' activities in that area, and we have talked to them about their practice from time to time. We've asked them what they're prepared to do to ensure Canadian supply. They've indicated that if they need to they might blacklist individual companies, but they would take measures to try to assure that no Canadian was without their supply.

The Chair: Thank you, Mr. Lunney.

We'll now go to Mrs. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you.

One of the points you've raised, which is the subject of discussion, is the concern of many Canadians that our drug supply, in the short or medium term, may not be sufficient for our needs because of exports out of Canada, regardless of where they're going. So I have a couple of questions.

My first question is on the percentage of drugs manufactured in Canada and actually used domestically. They're sold to wholesalers, and then the wholesalers sell them on the domestic market. We know they've been prescribed and used. Next, what percentage is exported? Then I'd like to know the percentage of drugs imported legally into Canada and used domestically, and the percentage that is then resold for export.

On my last question, you mentioned that in Europe there are price control regimes, and obviously the Internet has also hit Europe. It may even have hit it before Canada, although our schools were all wired before Europe or the United States. I've done a little bit of research on it, and my constituents in seniors groups have talked to me about the models in Europe. One that they pointed out was in Spain.

Spain has a price control regime, but it recently clarified that the price control regime would apply only to drugs that were going to be sold in Spain. Therefore, if a drug is produced for export, the price control regime doesn't apply to it. Some kind of reporting mechanism has been put in place to ensure that drugs aren't being bought under the price control on the basis that they'll be used domestically, when they're being exported. They can't take advantage of low prices in order to be more competitive in a foreign market.

You said you were going to get more information about what exists in the European market, so perhaps you can look into that.

I'll wait for your response on my first two questions.

Mr. Ian Shugart: On that last one, if I understand the scheme accurately, I think the situation is the same in Canada. The PMPRB price applies only to drugs listed in Canada. The wholesaler could presumably sell them at any price, but it's because of the price differential that it's advantageous to sell them at Canadian prices into the U.S. But the price control doesn't extend extraterritorially.

Hon. Marlene Jennings: Yes, but when a wholesaler makes a purchase order from the manufacturer and that wholesaler is in Canada, that wholesaler is benefiting from the price control on the drug, because the manufacturer doesn't know if that order will be automatically exported to a market where competition has pushed the prices up, or whatever. Perhaps if they knew, they'd be selling the drug at a much higher price.

If there are these reporting mechanisms and clarifications in some European countries, and perhaps other countries, it might be in our interest to look at these mechanisms. It's clear our price control mechanism doesn't prohibit taking advantage of the low price of drugs, which was set because they were going to be for Canada, and having a big profit margin because those same drugs are being sold in an unregulated market where the cost is much higher.

● (1635)

Mr. Ian Shugart: I take your point. That is helpful, and we will follow up on that.

Wayne, I don't know if we have the complete statistical analysis on those flows.

Mr. Wayne Lepine: I can comment briefly on them. I believe Canada imports about 98% of our drug supply. The cross-border drug sales amount to about 8% of the Canadian supply. We'd have to follow up on the further questions you asked.

Hon. Marlene Jennings: Thank you.

The Chair: It's now Madame Demers' turn.

[*Translation*]

Ms. Nicole Demers (Laval, BQ): Thank you, Madam Chair.

Good afternoon, gentlemen, and thank you for being here.

Mr. Shugart, according to the study you've conducted, you inspected 11 of the 270 Internet pharmacies that were operating in this way, or that were sending medicines through the mails.

In your subsequent comments, you said that some pharmacists packaged and shipped heat-sensitive products inadequately, thus compromising the product's safety and effectiveness.

I'm going to outline my fears. There is incredible growth in health costs, and drug costs are experiencing the same growth. Being unaware of the quality of medicines that are sold to the Americans—who we know are highly inclined to litigate—I'm concerned as to whether anyone has thought of this aspect of things. If the medicines that our Canadian pharmacists have sold to five, 10 or 15 Americans don't work because they were poorly packed or shipped, don't we risk facing really very high costs? Wouldn't governments, like pharmacists, be sued, since, if you sue a pharmacy, you also sue the government that allowed it to act as it did? Wouldn't those lawsuits jeopardize our health system even further?

You inspected 11 of 270 pharmacies. That's not very much: it's not even 10 percent. You say you're going to reassess them soon, in 2005. Will you inspect the same number of pharmacies? How can you ensure the quality of medicines by assessing only five percent of the pharmacies that engage in such practices?

Mr. Ian Shugart: Fortunately my colleague from the Inspectorate can answer that question from a technical standpoint.

We're concerned with patient safety and product integrity for Canadian and American consumers. Health Canada's primary responsibility is to be concerned about product safety.

Mr. Ouimette will be able to add comments on the Inspectorate's monitoring process, on the process whereby the 11 pharmacies were selected and on the second round of inspections.

● (1640)

Mr. Étienne Ouimette: Thank you for asking that question.

As an organization involved in inspection and investigations, we mainly inspect firms that manufacture, that act as wholesalers, that distribute, that test products or that analyze products because that's where we think we can have the greatest impact in case of risk. For an investigation or inspection, we always choose the area where we'll have the biggest impact.

Our organization used not to be involved in the inspection of pharmacies. Our inspection operations were only related to people and industries subject to establishment licences in Canada. The inspections we conducted of the 11 pharmacies were a pilot project. We wanted to select a significant number in order to take the pulse of pharmacies in Canada. That was the ultimate goal of our effort last year.

We didn't find any areas of serious non-compliance. As you say, we found pharmacies that could not prove that the way they shipped a drug by courier preserved the safety and effectiveness of that drug. We took action as a measure of precaution. It wasn't because we saw that there was a problem or because a patient had been ill or had not received the proper dose. It was only as a precautionary measure that we informed the pharmacies that we inspected and, subsequently, all pharmacies in Canada—because we had a duty to transmit that information to all pharmacies in Canada—that we had a certain number of concerns about certain storage and shipping methods.

This problem is certainly not confined to pharmacies. We previously conducted a survey of people who ship commercial goods. Serious concerns had also been raised in that area. I believe the idea is really to offer guidelines to this industry, to the pharmacies and to the community, to provide guides on good shipping practices to ensure product safety and effectiveness. We're establishing those guides and making them public in order to give the industry and the communities the necessary tools to ship medicines safely.

[*English*]

The Chair: Excuse me, Madam Demers. You're well over your time. Thank you very much.

With the indulgence of the committee, I would like to break the usual pattern in order to allow Mr. Carrie to speak, because he hasn't even had one turn. Is that agreeable?

Some hon. members: Agreed.

The Chair: Thank you very much.

Mr. Colin Carrie (Oshawa, CPC): Thank you very much, Madam Chair.

Listening to this whole process, I must say I'm a little concerned about how it's moving. One of my biggest concerns too, as a right-wing conservative redneck, is I'm actually agreeing with my left-wing pinko friend at the end of the table, because I'm seeing this for Canadians. This is also an issue of jobs.

You say your recommendations on regulatory changes are for improvement, but they all seem to be strategies to almost shut the industry down. Because of market forces, if Americans aren't getting their drugs from Canada, with the Internet, sure enough, they can get them from the United States. We have a shortage of doctors here. We have a shortage of pharmacists. In your opinion, wouldn't it make more sense to develop reciprocity agreements with American doctors so we could keep the relationship the patient in the U.S. has with their doctor something between them, and just work on that type of regulatory change, instead of trying to regulate the industry so strictly?

● (1645)

Mr. Ian Shugart: As I mentioned earlier, we would be more than prepared to look at any recommendation coming forward. I think there would be some careful legal analysis required on the issue of regulating, in effect, the practice of non-Canadian practitioners, but I don't dismiss that out of hand.

I just want to stress that I believe the minister is not at all insensitive to the issues of employment that are attached to this question. As we indicated, the overriding concern relates to the potential impact on supply and, in the longer term, on price.

This clearly is a U.S. issue. In a way, it would be easy to say it's a U.S. issue and leave it at that, but our feeling is that the government would not be meeting its responsibility to protect Canadians against the potential consequences of that U.S. issue in terms of supply and price and in terms of the integrity of the Food and Drugs Act and the obligation of appropriate practitioner involvement to ensure these medicines are ultimately dispensed in a safe and effective way.

But we have not said these are the options and the only options we will look at. We're more than prepared to do further analysis of other proposals.

Mr. Colin Carrie: I see this as a great opportunity for us, too. My colleague from up north mentioned there are many aboriginal people who do not have access to physicians. And if the principle we're looking at here is that there should be appropriate physician-patient interaction when these drugs are prescribed, whether it's an American physician or a nurse practitioner from northern Ontario, I personally don't see much of a difference, as long as there's an appropriate professional consultation there.

I also see shortages in the future; we're talking about Canadian shortages. Don't you see that we in Canada could potentially face shortages, but if we had some type of reciprocity agreement with the Americans and free flow...? We saw this with the flu vaccine this past fall: they didn't want our drugs, but surely they wanted our flu vaccine when they needed it. This is something that could happen to us in the future.

Do you think these are things we should be looking at now and making decisions now based on both ways, not just as an American issue?

Mr. Ian Shugart: Well, I certainly think commerce across the border has existed for some time. This is a global industry and the flows are to some extent global; they certainly cross borders.

Mr. Colin Carrie: And Europe has already dealt with this well, haven't they?

Mr. Ian Shugart: I think the extent of the challenge is probably not as acute or quite as accentuated as it is in Canada and the U.S.

Mr. Colin Carrie: But they didn't shut down any industries by regulatory changes, did they?

Mr. Ian Shugart: No, but I think it's not entirely resolved yet in the U.K. or in the European Union. But no, they've not shut anything down. Within the European market, there are probably more avenues than in the binational situation we have with the U.S. So there's no concern a priori about flows across borders.

I think we would be much more comfortable with the assurance that there were some equilibrium that did not have a negative impact on supply for Canadians. And certainly Canada needs to be satisfied that we're fulfilling our responsibilities as a regulator in terms of the quality or safety of the products themselves.

● (1650)

The Chair: Thank you, Mr. Carrie.

He's the last questioner in round one. We'll begin round two, but I'm fearful that we really only have time for two questioners. We'll begin with Ms. Barnes, and then we'll move to Mr. Merrifield. By then it will be five o'clock.

But considering the quality of the questions and the number of issues on which we didn't really get fulsome answers—not that you didn't try, Mr. Shugart, which I'm sure you did—on Internet prescribing in Canada and things about Europe, I'm sure everybody will want to have this panel back again and maybe they could come back and give the answers to the question we've already asked.

Mr. Martin, being from Winnipeg, we'll be sure you're included in an invitation to that meeting.

We'll begin the last ten minutes with Ms. Barnes.

Hon. Sue Barnes: Thank you very much, Madam Chair.

I think Canadians expect Health Canada to care about their safety, regulate, and do all the things necessary to interact with other jurisdictions to make sure things are done in a proper manner. At the same time, this is a country that has embraced free trade.

I personally don't believe we pick and choose when we do free trade, and I believe this is the government's stand. It has been a long-standing issue, and I am a little concerned that what I'm hearing could impact on our trade negotiations and that there could be repercussions. This comes up every time we talk with Health Canada on some of the other issues. What are your ongoing discussions with the international trade parts of government, or are you having any?

And as a very practical measure, the researchers have pointed out that some of the reports have talked about how there's a potential to prohibit prescriptions for non-Canadians not present in Canada. If this is the case, I'm looking at the on-the-ground practicalities. Are we going to have our pharmacies trying to figure out who is a landed immigrant, who's a bona fide refugee, who's entitled to prescriptions here in Canada? Are we going to have people asking for passports, proof of citizenship, or proof of residency? I know other countries.... I understand Australia has gone somewhat down that path. Perhaps you could elucidate for the committee exactly how they're coping with it, and what any plans are or any areas are that you're delving into on this, because I would see this as an incredibly complex situation and potentially not necessary.

Mr. Ian Shugart: Ms. Barnes, you're absolutely right that it is complex. Frankly, that is why, apart from the obvious fact that ministers have not made decisions yet, our technical, compliance, and various legal assessments and so on are not complete.

On the in-Canada issue, it would not necessarily be a matter of citizenship. An individual resident in Canada or physically present in Canada could well be a sufficient standard. Again, the operative point is not the citizenship of the patient; it would be the opportunity for a physician–patient relationship to exist.

On trade, yes, we are in frequent dialogue with our colleagues in trade. One of the issues is that, particularly with the last option that I mentioned—a mechanism that could, if a threshold were triggered, provide limits on the exportation of a product that was in short supply for Canadians—trade law implications have to be worked through very carefully. We do have trade obligations vis-à-vis the United States and internationally, and they have to be a very important part of the parameters of what ultimately is chosen.

Hon. Sue Barnes: I totally understood the context of being a resident in Canada, but there are people who are not Canadian citizens who are resident in Canada. If you're going to enact a law or a regulation, you have to have good compliance. To do compliance, you're going to have to have checks, and I see this falling to the pharmacy level. That's what I'm asking you to address.

Mr. Ian Shugart: I think Étienne should comment on some of the compliance challenges. You're quite right that the test of ability actually to make it work is something we have to be satisfied about before we—

● (1655)

Hon. Sue Barnes: Unless you're going to have a useless law.

Mr. Ian Shugart: You're absolutely right.

Would you like to comment on some of the compliance challenges?

Mr. Étienne Ouimette: I would just say we are facing many challenges in trying to determine whether any of these options would be enforceable, and this is certainly one very valid point. Who's going to check? How are we going to check? If it is a regulatory requirement, that means the pharmacy where the point of sale exists will have this responsibility to demonstrate to us, so they will also have an onus to keep that information.

It puts a burden on the government to make sure we make a lot of this enforceable, but it also puts a burden on the industry because they have to have additional systems or processes in place to allow for the evidence to be demonstrated to Health Canada.

So this certainly is a valid issue. We had raised this issue as well. We're looking into how we could enforce it, but it has not been resolved yet.

Mr. Ian Shugart: I would just add very briefly, if I could, that in that kind of compliance analysis we would also have to take into account any compliance burden that could inadvertently be placed on another jurisdiction, such as the provincial regulator and so on. That has to be part of our analysis as well.

[*Translation*]

Hon. Sue Barnes: Thank you.

[*English*]

The Chair: Thank you, Madam Barnes.

Now we'll have Mr. Merrifield.

Mr. Rob Merrifield: Thank you.

This is a very complex issue and I'd like to lay out both sides of it quite succinctly, if I could. For most of this session we've talked around the table and asked, for example, how come we don't have free trade; why is there this problem here when it's happening in Europe and other areas; is it politically motivated, because of a deal cooked up with the United States leadership? My understanding is that there's actually a law against this in the United States but that it's not exercised because of politics as well.

On one side we have this free trade argument, but clearly, on the other side you have a prices review board that sets the price of brand name pharmaceuticals in Canada. That is for Canadians, not for other countries, and we're exporting into another country.

I believe this is where I got to in my first round of questioning. The real rub here isn't the size of the Internet pharmacy business right now because, as you said, the United States has $1 billion worth coming in from Canada and another $1 billion worth from other countries, so it's about where it will go. It's the growth that could take place that could cause the problems in Canada.

That brings me to my suggestion to you. I believe the committee is going to ask you to come back, and I'd like you to come back with some solutions, not only for how to shut the industry down but for how to curtail the industry to achieve those goals. I know that may not be the direction the minister necessarily wants you to take, but for the benefit of the committee I'd like you to come back with some solutions based on research from that side of it, on how we can perhaps sustain some middle ground. If you could look at it that way, would that be a fair request?

Mr. Ian Shugart: Mr. Merrifield, you know we will do the absolute best and most we can. I would just, within that general commitment, express the caution that of course our advice is to ministers, and I don't know, frankly, how much I can share—

Mr. Rob Merrifield: You're not here to advise us, is what you're saying. It's strictly for the minister.

Mr. Ian Shugart: My obligation is to the minister in terms of policy advice at this stage, but we will—

Mr. Rob Merrifield: Perhaps the committee can ask the minister if he would allow you to do that; that would be another way of doing that.

Mr. Ian Shugart: We will be as helpful to the committee within that governance constraint as we can.

Mr. Rob Merrifield: I have another question on the technical side of it. We've been talking about brand name pharmaceuticals, and the majority of these drugs are brand-name pharmaceuticals. What percentage being sold on the Internet are generic?

Mr. Wayne Lepine: There are relatively few, about 12%.

● (1700)

Mr. Rob Merrifield: So it's a very small amount. The prices review board sets generics in Canada at 70% of the price of the brand-name equivalent, and the prices are higher in Canada than they are in the United States. Is that why?

Mr. Ian Shugart: No. The prices review board does not have jurisdiction over generics, so it doesn't set prices on generics.

Mr. Rob Merrifield: No, but they can go to a maximum of 70%, right? Maybe I'm wrong there.

Mr. Wayne Lepine: That's more of a provincial requirement.

Mr. Rob Merrifield: That's because of the formularies in the provinces.

Mr. Ian Shugart: Also, the jurisdiction of the board extends only to those medicines that are under patent, so when they come off patent, they are out of the jurisdiction of PMPRB.

Mr. Rob Merrifield: Why are we not seeing a differential in price between Canada and the United States on generics, then? Otherwise, they'd be using them. Is that a fair statement?

Mr. Ian Shugart: There is a price differential in generics in comparison with the U.S. Now, I won't say this categorically, but frequently the prices are lower in the United States than they are in Canada. It is largely because of the very substantial purchasing power in the United States of some of the big HMOs and so on. For generics it's an unregulated market.

Mr. Rob Merrifield: I realize that, yes.

The Chair: Mr. Shugart, that might not be forever the case, that the PMPRB is just patented medicines, because this committee is veering toward the recommendation that it become the prescription medicine prices review board. But I know that's the situation now, as you describe it.

Mr. Ian Shugart: I take nothing for granted, Madam Chair. Indeed, in the first ministers agreement on health, you will recall that under the national pharmaceutical strategy the price of generics was something that first ministers committed themselves to examining.

The Chair: Thank you.

I just want to add one question to your burden for the next meeting. Sometimes I think I'm Alice in Wonderland. Since 1988 I've been told free trade is a good thing, that Canada has to be more productive in order to be more competitive in the global marketplace, and that the one thing we should be doing is encouraging entrepreneurs.

We have a situation that's evolved here where we have some very innovative entrepreneurs who are making our situation with regard to trade in pharmaceuticals more competitive, and we're winning market share. We're going by the rules of free trade. And suddenly I'm being told this is not a good thing.

If you do succeed with one of your three options, which in the end shuts down this industry, I'm wondering how you're going to write the prose that goes along with it that doesn't deny all the things we've been selling to the Canadian people for the last number of years, since 1988.

It seems to me we have to have positions for Health Canada that synthesize with the more general positions that have been taken by a variety of Canadian governments over the years. Everything I've heard today seems to me to be going against that sort of market philosophy—not that I think big pharma has ever operated totally in the free market, what with their 40% return on investment in the United States and a 30% return on investment in Canada.

There are a lot of things that don't synthesize here and don't make sense. As one of the questioners—I forget who it was—mentioned, a lot of this doesn't make sense. It's difficult to come up with a reason, because if big pharma wants to operate in the competitive marketplace, why are they threatening not to respond to increased demand, which is what this industry is suggesting Canada might have—increased demand for big pharma products? Are they suggesting that maybe they won't fulfil that demand or that they're sufficiently inflexible that they can't increase our share of the global supply simply by producing more? This doesn't make any sense to me, so you might try to work out an argument that responds to some of those concerns.

On behalf of the committee, I'd like to thank you very much for coming. Certainly your briefing was excellent, Mr. Shugart. I took notes of everything you said, and we will await with some level of anxiety your return, because I think we all want to really understand this.

Mr. Ian Shugart: It may be nothing compared to my anxiety, Madam Chair. It's always a pleasure to come.

The Chair: Thank you very much.

Ladies and gentlemen, if you're not staying for part two of the meeting and you're in the audience, I would ask you to leave as quietly as possible.

We have a motion before us, ladies and gentlemen, submitted by Ms. Crowder, who is not here. I assume Mr. Martin will move it.

● (1705)

Mr. Pat Martin: Yes, please, Madam Chair.

The Chair: The motion is that the Standing Committee on Health study the health effects of asbestos-laden vermiculite. This motion is now on the table. I'll be looking for someone to speak to it.

Mr. Martin.

Mr. Pat Martin: I wonder if I might take just one minute to introduce the subject.

Zonolite is the trade name for a brand of asbestos-laden insulation that was widely sold throughout Canada in the post-war years. In fact, the federal government sponsored this particular brand and subsidized its installation in its....

Would you like to keep your voices down over there? We're trying to have a meeting over here.

The Chair: Order. I asked you to leave silently, please, because we have a meeting going on.

Mr. Pat Martin: Thank you.

I only point out that the federal government actually subsidized the installation of this particular brand through its CHIP home insulation program. So as a result we have 200,000 to 300,000 homes across the country and many commercial buildings that are filled with this Zonolite brand of vermiculite insulation, which we now know is loaded with tremolite, a very virulent form of asbestos. Recent developments are that in military bases and Indian reserves the federal government has agreed that they will take responsibility and make sure that no one is exposed to this material. In the general population, though, homeowners are faced with homes that are devalued and dangerous because of the high concentration of this dust.

In closing, I would ask that this committee undertake a study of the Zonolite insulation issue in the same way that they did with the UFFI home insulation issue in 1982. When the government learned that UFFI was irritating to some Canadians, this committee, the House of Commons Standing Committee on Health, undertook a study and made a recommendation, which resulted in a removal program.

I simply ask at this point that this committee entertain a study of the issue of asbestos-laden vermiculite, Zonolite, which is so ubiquitous in residential and light commercial buildings across the country.

The Chair: I want to explain to Mr. Martin, who is not a regular member of this committee, that we have just been through an exercise in the month of December during which each member put forward their top couple of topics they wanted to have studied.

Your member, Mr. Blaikie, put forward Internet pharmacies, if I recall correctly. And we ranked all these things and we came up with answers as to the top two we wanted to study.

If I can suggest, there's nothing wrong with this topic. It's just that we're not going to go through the whole rigmarole again because Ms. Crowder replaced Mr. Blaikie.

I'm wondering if you would be satisfied if this was referred to the next round of decision-making, which would be after we finish the business we have. We have bills coming, we have one that actually has been referred, we have estimates, we have the Auditor General's report, and we have already started on Internet pharmacies. It's highly unlikely that we would be having another meeting of this sort, in my view, before September. So would you be satisfied to refer it to the clerk to bring forward at the next meeting of decisions about future business?

Mr. Rob Merrifield: Just say yes, Pat.

Mr. Pat Martin: Yes, I assume that's the best we can do. So thank you for that background. I wasn't aware that our representative was the one who pitched for this Internet pharmacy study.

The Chair: Well, he was one. And the reason it came out on top was because several other members voted for it as well.

Mr. Pat Martin: They were interested as well. I see.

The Chair: Could you actually withdraw it, make a motion or just state that you're withdrawing it as long as it's referred to the clerk for the next future business?

Mr. Pat Martin: Yes, I would be willing to do that, Madam Chair.

The Chair: And do we have unanimous consent for that withdrawal?

Some hon. members: Agreed.

The Chair: Thank you very much. That was much easier.

I'm going to hand the chair over to Mr. Merrifield.

Mr. Réal Ménard: Madam Chair, I have a point of order.

I also told the clerk I wanted to make a point of order.

I'm a bit surprised to see that we don't seem to be getting organized to follow up on a motion that was passed by the committee, concerning the three researchers who were dismissed by Health Canada.

I ask you, Madam Chair, to ensure that we act on it quickly. We approved that. Reversing a vote that was held is out of the question. As I remember, it was a unanimous vote. I wonder how this can be delayed so long. We don't have to devote a lot of time to it. We can understand in the space of one meeting. I want to understand how Health Canada treated those researchers. I'd like to know when this will be included in our work plan.

● (1710)

The Chair: The clerk has prepared a set of meeting topics from now until March 24, which precedes the second break week in March. These are things that essentially you also voted to do. For example, it includes two meetings with the Auditor General on her report as it refers to the Department of Health and a bill that has been referred to us from the House, which we figure will take probably two meetings of witnesses and perhaps two meetings of clause-by-clause.

The other complicating factor is, while I understand that the motion about having this meeting passed, Mr. Ménard, we also had what I would consider a cautioning note from the lawyers at the Department of Justice suggesting that this particular issue is currently in front of two quasi-judicial bodies. Not that this has to necessarily stop us, but it seems to me that if we put in February and March, we might move to this in April. Perhaps these two quasi-judicial bodies will have ruled by then and we won't be into any kind of conflict with them, that is, in airing things in a public meeting—for I know you'll ask for it to be televised—when these other bodies are looking at it. I can't even remember the names of the other bodies right now. Perhaps the researchers know.

One is the Federal Court.

[*Translation*]

Mr. Réal Ménard: We know them. It's the Federal Court of Canada and the Professional Institute.

[*English*]

The Chair: The Public Service Staff Relations Board's decision is presently on appeal before the Federal Court of Canada. That's why I feel hesitant to do it here until we get some kind of answer from those people. That isn't quasi-judicial, that's judicial—the Federal Court.

But there's another body.... I thought there were two.

[*Translation*]

Mr. Réal Ménard: Madam Chair, first of all, I don't want it necessarily televised. It could be held in camera. I don't think you have a choice whether to summon them or not. They have to be summoned. We passed a motion for those people to appear. The meeting could be held between now and June. It wouldn't trouble me if it were held in April or May, but I'd like to be sure that, between now and June, those people will appear. Counsellors are not elected representatives. We passed a motion according to which they have to appear.

[*English*]

The Chair: That's exactly what I had in mind, just that it not be early, hoping that we get some results from these other processes. As long as your deadline is that we have it done before the end of June, I can pretty well guarantee that will happen.

[*Translation*]

Mr. Réal Ménard: That's good.

[*English*]

The Chair: Okay, thank you.

Mr. Merrifield.

● (1713)

_____ (Pause) _____

● (1716)

The Vice-Chair (Mr. Rob Merrifield): We're just cleaning up some business with the tobacco regulations. There were two issues there. The first one was on one of the words that we were asked to review, which was the word “manipulate”. I believe it's in paragraph 3(3)(b), which says “the minister must be able to manipulate the test results”. The word “manipulate” we felt was somewhat misleading. There was a recommendation to change that.

You have two choices, as I see it. One is to put in the definitions what manipulate actually means. So that defines it. The second choice is actually to change the word, remove the word “manipulate” and put in “electronically extract the test results for the use of subsequent analysis”.

Mr. Lunney.

Ms. Bonnie Brown: Is that option one or option two that I see here?

The Vice-Chair (Mr. Rob Merrifield): Option one and option two, that's right.

So we open the floor to discussion on those two options, and unless somebody wants to make a motion, we can vote on it. Do you want to discuss?

Mr. Lunney.

Mr. James Lunney: Mr. Chair, with all due respect and in spite of having a long history of being involved in manipulation and being rather attached to the word, I'd like to suggest that the committee adopt the second format there, replacing the word "manipulate" with the phrase "electronically extract the test results for use in subsequent analysis".

The Vice-Chair (Mr. Rob Merrifield): We'll ask Sonya to speak to that. I believe originally we wanted to change the wording, so maybe there's some rationale as to why the two choices.

Ms. Sonya Norris (Committee Researcher): Yes. The document that was circulated to committee members was prepared before we had any opportunity to discuss it with Health Canada. The officials who appeared indicated that they had discussed the word "manipulate" quite a bit and talked about how to get around using it. We felt it was important to get their input.

What they advised us was the word "extract" causes a little bit of a problem because it still allows for too much human intervention. They might need to copy and paste, and they wanted to avoid that situation.

If I may, the department suggested using the term "electronically process without having to re-copy and re-enter".

The Vice-Chair (Mr. Rob Merrifield): That's option one of the sheets that were just sent around.

Ms. Sonya Norris: Yes.

The Vice-Chair (Mr. Rob Merrifield): We have a motion on the floor to move option one. Discussion on that option?

Ms. Brown moves it.

Do you want to speak on it, or do you agree?

[*Translation*]

Ms. Nicole Demers: I second the motion.

● (1720)

[*English*]

The Vice-Chair (Mr. Rob Merrifield): Are we agreed?

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

The Vice-Chair (Mr. Rob Merrifield): Second, in discussion at the end of that meeting, some testimony suggested that disclosure of information was done in such a way that it might not be called disclosure. There was discussion asking for some examination of that, and I believe it comes into subsection 20(6). That's the section I believe we were talking about.

Maybe Andrew will speak to that issue.

Mr. Andrew Kitching (Committee Researcher): Under the Access to Information Act, subsection 20(6) allows the Minister of Health to authorize disclosure if it's in the interest of public health, but there can't be a blanket disclosure in those circumstances. The reason is that every time the minister exercises his or her discretion under that section of the act, there has to be a review by the minister on whether this is, in fact, in the interest of public health. Then the tobacco companies would have the opportunity to take that to the Federal Court for a judicial review of that decision. They can't do it as a matter of course, all the time; however, you could recommend that in each and every case, the minister should go through this process of releasing the information.

The Vice-Chair (Mr. Rob Merrifield): That's putting in recommendation one of option two. We have another proposal on recommendation two on there, pursuant to Standing Order 109.

Mrs. Nancy Miller Chenier (Committee Researcher): Two recommendations, but they're tied together.

The Vice-Chair (Mr. Rob Merrifield): Do we want to make that as a recommendation?

We have a motion by Sue Barnes to adopt both of these recommendations.

Madam Jennings.

Hon. Marlene Jennings: Perhaps I haven't had an opportunity to be part of the discussions of this committee on previous days, but the proposed second recommendation talks about the government tabling a comprehensive response to this report. I'd like a little clarification on what's meant by a comprehensive response.

The Vice-Chair (Mr. Rob Merrifield): I'm told by the clerk that's a standard recommendation for any of the reports.

Hon. Marlene Jennings: Okay.

The Vice-Chair (Mr. Rob Merrifield): I'm taking the clerk's word on that, but that's her comment on that one.

Ms. Bonnie Brown: That doesn't make sense to me, Mr. Chair. How can you have a comprehensive report, which implies lengthy, to a committee report that's going to be less than a page long? I think we could just say a response; we don't say a comprehensive response.

The Vice-Chair (Mr. Rob Merrifield): I look to the mover of the motion.

Hon. Sue Barnes: I agree with the friendly amendment.

The Vice-Chair (Mr. Rob Merrifield): So we will take out the word "comprehensive".

Any concerns with that? Seeing none, we'll ask a motion to approve recommendations one and two as amended.

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

The Vice-Chair (Mr. Rob Merrifield): We need one more motion: that the chair report the proposed regulations.

● (1725)

Mr. Réal Ménard: So moved.

(Motion agreed to)

The Vice-Chair (Mr. Rob Merrifield): The meeting is adjourned.

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

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

Also available on the Parliamentary Internet Parlementaire at the following address:
Aussi disponible sur le réseau électronique « Parliamentary Internet Parlementaire » à l'adresse suivante :
http://www.parl.gc.ca
