House of Commons
CANADA

Standing Committee on Industry, Natural Resources, Science and Technology

INDU • NUMBER 038 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Wednesday, May 18, 2005

Chair

Mr. Brent St. Denis

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● (1530)

[*English*]

The Chair (Mr. Brent St. Denis (Algoma—Manitoulin—Kapuskasing, Lib.)): *Bonjour, tout le monde.* Good afternoon, everyone.

I'm pleased to call to order this May 18 meeting of the Standing Committee on Industry, Natural Resources, Science and Technology. The business of today is Bill C-37.

I'm not sure we'll be done with this today, but there's an outside chance we could be.

Before we begin that process and before Mr. Binder makes some remarks, I'd like to do something on behalf of us all, if I could. I may be repeating myself in a few weeks, depending on what happens Thursday, but this is just in case we're not back after Thursday.

We have two long-serving members, Werner Schmidt and Jerry Pickard, who are not re-offering in an election. As I say, it would be my pleasure to do this again in a few weeks or this fall—

Mr. Werner Schmidt (Kelowna—Lake Country, CPC): As long as you say nice things, it would be nice to have a repetition.

The Chair: And I'm sure all the caucus meetings today went through a round of good-byes, with the expectation that maybe they'd be going through it again some months later on. But just to be sure, I want to acknowledge and thank both Werner and Jerry on behalf of everybody here for their great service to the committee, to Parliament, and to their constituents.

I'm sure they have very long “Honey, do” lists waiting for them at home and they look forward to spending their days fruitfully pursuing activities they have not been able to pursue for a long time.

Not to go on about it, I just want to thank you very much, Jerry and Werner, for your commitment to Canada and to Parliament. Thank you both.

Some hon. members: Hear, hear!

Mr. Werner Schmidt: That was very gracious of you, Brent. Thank you very much.

It's been a pleasure to be on this committee. I've been on this committee at several different times. I think this is the best committee in the House, for sure—except for Denis. Every once in a while Denis causes us some trouble.

But Brent, you've been a great chairman, so thank you very kindly.

The Chair: Thank you.

Hon. Jerry Pickard (Chatham-Kent—Essex, Lib.): I want to say thank you very much, Mr. Chair, for your comments as well. I think this committee works so well that no one on this committee would like to see it end, so I'm assuming this is premature.

The Chair: For my part, I hope it is premature.

In any event, welcome, Mr. Binder and your colleagues there.

I would invite you to keep your remarks brief. Then we're going to get right into “roll our sleeves up and get working”.

Mr. Michael Binder (Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Department of Industry): Thank you, Mr. Chairman.

Really, we just received the proposed amendments last night, so we didn't have much time to analyze them and study them. We're going to make a few points, reminding everybody that Canadians—I know you would know it better than I do—consider telemarketing to be a gross invasion of privacy and expect you parliamentarians to deal with this, to fix the problem.

I'll remind you also that there is a system in place, one we've lived with now for a few years. We've gained some experience with it and it requires adjustment and tweaking, but government should remember, in your attempt to come up with a new scheme, that the longer the exemption list, the less effective the national do not call list will become. Canadians will not consider it to be a real solution if they now have to, as with some of the proposals, register with each telemarketer individually. Our experience is that this doesn't work; in fact, it's the current system.

So making a plea to make the national list as effective as it could be is really what we're trying to do.

Thank you, Mr. Chairman.

● (1535)

The Chair: Thank you, Mr. Binder.

I'm going to try to quarterback this the best way I can.

Colleagues, you all have the summary there. Susan Baldwin will be helping me as the legislative clerk, and Andrew Kitching as the researcher. I'll be consulting with them. But this sheet of paper is a nice agenda for the day. I propose, however, that we stand down the first one, amendment C-1, because the amendments....

The members don't have this sheet? They should.

Anyway, let me put it this way. We have the government's amendment on charities and the business relationship, which is amendment G-1; the Conservative amendment on the same subject area, which is amendment C-2; amendment NDP-2, on the same subject area; and amendment BQ-1, on the same subject area. I propose that we put them all on the table first. It might take us an hour to sort this all out. Then we would go back to all the others, starting with amendment C-1, because I think we can deal with those amendments in an easier way.

So again, I propose that we put the amendments—there's a government one, and one each from the opposition parties—on the charities, the business relationship, political parties, and so on, all out at once.

First, is there agreement on that procedure?

Some hon. members: Yes.

The Chair: Okay.

I will attempt to give a quick and dirty summary of what the four different points of view provide, and then I will invite speakers from each of the parties to add anything I've missed, to clarify something I have misrepresented. Okay?

I'm going to try to summarize as best I can, starting with amendment G-1, page 2. This is one of two amendments that you received a couple of weeks ago. The subject of great concern to the members was the issue of charities and business relationship. Proposed subsection 41.2(2)refers to “existing relationship” and defines it based on a definition already existent within the commission's legislation.

Am I correct there, Mr. Binder?

Mr. Michael Binder: Yes.

The Chair: Okay.

It proposes an exemption—well, let me jump to proposed paragraph 41.2(2)(b), first. With respect to the charities, it defines charities under section 248 of the Income Tax Act, which is basically charities that can issue tax receipts. It's limited to those that can issue tax receipts.

I would add—if I'm correct with this interpretation, Mr. Binder—that this proposal provides that the consumer could opt in or opt out of the charity's do not call list. You would basically maintain two separate lists: one for commercial operations, and one for charities. Is that correct?

● (1540)

Mr. Michael Binder: Even for the international—

The Chair: You'd have a menu of two items. So when you e-mailed to the website or called the toll-free line, you would be asked by an agent—I'm just paraphrasing—do you want to be on the commercial list, and do you want to be also on the do not call list for charities? So the consumer would make a choice of being on one or the other, or both lists.

Mr. Michael Binder: Right.

The Chair: That's sort of a general overview. I'll go through it and I'll invite Jerry and colleagues on the opposition side to clarify anything I've said.

Let's jump to amendment C-2, on the same subject area.

Yes, Mr. Rajotte.

Mr. James Rajotte (Edmonton—Leduc, CPC): Mr. Chairman, can we just clarify each as we go?

The Chair: That's a good idea.

Did you have a question, James, on amendment G-1?

Mr. James Rajotte: Perhaps I could get a further explanation, then, of the two lists and an explanation as to opting in or opting out. I don't know if Mr. Binder or Jerry wants to respond.

Hon. Jerry Pickard: Let's first of all look at the basic structure.

The basic structure—the do not call list—as we have discussed and gone through it, is standard. When a person requests to be on that do not call list, they would be given an option: would you like that to include charities, or would you like charities to be exempt? Therefore, a second list would be developed, and that second list would basically be developed on the premise that those who want charities to call them would leave that option open.

The reason the government has gone forward with that part, I think, is primarily, if we look at our Environics study when we initially started into this process, that the Environics study pointed out that 66% of those people who responded that they would like to be on a do not call list said they would like to have charities limited as well. To overcome the problem.... We want to make sure charities have full opportunity, but at the same time, if there are many people who said they don't want charities, it was our feeling that the people who are saying this don't want the call from charities in the first place. That would filter a lot of the calls charities would otherwise be making; therefore, the calls that would be on a particular charity list would be to those people who are receptive to telephone calls from charities. I think that would be helpful on both sides. That's the reason it was suggested the second list be put in place.

Mr. James Rajotte: I get the second list, and opting in I understand, but you mentioned “opting off”. What is the opting off?

Hon. Jerry Pickard: That is exactly what we're talking about. With one list, they're all on the do not call list, and they say, “We wish to be on the do not call list”. The second option is, “Would you include charities in that, or would you allow charities to call?” That would be the second list. They would either have to accept that yes, they would accept calls from charities, or no, they would not. That's the second list. It's not an opt in or opt out, any more than it is a direct question, “Would charities be included in that do not call list in your telephone number?”

The Chair: I may have misspoken by saying opt in, opt out. It's a choice, let's say.

Are there any other questions? Let's leave it to just questions for clarification until we get them all on the table, and then we'll have at it.

We'll go to amendment C-2, then, on page 5. I'll give a quick overview, and then James can clarify.

Basically what the Conservative amendment proposes to do, as they all do, is add some clarity: that political parties and all of that activity would be outside a do not call registry. Also, unlike the government's proposal, they define a charity, and then everybody that's a charity by that definition is automatically excluded from a do not call list. A consumer does not have to make a choice when they call in; the charities are automatically excluded from the system.

The Conservatives have defined charities narrowly, like the government, as in section 248 of the Income Tax Act. Apart from the political activities, the Conservative amendment goes on to define “candidate”, “existing business relationship”, and so on. Within the existing business relationship, the Conservatives and the other two parties have all proposed an 18-month relationship and have defined it to be a certain level of two-way communication.

I am just going to ask, James, if you want to clarify anything, but would you comment on whether this would involve municipal-level elections? If there's a consensus later on around doing something about the political thing proactively, I'm wondering if we need to cover off local government.

Do you want to give your version of an overview of your amendment, James?

● (1545)

Mr. James Rajotte: It is basically to establish exemptions for the do not call list—existing business relationships; charities, as defined in the Income Tax Act; political parties; candidates' associations; telephone surveyors. Basically I think there's general agreement about charities, but for existing business relationships we thought it was important to maintain that.

We do understand if people have an existing business relationship and they insist that they do want to be added even for that relationship. That should be fine. But if people voluntarily already have a business relationship, we think that should be respected.

In terms of political parties in Canada, we think it's a serious omission by the government not to include that. The reality is, we all operate during campaigns—we phone, we do get-out-the-vote campaigns. We want to be sure we're operating within the confines of the law.

For telephone surveys, there was mention of an Environics poll, if we want to be certain that they are using a random sample, that these telephone surveys are protected as that. So I think it's fairly straightforward.

In terms of timeline, the 18-month period, we're flexible on that. I know other members from other parties have other time periods, which I'm certainly willing to discuss with them.

The Chair: Perhaps I could point out that the Conservative amendment includes that any person making a telecommunication must clearly identify themselves up front.

The question in my mind is still there, and it will be the same question for the Bloc and the NDP. If there is a consensus around this, we need to find a way to make sure local government candidates are not excluded; in other words, that they have the same treatment as federal and provincial candidates.

Mr. James Rajotte: I would ask the researchers how we would do that under the Canada Elections Act. I don't know if there's a possible way to do that.

The Chair: I believe we have some drafting expertise here. I'm not presuming an outcome, but should there become a consensus on this and we need to add words to make sure that local government candidates are also covered under the umbrella of the political process, who are the legal beagles?

Werner, then Paul.

Mr. Werner Schmidt: Wouldn't the simple solution be to define the term “candidate” as someone who would be running for a municipal office—to just include a simple phrase in there?

The Chair: Yes, that may be the simple solution. We have a definition of candidate proposed. Let's simply make sure that it includes local government candidates.

Paul.

[*Translation*]

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): I just want to make sure that telephone campaigns by provincial parties of all stripes are covered by the federal legislation. They must come under federal legislation. All political parties, be they federal or provincial, must have the same rights in terms of telephone campaigns. Failure to put them on an equal footing will result in legal challenges.

We have to find a way to protect parties at both levels. There are different laws at the provincial and federal level, and as such, we have to at least state where the relevant provincial legislation applies. We have attempted to clarify this situation. In a nutshell, it should be clear that provincial parties are covered. We have to ensure that provincial parties enjoy the same rights and are protected in the same way as their federal counterparts.

● (1550)

[*English*]

The Chair: Do you feel that the wording here or the wording in your motion, which we'll come to shortly, does cover that? Or are you saying that even your own amendment needs clarification?

[*Translation*]

Mr. Paul Crête: I am satisfied with my amendment. We believe that our proposed wording clarifies the situation. Our amendment states that: “[...] the Canada Elections Act or registered under provincial law.” This would include provincial parties. We have not covered municipal politics since, in Québec, provincial legislation also applies to the municipal level. This is not necessarily the case across the board, however. I do not know enough about legislation in the rest of Canada. Perhaps, we should add something to cover that aspect. I would imagine that municipal elections fall under provincial law right across the country.

[*English*]

The Chair: I believe I understand.

Next is Mr. Pickard.

Hon. Jerry Pickard: From my point of view, we want to make sure we are inclusive of the municipal people. There's no question there. We just want to make sure we don't restrict the action a municipal candidate would have in running. I don't see a problem there.

I think within our legislation we can state that it's federal, provincial, and municipal. We can make it clear that those are the three levels we would accept and protect, and that municipal could go to police commissions that are elected, or it could go to other—

The Chair: School boards.

Hon. Jerry Pickard: That's right.

Other things are affected, beyond a candidate for municipal council in municipalities, so we have to be fair about that.

I don't think we have an objection. The problem, in my view, is to make sure we have the wordsmiths put it in. If we can agree to the concept, I think we're all right.

The Chair: Mr. Masse is next.

Mr. Brian Masse (Windsor West, NDP): There are two issues. The first one that I'd look into is to find out whether or not....

The municipalities and the school boards are another issue that should be addressed, because there are actually four levels of government in Ontario. They could be addressed just under the provincial, because they are creatures of the province. Somebody should look at that, because it might be de facto covered off since they are actually creatures of the province, and this is something we may be able to avoid. If not, then would it be municipal? If it's municipal, does that actually also include school boards? I don't know about other provinces, but those are the....

In Ontario the other ones—police boards and stuff like that—are all under the directives of municipalities, so they would be covered under the municipal.

You're going to get into parks. You're going to get into a whole slew of other smaller ones.

The Chair: I sense certainly a consensus around being.... I think we understood from testimony that present CRTC legislation allows that activity, but I think for clarity there's a mood to make it clear here in this bill, and then also a mood to include local government, however you define it.

Once we finish this round table on these amendments and we ask the drafters to see what they can do, it may be that we can have an amendment we can vote on today. It may be that we will have to do this, come back, and do a short clause-by-clause consideration at a future meeting to deal with it.

Hon. Jerry Pickard: Mr. Chair, I just might state one other. I believe the government would prefer seeing that type of restriction in the regulations. However, if it needs to be in the legislation, I don't think we're going to put up a major objection to that. But the regulations then give us the flexibility that we're talking about—here—in dealing with issues that come up from time to time over how we handle that.

The Chair: Okay. Let's go to amendment BQ-1 on page 11.

Paul.

[*Translation*]

Mr. Paul Crête: I have another question on the last subsection of the Conservative amendment.

It provides for the following:

> (4) Persons or organizations exempt, under subsection (1), from compliance with an order of the Commission under section 41, shall maintain their own no-call list and ensure that no telecommunications be carried out on their behalf with persons having requested not to receive such telecommunications.

I would like the Conservatives to tell me whether I have understood their amendment correctly as meaning that entities falling into the exemption category would nevertheless be required to maintain a full do-not-call list? If that is the case, then, there would be a lot of pressure on smaller exempt organizations, since at the end of the day, there are greater requirements on them than on non-exempt organizations.

I do not know whether my interpretation is correct or not, but an explanation from the Conservatives would be appreciated.

● (1555)

[*English*]

The Chair: James.

Mr. James Rajotte: Thank you for the question.

The intent of this is to ensure that organizations falling within the exemption categories would still maintain the existing CRTC company-specific do not call lists and then honour their own consumers' requests to be placed on that list and receive no further calls.

It is a legitimate point about smaller organizations, but I still think that even if there is an existing business relationship—for instance, with a financial institution or some other organization—there still should be an opportunity for a citizen to say that even though they have an existing relationship, if they make the effort to be on that list, then it should happen.

If there's another way to address your question of smaller organizations, we're certainly willing to listen.

The Chair: Mr. Binder.

Mr. Michael Binder: We have experience with this. You are off-loading the work, the maintenance and updating of lists, onto those charities. This is the current example; this is the current process. That's number one.

Number two, there's no way of policing and overseeing abuse. This is a private matter, then, between Canadians and the charity organization. There's no way of monitoring the performance.

That's why we opted for something more national, where there's a whole kind of ability to monitor performance as to how you actually adhere to the needs and requests of Canadians.

The Chair: I'll just interrupt a moment. As you may have noticed, there was a little commotion at the end of question period. Just so you know, Jim Karygiannis went to the hospital with a heart attack right near the end of question period. There was a bit of commotion there with the health and safety guys.

We wish him well.

James.

Mr. James Rajotte: With respect to that, the concern can still be forwarded to Industry Canada or to whoever would ultimately oversee that. There's no problem with doing that, so I don't see the concern. The reality is, especially in the case of companies, if they have an existing relationship with someone and they don't honour the fact that the person does not want to be called, they're in danger of losing that existing relationship. In fact, there's something within that very relationship that acts as a catch on these companies.

Mr. Michael Binder: I'll just point out that our experience is with people who have phoned and asked to be delisted. Unless the other side has a very sophisticated database that can keep track of requests and monitor calls to ensure nobody then phones back, it requires some work. It requires setting up a procedure.

By the way, there's no way...they don't have to report to us. According to how I understand the formulation here, there's no requirement. Government will not be involved, the way you propose the set-up here, so I don't see how one would monitor this behaviour.

Mr. James Rajotte: I would argue the Canadian Marketing Association and other very responsible organizations currently do this, and I would argue they do it well. If there's a problem there or if there's a problem with the way the lists are being done with existing business relationships, perhaps you can identify those for us, Mr. Binder. But to my knowledge, existing business relationships are not the main concern citizens have in terms of being contacted in the privacy of their own home.

Mr. Michael Binder: I thought that was the concern. At least, our information is that Canadians want to be in a position to decide who calls and who doesn't. This is the American experience and our experience to date. They get very upset if they tell somebody not to phone and this is not heard. What we're proposing here is a national method for you to register your request; then there is a body that actually monitors whether your request has been adhered to, and if they don't comply, there's an action defined.

The difference is that your formulation will set up many do not call lists in various organizations. We're proposing one.

● (1600)

Mr. James Rajotte: No, it complements the current set of lists. It in fact sets up and allows the establishment of a national do not call list. It just sets up exemptions, so it complements the system in place right now.

Perhaps you can table the information on people who have a relationship with CIBC, for instance, where they are upset and contact CIBC to say they want to be on CIBC's do not call list, and then CIBC continues to call them. Maybe I missed that information, Mr. Chairman, but that was not presented to me. What was presented to me was more information from people saying everybody is contacting them at any time and there are no exemptions or restrictions or a national list whatsoever. That was the concern I heard that led to the creation of this legislation.

Do you have and could you provide to us information that in fact companies are not honouring the do not call lists that are set up now within existing business relationships?

Mr. Michael Binder: Again, that's my understanding. In the hearings in front of the CRTC, when they reviewed what works and what doesn't work, they complained that there was an inability to monitor some of their issues and not take action. That's why they came to the conclusion that they need fining authorities. But it's a combination of all of the above, you are quite right.

Mr. James Rajotte: Is there any empirical data we can base that decision on?

The Chair: I'm going to let Mr. Crête and then Mr. Pickard jump in, and then we can come back to you.

Paul.

[*Translation*]

Mr. Paul Crête: The final subsection states that exempt entities will be required to maintain their own system. As far as I understand the situation, the exemption covers telecommunications by candidates either for their party or as an individual.

That is tantamount to saying that there would be a specific “candidate” category. As such, candidates would be required to maintain a list of people, who had indicated that they did not wish to be called again. But, we all know what election campaigns are like. Let’s take the example of a discontented voter, who contends that he or she has told a particular candidate not to call. Imagine that the person requests to see the no-call list and then wants to know why his or her name has not been deleted from the do-call list.

I think that it will be impossible to administer some of the categories. I am not concerned about the principle as such, but rather about enforcing it. However, if it were to be limited to larger organizations, that might allay my misgivings. If we require this of small recently-licensed not-for-profit entities, their limited staff might have some difficulty complying.

[*English*]

The Chair: Jerry.

Hon. Jerry Pickard: Thank you, Mr. Chair.

As a committee, if we're looking at a law and looking at the rules that we're going to put in place, we also have to look at the administration and understand the administrative problems that are created when we put that law in place.

I believe that going through the do not call list...if someone went through that and specifically indicated that I have had previous dealings but I do not wish them to call, that could be a notation on a list. The problem is that if they don't go through the do not call list, if it's not operating in that capacity, we have absolutely no way of administering that program. So if it's direct contact between a consumer and that business organization, I believe you're right. If a consumer phoned CIBC, to use the example of CIBC, and said “I want no further contact from you through any calls list”, CIBC would be very foolish not to do that. Talk shows, everybody in the community, everybody in society, would obviously hear of that because the consumer would be very upset.

But how do we administer an issue where there is a contact between a client and a business? We don't have a lot of that expertise. And if we complicate the system too much, then it's impossible to administer in the long haul.

The Chair: Brian and then James. We'll let James finish this up.

Mr. Brian Masse: I think this is a fair compromise to put some onus back on the charitable organizations that have come and presented their evidence, which I thought was compelling, that at this time this request for exemption would have repercussions on them. I think this is a fair responsibility to place back on them. I think that most are sophisticated enough to provide their own lists on a regular basis. And that's why I have a further amendment to review the legislation in three years, so that if, for example, abuse is happening and it is not sufficient in terms of meeting the needs of people, it can be reviewed more quickly and could be adjusted.

I think there's a difference of opinion between the government's quasi-amendment...and I think this and mine are quite similar. I know the Bloc's as well is fairly similar. I think this is a good compromise to those charities to let them know that there's a responsibility, and the same with the businesses. Otherwise they're going to get added to the list later on. I think it's a reasonable approach.

● (1605)

The Chair: James.

Can I ask, is the Conservative amendment the only one that has this provision in it? I think it's the only one that has this.

Okay, James.

Mr. James Rajotte: I think the intent of it I would certainly like to keep in this amendment for the reasons Brian just outlined, but if it's the will of the committee generally that it would rather take out proposed subsection 41.6(4), then we would accept that as a friendly subamendment to this amendment.

Perhaps then on Mr. Masse's amendment, in terms of reviewing after three years, this is one thing that after a three-year period, for sure, the committee could look at. Just to be agreeable with everyone here—

The Chair: Sounds good.

Are we going to put BQ-1, page 11, on the table?

[*Translation*]

Mr. Paul Crête: I have a further question. It deals with the first Bloc amendment, as well as the Conservative proposal and, more specifically, with the definition of a business relationship.

The Conservative idea is much more detailed than our own. They state that there are two types of business relationship. The Conservative amendment reads as follows:

> [...] the purchase of services or the purchase or rental of goods by the callee during the 18 months prior to the telecommunication [...]

and[...] a request for information – during the three months before the telecommunication took place [...]

This definition is much more complex, or at the very least, less specific than ours. The Bloc definition reads as follows:

> [...] defined as being a relationship based on regular business contact, - or on at least one occasion during the previous 18 months, - between the person conducting the telecommunication, or on behalf of whom the telecommunication is made, and the callee.

The difference between the two definitions is that one applies in a general way to an 18-month period while the other applies to two different situations.

[*English*]

The Chair: We're going to put yours on the table now. So I will summarize it and you can pursue that.

So page 11 is Bloc motion number 1. I think the major departure of BQ-1 from the government's amendment and the Conservative amendment is a broader definition of the exemption of a charity. Section 149 of the Income Tax Act, if you read it, for example—and we have copies, if anybody wants to see it—is quite broad. I won't read the whole thing, but it says, “that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation”, and so on and so forth. So a non-profit doesn't automatically have the right to issue tax receipts. That's a smaller group within the non-profits, if I'm correct.

So generally speaking, we're talking about a broader group. I'll give a quick overview, and you'll talk about that in a moment, please, Paul.

On the political parties and their activities, it's a much tighter definition. We can discuss that in a bit.

Unique to all the amendments is, on page 12, calls “made by or on behalf of a health care professional”. So Paul will talk about that.

As well, the Bloc have included the ongoing business relationship.

Paul.

[*Translation*]

Mr. Paul Crête: As far as this amendment is concerned, we would, to all intents and purposes, be prepared to endorse the NDP proposal if we could add the exemption for telecommunications either directly by healthcare professionals or on their behalf.

[*English*]

The Chair: I see.

I was going to suggest something on page 12 under “political” to see if we could add something to Paul's that would cover the local government. I'm going to read yours slowly with a couple of changes. This is just for consideration by the drafters later on, so page 12: “made by a representative of a political party, or candidate, that is a registered party as defined in subsection 2(1) of the Canada Elections Act or that is registered or provided for under provincial law”—“provided for” the local government. I think in all of Canada, the provincial laws or territorial laws provide for the local government elections.

So I just throw that out there.

No more comments, Paul? That's okay?

Jerry.

● (1610)

Hon. Jerry Pickard: “Health care professionals” does bother me a fair amount. That definition of “health” is so open. Is a person who runs exercise groups like gymnastics and that type of thing a health care professional? Is someone who does cosmetic surgery, who is doing surveys, a health care professional? Is someone who might be using certain vitamins a health care professional?

When we start opening this up to different groups, we open it up to the whole myriad of thousands of groups that could form and could market under the guise of “health care professional”, which is not the intention, I know, but there's no way of controlling this under that.

The Chair: Let Paul explain. We'll see if there's a way through this.

[*Translation*]

Mr. Paul Crête: I would be in favour of it being restricted to healthcare professionals recognized by professional bodies. I am unaware whether the situation is the same in other provinces, but in Québec, we have a professional association with a clear definition of healthcare professionals. This excludes those operating outside the definition.

We should not create a situation where recognized professionals, such as dentists, become beholden to those who are not. Would there not be a way of ensuring that this only apply to professionals recognized under federal or provincial law.

[*English*]

Hon. Jerry Pickard: Mr. Chair, each step we take to open it up to new groups and wider groups makes this totally ineffective. If we go to opening it up that way, we might just as well scrap the whole venture, because we're not going to have a do not call list, we're going to have more a “do call” list. That really is not the intent we're trying to bring forward here, and I don't think that's the intent the public expects.

The Chair: James, I think the comment from one of the witnesses, the optometrist association, was more that they'd say it's been two-plus years between eye checkups, something like that.

James, then Brian.

Mr. James Rajotte: You've clarified it a bit, Mr. Chairman.

I don't really see the reason for it. I didn't hear from the optometrists, but I have some of the same concerns as Mr. Pickard does. My understanding—and correct me if I'm wrong—is that existing relationships between health care professionals and their clients would be outside the parameters of the do not call register anyway. I'd just like to clarify whether I'm correct on that or not. If I am, then I don't really see the reason for this particular subsection.

The Chair: Brian.

Mr. Brian Masse: One of the things we did with ours was to add the phrase “no commercial objective”. The objection was that if they had to call people back in six to eight months concerning appointments, they felt they could get captured by the system. Having “no commercial objective” would take the proprietary sense out of it, and it would just be for scheduling of appointments; it would eliminate some of that.

Hon. Jerry Pickard: I certainly believe, Mr. Chair, that the provision for previous business contacts that has already been built in—and discussed pretty broadly, as Mr. Rajotte has suggested—would cover that area.

The Chair: There would only be some health professionals whose cycle is longer than two years, say the optometrists, who might not be captured here.

Mr. Binder.

Mr. Michael Binder: Again, under the existing CRTC definition of what telemarketing is, you would never have this problem because it's not done as solicitation for profit or a financial transaction. It's done really for health care, so it would never fall under the definition of telemarketing. A lot of the political activity is defined that way also. Even “survey” and “polling” are not defined as telemarketing in the sense we define it.

My plea, again, is this. The more details you put in legislation, the less flexible you make it for you to be able to fix some issues later on. For example, with respect to existing business relationships, if you are on a list at a bank and you have a bank account, do you want them to also sell you insurance, etc.? Is it one product line? You want somebody to be able to take stock of what's going on and be able to administer it and make it flexible.

● (1615)

The Chair: I think what I was saying, Mr. Binder, is that the health professional clause here is covered by the CRTC—

Hon. Jerry Pickard: Can I just go back to page 6 and C-2, Mr. Rajotte's amendment?

The Chair: Page 6, sure.

Then, Brian, you're up next.

Hon. Jerry Pickard: Concerning proposed paragraph 41.6(1)(f), “made for the purpose of collecting information for a survey of members of the public”, would it be acceptable to you, Mr. Rajotte, to have it “made for the sole purpose” so we don't have somebody doing a survey and then following it up at a later point? Having “for the sole purpose” of collecting data doesn't allow the marketing to enter in.

Mr. James Rajotte: That's fine.

Hon. Jerry Pickard: Thanks.

The Chair: Okay, we'll go to amendment NDP-2 on page 8.

I'll just give a quick and dirty summary and then let you speak to it, Brian, if that's okay.

As with the Bloc, the NDP definition of a charity is broadened beyond income tax to include “on behalf of a person engaged in an activity with a charitable purpose”. Then the NDP have included the political party issues.

What else stands out? I think that's the only thing, just that you have a definition of charity a little bit different from the Bloc's and the Conservatives'.

Go ahead, please, Brian.

Mr. Brian Masse: We've touched on a couple of things already, but we looked at provincial common law, and some charitable organizations—say, for example, Greenpeace—wouldn't be covered in this, so we wanted to protect them on this issue. Actually, we looked at the different provinces, and in this bizarro world we found Ralph Klein's provincial common law to be the best. That's why we proposed Alberta's model.

Second to that, another distinction is that we looked at “an inquiry or application, within the six-month period immediately preceding the date of the telecommunication”. That goes on to page 10, instead of page 3.

We're open to negotiation on it. We just thought six months might be better for some of the smaller organizations. Essentially, other than that, it has quite common elements with the Conservative and Bloc amendments. It's defining the political stuff a little bit more, just because it leads to more issues around leadership contests and candidacy. We're just looking at more definition for those.

The Chair: Okay, are there any final comments?

I'm going to attempt to see if there's a consensus. I may get beaten up, but anyway, I'm going to....

Are there no further comments on that?

James.

Mr. James Rajotte: Just to clarify, for the “charitable purpose”, the charitable purpose is still the charity defined by the Income Tax Act. It's just ensuring that the charity contacts for a charitable purpose, so it is a further specification on the Conservative and the Bloc amendment.

Mr. Brian Masse: Yes, that's—

Mr. James Rajotte: Then there's just a question on the leadership contestants. Primarily leadership contestants obviously contact their own membership lists, but would this extend beyond the membership lists of that particular party for which the contestant is aspiring to become the leader?

Mr. Brian Masse: What we were looking at is cases where you're trying to grow your list during the contest. That's why we added specifics, because it could go beyond your actual list as you're signing up members for leadership. I know different camps will be trying to sign up members within their own contests.

● (1620)

Mr. James Rajotte: The third thing is, Mr. Chairman, I'm just very encouraged that Mr. Masse is copying what we're doing in Alberta and I encourage him to continue that in any way he wants.

Mr. Brian Masse: I'm just trying to be fair.

The Chair: Thank you.

First, let me get a sense of whether there's the philosophy of providing caller options for being on a charities exemption list. How much favour is there around the table to go in that direction? We'll just have a straw vote.

So you're okay with the government proposal to have an option to come off the list? No? Well, looking at the numbers....

Let's move to the other philosophy, then, which is a predetermined exemption. Among the definitions, starting from strictly charities that are in section 248 of the Income Tax Act on one side through to.... I'm not sure which is the broader list, the NDP's or the Bloc's, but I heard Paul say he liked Brian's definition.

James, does Brian's NDP definition of charities satisfy you?

Mr. James Rajotte: Yes, I think so.

The Chair: Jerry.

Hon. Jerry Pickard: It's important to have some way to identify charitable organizations. I certainly believe that if we are not going to form a separate list for exemption of charities, then it really is important that we have a contained list so that we don't just go off and, if anybody says he is raising money as a charitable gesture in the community, find we have almost every community organization. We could have everybody in the country saying they are doing it for a charitable purpose, which is going to defeat the point of attempting to have a do not call list.

Again, I think it would be most responsible to have people on a specific list, so that whoever is administering the program can find this organization: they've been checked out; they have credentials; they can do it. If we don't go in that direction, we're going to have an impossible task of administration. It's really the Conservative amendment that I'm speaking in favour of in this case.

The Chair: Werner.

Mr. Werner Schmidt: Mr. Chairman, I would just like to suggest that the last phrase in the NDP amendment sounds innocuous, but it may not be. As a consequence, I think it would be better to leave it there, because the Income Tax Act is very specific as to what it identifies as a charitable group. Leave it there; I think it's good, and it should stay there.

The Chair: Really, there are two questions. Do we keep it tight and defined specifically to the Income Tax Act, section 248, or do we make it sort of open-ended, as Brian has proposed? Can we have a straw vote on who likes the tight version? I need opinions here—seven.

[*Translation*]

We are referring to the Government and Conservative version.

[*English*]

We need some feedback here, colleagues, so I'm going to do that again.

Versus the more open-ended definition of Brian's, who prefers the limited definition on charities as proposed by the Conservatives and the government?

[*Translation*]

Mr. Paul Crête: I would first like to ask a question.

[*English*]

The Chair: Okay. I'm just trying to get some feedback.

[*Translation*]

Mr. Paul Crête: What is the difference, in terms of coverage, between the Conservative definition, which is restricted to subsection 248(1) of the Income Tax Act and ours, which deals with subsection 149(1)?

[*English*]

The Chair: Well, yours are the non-profits, which includes groups that can't issue receipts. There are no receipts.

[*Translation*]

Mr. Paul Crête: Does the Conservative proposal only relate to groups that can issue receipts?

[*English*]

The Chair: They can issue receipts.

[*Translation*]

Mr. Paul Crête: The NDP proposal includes any person...

[*English*]

The Chair: If the purpose is charitable—charitable as an adjective, I guess.

Brian.

Mr. Brian Masse: In the spirit of cooperation, we can move towards the Bloc's definition. It's moving in that direction and takes away some of those concerns and still provides for those groups that don't want to be issuing receipts right away, or are in the process of doing that, which can take some time to move to the status of—

● (1625)

The Chair: As I understand it, the Bloc's version of a charity is pursuant to a definition. We have copies of that definition here. It is in the Income Tax Act, so there is an existing definition.

Mr. Werner Schmidt: Can you help me find it in here, exactly?

The Chair: The definition is separate.

Mr. Werner Schmidt: No, the Bloc amendment.

The Chair: Go to page 11 and you'll see that subsection 149(1) of the Income Tax Act is relative to non-profits.

Mr. Werner Schmidt: Mr. Chair, in order for me to make a decision here, I have to know what that definition is.

The Chair: In asking Andrew for clarification...I don't believe this was the set of charities by section 248, and this for the set of non-profits. There is an overlap, but you don't have all charities within non-profits. Is that correct?

I'm going to ask Andrew. There's an overlap, but it's not....

Mr. Andrew Kitching (Committee Researcher): The section 248 definition is more restricted than the non-profit organization definition. If you're a registered charity, then you can issue receipts for tax purposes. A non-profit organization still gets an exemption from income tax for some things, but it's a broader category, I suppose.

The Chair: Before I go to you, Mr. Binder, would all charities under section 248 be within the set of non-profits—a subset within the set of non-profits?

Mr. Andrew Kitching: They're exclusive, but I think they would be; they could be.

The Chair: On the basis that all registered charities are within.... Remember your Venn diagrams from high school? If all the registered charities were here, and the non-profits included them and others....

Jerry.

Hon. Jerry Pickard: The Conservative amendment is well thought out, to my mind, because it gives a very clear set of organizations. Any group that is really serious about doing this kind of calling can apply and become a charitable one that can issue tax receipts. This way we do have administrative control, and it's really the administrative control that needs to be brought into force here. I think going with the Conservative amendment is by far the best direction to go, just for the fact of the people who are out there dealing with it. If they get a complaint, they can go to this list; if this organization is there, or this organization is not there, they can deal with it appropriately.

The Chair: Mr. Binder and then Paul.

Mr. Michael Binder: In section 248 they are listed by name. You know who the organizations are. You can monitor, and again in terms of performance, you know who they are. Section 149 is a broad generic. As my colleagues here would say, we're going to see a religious gardening shop coming in and all kinds of people who will be deemed to be non-profit. You cannot monitor them, they can be created overnight, and it's going to be very tough to police.

The Chair: Paul.

[*Translation*]

Mr. Paul Crête: I am concerned by the fact that, over the past few years, we have seen the Government significantly tighten entitlement under subsection 248(1). As a result, even those who had qualified in the past have seen their status removed.

This will lead to two exemption-eligible classes of people. Firstly, those who have reached a specific level, and are thus eligible, and secondly, those who are still developing and are thus ineligible.

Our version is perhaps slightly more comprehensive. It will perhaps be more difficult to enforce, but I believe it is more in line with the real situation. Sometimes reality and administrative control are quite different.

[*English*]

The Chair: I think we can bring this to a conclusion. Again, this is a straw vote. We're not voting on anything firm here. It's just to help us move along. Based on what Brian has said with respect to the Bloc version of it, it's between the government's version or the Conservative original version, which is section 248 of the Income Tax Act versus section 149 of the Income Tax Act, which is the larger group of non-profits.

So on the narrower definition of charities under section 248, who prefers that? And who prefers the broader definition of section 149? Okay, this is just a precursor to later on.

Is there a consensus on clarifying the definition to include the political, as long as we cover off the municipal, as long as we cover off local government somehow?

Paul.

● (1630)

[*Translation*]

Mr. Paul Crête: I do not know whether we can continue to discuss this issue. Subsection 41.6(1)b(ii) of amendment BQ-1 reads as follows:

> (ii) a legal entity created exclusively to undertake charitable or voluntary activities, and whose income may not be used to the personal benefit of any person tied to this legal entity;

If we agreed to create this broader category, we could perhaps agree to the Conservative proposal as well. Therefore, we could give the green light to those covered by subsection 248(1), as proposed by the Conservatives. This would be an experimental list. At the end of three years, if that is the period we settle on, we would be able to ascertain whether the list was appropriate or not. In addition, we could simultaneously create the other broader category, and in three years' time, we will be able to assess whether it should be retained or not. This might be a compromise to everybody's satisfaction.

[*English*]

The Chair: What I would propose, Paul, is that when we get to the amendment, I'll put it in the same way—a straw vote—and then you put an amendment to it at that time to include that. How's that?

[*Translation*]

Mr. Paul Crête: Fine, but my comment was in light of our original discussion. If we were to opt for legislation including these two proposals as two different categories, we would end up with both a broad and a narrow definition. The Government would then have three years to see how the system worked. I just wanted to propose that as a possible compromise solution.

[*English*]

Mr. Werner Schmidt: If I understand that correctly, I think what that really suggests is, does this subparagraph (ii) actually contradict what we just did before? I think that's really the question that's being asked, and I don't think it does.

The Chair: You don't think it does, or you think it does?

Mr. Werner Schmidt: I think it does. I don't think we can have this. I quite agree.

The Chair: You'll have a chance to make an amendment at that time and put it on the record. How's that, Paul?

To go back to the political, as I read the group, we're okay to proceed with that as long as we make sure the local government piece is in there, right?

Who are the drafters in the room? I thought we would have somebody here who could do some homework for us.

Mr. Werner Schmidt: We have so much confidence in you, Mr. Chair.

Mr. Brian Masse: I have another item on which I'd like to see whether we can get consensus. It is the inquiry application, whether it's three months or six months.

The Chair: That's a separate amendment, though. We're going to come to that. Is it part of your motion?

Mr. Brian Masse: Yes, it's all part of the same.

The Chair: What page is that on?

Mr. Brian Masse: It's on page 9. There is three and six months.

An hon. member: Did you want six months?

Mr. Brian Masse: Six months, we'd prefer, for smaller arrangements.

The Chair: I was going to deal with the political first and then we're going to go to the business relationship.

Hon. Jerry Pickard: I have just one comment with regard to that.

The Chair: “That” being the political thing.

Hon. Jerry Pickard: Yes, this is the political thing. We're all in the room wanting to make sure that we include, or are inclusive of, all three levels of government.

I know in Ontario the federal government is separate. Under the provincial government you have the Municipal Act, which is in fact part of the provincial government, and therefore all of the things that fit in the Education Act and the Municipal Act are in fact ruled and controlled by the provincial government.

I guess the drafters can look at that and realize how that applies. We just want to make certain it happens, and it may in fact happen just because they mention the provincial and federal, but I don't know, and that's what we want clarified as a group.

● (1635)

The Chair: Mr. Binder made it clear that even if we accepted that it was already covered in the amendments supplied and if we were wrong, for the CRTC under its telemarketing, it would still exempt a municipal candidate anyway. So in other words, if we err by leaving it the way it is, we're still not making a mistake.

Okay, so I'll remove my municipal question. I used to be a treasurer back in my twenties, so I was just thinking of those PUC candidates.

On the business relationship, on the one side there is the 18 months for, let's call it, the "significant activity" between a customer and the business. But here I think you're referring to somebody who calls up and asks for a catalogue from the local company that sells gas fireplaces. The company would have either, in one proposal here, six months, or in the other, three months.

Is yours six or three, Brian?

Mr. Brian Masse: Mine is six.

The Chair: Yours is six. So if somebody calls for a catalogue, it's not a major communication between the customer and a company; it's a minor one.

Who had three months?

Mr. Werner Schmidt: We do.

The Chair: You did. Six, three—big deal?

So would you prefer to go with six or would you prefer to go with three?

Mr. Werner Schmidt: We wrote three, but let's not make it a big issue.

The Chair: Six. Okay.

Mr. Werner Schmidt: I'd like to go to the 18 months now. That's a more significant one.

The Chair: So to the bigger question of the 18-month business relationship, this is not the catalogue; this is the actual business transaction 18 months later.

Werner.

Mr. Werner Schmidt: The concern I have here is that in certain business relationships, two years is the cycle, and that's what you should talk about. I'd like to have that covered rather than 18 months. I know 18 months is quite common. It's the usual, and I think the Americans have that 18 months in there as well. But I know that in Canada, because of certain health care provisions.... The two years for the optometrist in particular would be excluded under this provision, and six months more is not going to make that big a difference, and I would like to include that.

The Chair: Is it the way you've done it in your amendment?

Mr. Werner Schmidt: No, it's 18 months. Ours says 18 months as well.

Mr. James Rajotte: He's speaking against our amendment.

Mr. Werner Schmidt: Yes, I am.

The Chair: You're a big help.

An hon. member: We're a free-vote party.

Mr. Werner Schmidt: Yes, that's right.

Actually, my personal preference—James and I haven't had a chance to talk about this—is that I'd just as soon take it out all together, but that's not reasonable for some people, because I think an existing relationship is an existing relationship. In any event, the do not call list exists for five years only anyway.

The Chair: Mr. Binder, then Brian.

You'll probably lose this one, Werner.

Mr. Michael Binder: I'm going to make a plea one more time.

The Chair: Keep it brief, because I think we remember.

Mr. Michael Binder: All I'm going to say is that I think you've decided you want to have a business relationship exempted. Why would you now want to go into the detail that will take away the flexibility you want somebody—an administrator—to have, whether it'll be 18 months or 9 months, depending on the business, depending on a situation? I don't know why you want to be that prescriptive to a regulator, while they have the policy direction to go that way.

The Chair: I think for that purpose the Bloc definition is the best, because it just says normal business.

[*Translation*]

Mr. Paul Crête: Seriously, this is the US cycle. You will recall the lady that we talked to by teleconference told us that it worked well.

[*English*]

The Chair: Brian.

Mr. Brian Masse: Yes. We went with the FTC. They had an 18-month...and they had no complaints. So that was the reason we had that. It was based upon their testimony and no complaints.

The Chair: Jerry, then James.

Hon. Jerry Pickard: Just to show a little flexibility, we know that we have an opportunity to review all the practices within either a three-year or a five-year period. We can look at all of those situations. It would be my tendency to think if we, without a lot of information, without anything coming forward, make an arbitrary decision.... We're talking 9 months, 18 months, 24 months. I haven't heard any basis for why it should be specifically any time period—not from our people, not from anybody who put the argument forward—outside of the fact that it exists somewhere.

Why don't we leave that open? We have put the business connection in. Somebody can come back and make a recommendation if there's clear evidence that we need to deal with this particular problem. Our people can come back and put that on the table. We can deal with that.

● (1640)

The Chair: If I could put it this way, I think the question comes down to no definition or a loose one—not a loose one, but a generic one of Paul's.

James.

Mr. James Rajotte: Mr. Chairman, I still support the 18-month—

The Chair: Yes. The 18-month is in. It's just the definition of the term “business relationship”. Mr. Binder is saying—suggesting really—don't have anything.

Mr. James Rajotte: I understood Mr. Binder to say, don't have an 18-month prescription.

Mr. Werner Schmidt: That's right. That's what he said.

Mr. Michael Binder: I wasn't focusing on the 18 months. If you want to put it in.... But we're now getting into other refinements, further details.

The Chair: We're referring to the definition of business relationship. So Paul's version was what the normal course of business is. I think Jerry's arguing, well, don't put a definition at all. Whereas the—

Hon. Jerry Pickard: No. My argument is that you handcuff people who are administering programs and making recommendations if you put in something arbitrary. That's what we're doing, handcuffing those people who are doing the job.

The Chair: The question is, do we include a definition or not? If we include a definition, how detailed do we want to make it?

So let me ask you. Who feels that we should have a definition of business relationship? Okay, I'll take it that's the group.

[*Translation*]

Mr. Paul Crête: I think that it is crucial. If we do not have that, the rest of the legislation will lack foundation and balance. Failing to define “business relation” will create problems. Having the prescribed period in place makes all the difference between a situation where there will be continual challenges and one where relationships either existed or did not exist within the 18-month period. Having a specific period clarifies things. Also, if we opt not to prescribe a particular time period, business relations dating back three, five or six years might be invoked.

[*English*]

The Chair: So we're not arguing 18 months. That'll be in.

I invite you to read Paul's definition on page 12, the Conservative definition on page 6, and where's Brian's...? Okay. So just read page 6 and page 12, a definition of an existing business relationship. We'll agree on which is better.

So are there takers on which...? We're just deciding. We've agreed that there's going to be a definition. Which of those two is better? Let's just boil it down to that. There will be a review after three or five years, and we'll pick up any pieces there.

James.

Mr. James Rajotte: I would say, Mr. Chairman, with respect, the Bloc amendment still begs the question, because a business relationship is a business relationship. It still begs the question of what it is. You could define it in such wide parameters that if I had a chat with someone, it's a business communication; and if we shook hands, is that an existing business relationship?

I think the reason we wanted to put in more specific parameters is to have a way of more clearly defining it, so I would encourage members of the committee to adopt our amendment.

The Chair: Paul, what do you think of the Conservative definition versus yours?

[*Translation*]

Mr. Paul Crête: I would not be opposed to the first part of the Conservative definition. Their proposal specifies that the business relationship and the 18-month cycle relate to the purchase of services and rental of goods. I think that James makes a good point.

However, subsection 41.6(2)b) of their amendment reads as follows:

> b) a request – including a request for information – made during the three months prior to the telecommunication [...]

I think that this part of the amendment is an unnecesssary addition, which would require two different lists, calculations and assessments to determine whether a business relation existed or not.

However, I would be prepared to agree to the first part of the amendment, which defines the business relationship.

● (1645)

[*English*]

The Chair: There are the two questions. There's the established business relationship, and then there's the casual one where somebody calls in for a catalogue, and that's where the three months come in. They see an ad in the paper and they call for a catalogue, and the business would have...we had an agreement on six months in which to follow that up. Are you suggesting it would take us another list to do that?

Mr. Werner Schmidt: I'd like to try to understand this, if I could.

It seems to me what Mr. Crête has done here is try to put both of those concepts into proposed subsection (4), because I think we all agree with the first part of it. Then comes the other part—

An hon. member: Where's subsection (4)?

Mr. Werner Schmidt: I'm sorry, page 7. My apologies, page 12, proposed subsection (2) “ongoing business relationship means a relationship characterized by an established pattern of contact for business purposes”—okay, that sounds really good—“between the person making the telecommunication, or on whose behalf...”, and so on, “to whom the telecommunication is made, including at least one such contact”.

One contact is not an ongoing business relationship. I think what the amendment does is try to accommodate both of the things that we've done in ours, but we've separated them as two different.... We're saying it's “existing”, and they're saying it's “ongoing”. We're saying that it's not an ongoing relationship if it's simply a casual one to request particular information.

The Chair: Yes, that's the distinction, Paul. I think your version includes if somebody calls just for a catalogue—they see an ad in the paper and they call to say they just want a catalogue. You would still allow the business 18 months to follow them up in yours; whereas the Conservatives have distinguished between a casual call for a catalogue versus an actual transaction involving a purchase or sale of something.

I think the group had already agreed that they were distinct functions, so I think we're leaning towards the Conservative version here for both the casual and the more significant communication.

We've taken out of the Conservative one the reference to the others. James took out the requirement that other charities, exempt groups, keep lists. I think Paul and others made good arguments that it would be very complicated.

Mr. Binder.

Mr. Michael Binder: In fact, if we're going to go this route, can we reconsider this? Now you've taken away any recourse for a Canadian to say no. By not having a list, not keeping a list of those charities, now you have no way to turn it off at all. If we're going to go with registered charities, our advice would be to keep the requirement to keep a list. Otherwise there is no way for a Canadian to say no.

The Chair: James had withdrawn it.

Mr. James Rajotte: I withdrew it. I support it, but I withdrew it because I thought a majority of the committee opposed it

The Chair: It was only Paul and Jerry who spoke against requiring the charities to maintain a separate list, but based on Mr. Binder's comments that we've lost—

Mr. Michael Binder: Sorry, we argued that we preferred a national list, but if you're not going to have a national list, let's have some list, somewhere.

Mr. James Rajotte: You'll have a national list. It'll just have exemptions.

The Chair: Are you still leaving it out, James?

Mr. James Rajotte: I'm happy to move it.

The Chair: Okay, we'll put it in. If there's an amendment by Paul or Jerry to take it out, then we'll deal with it at that time.

Hon. Jerry Pickard: Can I make a statement, Mr. Chairman, as well?

The Chair: Yes. I'm pretty confused as it is, so keep it simple.

Hon. Jerry Pickard: We commented on our colleague Jim Karygiannis. I would like everyone to know that Jim is fine. They took extra security and took him to the hospital, but he has been given a good bill and has been released, so he is okay.

The Chair: Thanks.

So he's voting tomorrow?

Some hon. members: Oh, oh!

Hon. Jerry Pickard: He would be very difficult to keep away.

The Chair: Okay. Thank you for that update, Jerry.

I'm going to attempt to give instructions to Andrew. I'm going to patch together the piece on charities' political-business relationship—let Andrew do that—and then we're just going to deal with the other amendments. With any luck, we'll actually get this thing.... Well, we'll see how that goes.

I'm going to use amendment C-2 as the framework, and then take stuff in and out.

Then, Paul, you're going to move an amendment to make a more general.... So just turn to page 5.

● (1650)

[*Translation*]

Mr. Paul Crête: Why are we using the Conservative amendment rather than...

[*English*]

The Chair: No, no, it's just that some of the words at the beginning are all the same. It's just a platform. I'm going to maybe bring in the Bloc version of something else. I'm going to plug it in. It's just so Andrew has something to work with.

Brian.

Mr. Brian Masse: Which definitions are they going to be working on for a political party in that?

The Chair: Hear me out. What I'm going to do is just use the overall.... Elements of all three motions are the same—for example, the numbering. I'm going to import into C-2 the NDP...I could actually start with the Bloc or the NDP, it doesn't really matter. It's just that I need one of them for the structure, because some words are common to all of them.

Andrew.

Mr. Andrew Kitching: I'm not a drafter.

The Chair: What I propose to do is this. I could take any one of the three amendments, because they all have commonalities. I said let's go with amendment C-2, the first one on the list, and then plug in the NDP piece or the Bloc piece or the Conservative piece at the appropriate spots.

Now, so we don't make a mistake, I'll go through it. We may not be able to have it drafted today, so maybe we'll have to have a short clause-by-clause consideration—assuming we get past Thursday— when we come back.

Brian.

Mr. Brian Masse: Well, if we don't have the appropriate people here, I'd just suggest we do that part of it and move on to other stuff, instead of spinning our wheels. It's not going to make a difference. We're going to stay anyway, so I'd suggest that in the next meeting— if we have a next meeting—we get that work done.

The Chair: Okay, then I will just lay out what my understanding is, and when we come back to it, you'll have what I hope will be a consensus ahead of time. Then we'll move to the other amendments and see how much of those we can get done, and then we'll deal with that other meeting. That's fine.

We will use the Conservatives' definition of charities, okay? Then, at the meeting, Paul might propose his amendment.

I propose we use the political section of the NDP motion, so we just have to plug in and use the right numbers. Just go to the NDP motion. We'll just plug into amendment C-2; we'll take out the Conservative political stuff and put in the NDP political stuff.

On page 6, paragraph (f), we will put in the words “sole purpose”, as suggested by Jerry.

Hon. Jerry Pickard: Maybe with paragraph (f) I could go one further step, and “made for the purpose of collecting information” could be “made as part of”, instead of “made for”—“made as part of...a survey”. Does that clarify it?

The Chair: Does it make a difference—“as part of...a survey”?

Hon. Jerry Pickard: Yes.

The Chair: Is that okay, James?

Mr. James Rajotte: I don't know. Does it change it?

Hon. Jerry Pickard: It's a question of the grammatical.

● (1655)

Mr. Werner Schmidt: It could, because “for” is a process; “part” is a substantive amendment. I don't know, this is a very semantic kind of question.

The Chair: It's in order the way it is, Jerry.

Hon. Jerry Pickard: I'm not going to argue.

The Chair: Just leave it the way it is.

I'm going to take it that we're not going to mention local government. We'll take Mr. Binder's advice that should the provincial law not cover it, it is actually covered under the CRTC definition of telemarketing. It's included there.

We'll use the NDP version of the political.

I think for now I will leave in the Conservative reference to the list maintained by the charities, and then we can have an amendment to remove it, should that be the case. We'll know what we're targeting then. We'll leave in on page 7—

Mr. Werner Schmidt: We were actually thinking of Michael Binder when we wrote that.

The Chair: Is that right?

Let me ask about the health care thing that Paul proposed. I didn't take a straw vote on that—the health professional piece.

[*Translation*]

Mr. Paul Crête: We withdrew it.

[*English*]

The Chair: You're taking it out, okay.

For the existing relationship, we're going to use the six months proposed for the casual, but the wording of the Conservatives. Is that correct?

Some hon. members: Agreed.

The Chair: I think that covers the charities, the existing relationship, and the political. If I've missed something, we'll talk before we schedule the amendments.

It took a little longer than I thought.

Denis.

Hon. Denis Coderre (Bourassa, Lib.): Maybe I missed it, but on page 7 under C-2, you'll get rid of subsection (4)?

The Chair: No, it's going to stay in. There might be a proposal to take it out, but we're taking Mr. Binder's advice that because we're going to a list we should leave it in.

Let's go to C-1, please. You'll see a combined amendment there for the next little while.

James, I'm going to ask you to speak to C-1.

That's on your lists, first page.

Mr. James Rajotte: Thank you, Mr. Chair.

Basically this is just to allow parliamentary review of any such amendments. I don't see it as a very controversial amendment.

The Chair: I was just going to ask—and this is absolutely my own question of the researcher who asked for me—would you accept a friendly amendment to put a time limit that if a draft order is sent to the House, it's deemed adopted within 20 days, if the House doesn't deal with it in 20 days? Otherwise it could sit in limbo in the House for eons.

Mr. James Rajotte: Is that to update the Firearms Act?

The Chair: Yes, the Firearms Act. There was a wording there that I thought you might find helpful. If you were agreeable to that, we would have that drafted to give a time certain, so that if an order from the commission was sent to the House, and the House might refer it to a committee, but nonetheless if there's no order back in 20 or 30 days—pick a number—it would be deemed adopted, so that it doesn't end up in limbo.

Jerry.

Hon. Jerry Pickard: Maybe I could comment. There may be some unintended consequences to this approach. I don't think anybody is saying the House shouldn't have control, but as it stands—in my understanding, at least—if any changes were to be made, they would have to be referred back to the House.

We're talking smart regulations. We're trying to put regulations in place that would be flexible and operational; they would make sure things work. If we have certain structures as to, say, times that calls can be made or dialing devices to be used in order to make telephone calls, and under this any changes have to be sent back to the House for approval, we're going to really make it impossible to operate. I'm not sure we want any small changes sent back; I don't think that's the intention here. We do want the House to review what is happening on some reasonable and regular base. If practices are going on that are problematic or that members of Parliament are hearing about or wanting to discuss, then we have that option in reviewing the operations, but if we start saying this has to be referred back to the House of Commons every time changes occur, we're going to have a regulation that's absolutely impossible to work with.

● (1700)

The Chair: Do you want to comment, James?

Your purpose, I suppose, first of all—

Mr. James Rajotte: Mr. Chairman, with your recommendation to me—I don't think other members have a copy—if it is amended such that if the House does not act on it within an expiration of 30 sitting days after it was laid, it is deemed adopted. That is your suggestion. I think that addresses Mr. Pickard's concern.

The Chair: I had said 20 days.

Mr. James Rajotte: Well, this says 30. If it's deemed adopted, that answers the concern.

The Chair: Paul.

[*Translation*]

Mr. Paul Crête: I do not know whether Mr. Rajotte might find what I am about to suggest going a bit too far, but I think that we could get rid of “for approval.” That would give us the following wording:

> 41.01 That the Commission table in the House of Commons any draft order to be issued under section 41.

The Commission would therefore table the order but no approval would be necessary. Where required, information would be forthcoming. As far as I understand, approval would mean asking the House of Commons to approve a regulation. This is quite the opposite to what the House is normally required to do.

If we removed the term “for approval”, we would still be guaranteed to be able to obtain information. We would be able to make representations or a political statement at that time.

[*English*]

The Chair: Next is Mr. Binder, and then I'll ask James to comment on Paul's suggestion.

Mr. Michael Binder: We haven't had a chance to really analyze the implications, but the CRTC has powers for cease-and-desist, so if, as Jerry said, somebody does something untoward and they are told immediately to stop doing it, that does not mean in 20 days, it means now—stop faxing, stop autodialling. We are really worried about the provision. I'm not sure that's the intention you had.

The Chair: Denis, and then James. I'll let you finish up.

[*Translation*]

Hon. Denis Coderre: Indeed, I have a problem with the term “for approval.”

Firstly, it is not the role of the House of Commons to approve this type of regulation. The CRTC does that already. If the CRTC is not required to seek the approval of the House but merely to table an order, and if the order in question deals with smart regulations, what we are trying to do is to grab powers that do not belong to us. I fail to see the relevance of any of this clause and I think that we should scrap it altogether.

[*English*]

First, it's unworkable; second, it's not the mandate of the House of Commons, period. Frankly, I would say that you should let the CRTC do its job. We can check otherwise, but I don't really believe that for the purpose itself of legislation, we are serving any cause here.

The Chair: James.

Mr. James Rajotte: First of all, with respect, I would certainly accept friendly amendments. We could change this so that we allow CRTC to deal with cease-and-desist orders. That's not the intent.

My concern is about regulations being added to this. I understand the concern about flexible regulation, but flexible regulation in times past has often meant overregulation. My concern is about having the House and parliamentarians as a vetting process so that if in future the government decides to overregulate in this area, the House can then act upon it. I think if we changed perhaps the statement of draft of any order, if we changed the phrasing there, we can work on that for next time. If we add in, Mr. Chairman, what you suggested—that it's deemed adopted by the House after, say, 30 sitting days if it's not acted upon—then that deals with the issue of its just sitting there within Parliament and not being dealt with.

The Chair: Okay. I think what we'll do.... Actually we're making some progress. We're understanding better what these amendments do.

James is heard around the table. We're eventually going to have a vote on it. He's going to work on some wording that maybe will help. If you have ideas to give to James, he's easy to get hold of.

Jerry, then Werner.

Hon. Jerry Pickard: I have just one quick further comment, James.

I don't oppose the fact that there needs to be a vehicle, but we do have a vehicle in existence right now, as far as I'm concerned. This committee, at any time, can call for review of the regulations. They can bring in people and make sure they sit down and answer what's happening. If there are things in the regulations or in the legislation that are problematic, we certainly have that option of calling in officials—whoever is administering the program—at any time.

If we start putting in things that are going to be complicated, I think we do build this regime of not-smart regulation. That's my concern. Smart regulation is trying to, in some ways, get government out of some of the things that are going to be impossible and allow them the flexibility to administer where they see problems on a more immediate front. I would wish you to think through the process that we already have in place, where this committee has the option of bringing forward people at any time and questioning what is happening, if there are problems.

● (1705)

The Chair: Werner.

Mr. Werner Schmidt: I have a technical question for Michael.

Does proposed section 41 cover cease-and-desist orders, or do cease-and-desist orders come under another section?

Mr. Michael Binder: I don't know. I'm going to have legal advice here.

The Chair: I think the question is, is the process of a cease-and-desist order hampered by this?

Mr. Larry Shaw (Director General, Telecommunications Policy Branch, Department of Industry): Section 41 is the main provision that gives the commission power to regulate unsolicited telecommunications. We haven't had the ability to sit down and see what specific orders would be issued under section 41. We know some of them, the technical rules, for example, pertaining to autodialers, time of day, things like that. We haven't had a chance to trace through, particularly with all these new provisions, what exact orders would be covered.

Definitely, we're talking about, at least in some cases, very much the minutiae of regulation as opposed to the big things.

Mr. Werner Schmidt: That's right. I think that's a very significant point, because at least in my reading of section 41—I don't have it with me here—I think the power there rests with regulation, the power to make regulations. I think that's the issue in section 41. I'm not sure whether there is a connection between section 41 and what's being proposed here.

I do believe this was restricting to the forming of regulations rather than the monitoring or, if you like, the enforcement of the regulations. That's a different kind of issue. I think the CRTC does have it, because it's a quasi-judicial organization and it has a different function in that regard. It has the power to enforce regulations. It also has the power to make regulations. I think what this is supposed to do is refer to the kind of regulation that's made that may be cumbersome or inaccurate. It has naught to do with the monitoring.

If the technical provision of section 41 is such that this isn't the case, then we have a major issue here.

The Chair: Yes, Larry.

Mr. Larry Shaw: May I just add something? It's probably important to distinguish between “make regulations” and “regulate”. Section 41 gives the power to the commission to regulate. But it doesn't mean that it makes regulations about everything. It makes decisions about whether something should be permitted or not permitted. As I said, it very much pertains to the minutiae of regulation, not grand regulations or anything like that.

Mr. Werner Schmidt: Well, it's obviously a very technical question.

The Chair: I'd like to make sure we have the others on the record, at least our discussion. This is very helpful. To me, we're trying to negotiate a better bill.

James, if I can suggest this, could you satisfy yourself and your colleagues that it helps or hurts—gets us closer to our goals or further from the goals of the bill—by doing that? That's all I would ask you to do over the next little while.

Mr. James Rajotte: Then I guess we're meeting. Depending on what happens Thursday, we would meet the Monday after the break. So then I would ask if you could provide me with all of the orders that this would influence—

The Chair: As you can best imagine.

Mr. James Rajotte: I take your point that you'd rather not see this at all, and I respect that, but if there's a better way to phrase it that does not prevent cease-and-desist orders or other such orders that should not be sitting in Parliament for 30 days....

● (1710)

The Chair: I think the point Mr. Shaw made is the distinction between orders under a certain regulation, which is the interpretation of a regulation, and actually making regulations. I think parliamentarians don't like so much the idea that regulations are made outside the parliamentary process; we're trying to bring into at least this bill some parliamentary wording as opposed to regulatory wordings, but I think we might be confusing the administration of a regulation with the making of a regulation. So I'd encourage you to chat about that.

I'm going to get Brian to speak to page 4, amendment NDP-1, which basically has to do with this database going outside the country.

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

This comes as a result of some of the outsourcing that's happened—the Census of Canada, for example, through Lockheed Martin, made information from the Canadian public vulnerable to other countries. What this does is protect Canadian privacy and ensure that all the data and the management of the data stay in the country.

In that particular case involving the Census of Canada, they actually had to amend the contract in four different ways, which cost millions of dollars, to continue to make sure the Canadian data on the census was not going to be violated in terms of the USA PATRIOT Act in the United States. This is a simple request, and I think it's important. We're asking an extension of agency of the government—be it the CRTC—to collect data that's important to businesses and people and individuals so that the Canadian public has confidence in that privacy. Similar issues have been raised in British Columbia in regard to their own privacy legislation, and the Treasury Board here has undergone an extensive review.

I think this is a practical way to avoid a problem later down the line and not undermine.... People don't feel their data are going to be protected, and you can't do that if the data leave this country. Then they're going to have suspicions about whether they should be providing the data. And it's not just people, it's businesses as well.

The Chair: Jerry.

Hon. Jerry Pickard: I'm fully in sympathy with what Brian is saying with regard to data collection. We don't want data collection going anywhere. But I would point out that we're talking about a national do not call list. What's on that list is a name—who not to call, or a telephone number—but there are no data. As far as data go, they wouldn't be there.

Let me point out another problem that could well be more problematic for us. If a corporation decided it couldn't operate in the confines of Canada and decided to go into the United States, if we formed an agreement with the United States that said do not call lists can be shared, we can then prevent corporations from operating in the United States and in Canada on the same basis; or if we worked with other countries where you just have the telephone number taken off the do not call lists, we're not providing data information as such. That do not call list is a telephone number and a corporation, or whatever, on the lists that are there. We don't have background information or anything that would be considered secure. What it does, though, while allowing for more openness here, is this. Looking to the future, it may possibly allow stopping companies in the United States from doing all this calling into Canada, and allow some other flexibility that we wouldn't have if we just shut it down here to Canadians and left it there.

The Chair: Before I go to Paul, I think your concerns weeks ago were, say, about a U.S. firm, a non-Canadian business, bidding on the actual work to do this for the CRTC.

Mr. Brian Masse: No, it could be a U.S. firm, but the question is the location of their data procurement, storage, and management. It could be a U.S. firm that has an operation here in Canada, and that's what Lockheed Martin had to do with our census data. They had to make sure it was going to be here in Canada, and that wasn't in the original agreement. That then exposed all of the data, and I would claim that somebody's name and number are important personal information that should not be put at risk outside this country. I think it undermines privacy issues about which the Privacy Commissioner has also spoken to you.

The Chair: Paul, please.

[*Translation*]

Mr. Paul Crête: I would like to ask a question.

[*English*]

Hon. Jerry Pickard: May I just point out that I was incorrect in suggesting name. Telephone number and date it was entered—that's all that will be on that list. So a telephone number and date. No other data would be there.

● (1715)

The Chair: Thanks for the clarification, Jerry.

Paul.

[*Translation*]

Mr. Paul Crête: I wanted to ask a question on the implementation of the various free-trade agreements. Could it be argued that a clause such as this one is out of step with our free-trade agreements? Practically speaking, if we were to implement this type of initiative and if the US were to follow suit, call centres in New Brunswick and elsewhere in the country could lose market share.

That is something that we have to consider, since telemarketing in the States has a potential target audience of 300 million while in Canada it is only 30 million. At the end of the day, we would probably be the losers if we made such a move and the US followed our example. We would be facing a complicated situation. What's more, it is very difficult to monitor the use of telephones.

[*English*]

The Chair: Are there further comments? We've laid it out there.

James.

Mr. James Rajotte: To follow up on that, maybe we can get Mr. Masse to answer that. For instance, the Dell call centre in Edmonton and Manitoba, which has a lot of call centres because of their time period—would they in any way be restricted, or would call centres in the United States? Especially with the way information is stored electronically, even the whole concept of storing it.... I mean, if it's on an Internet server somewhere, how do you define national storage in that case?

Mr. Brian Masse: Our privacy laws protect it if it's actually in our country. Once it leaves the country is where the question comes. Our PIPEDA legislation covers off the call centre in Edmonton—I think that was where you mentioned—as long as it's not shared externally. That's the issue.

The Chair: Denis.

I'm sorry, Brian, were you finished?

Mr. Brian Masse: Yes.

The Chair: Denis, did you have your hand up?

Hon. Denis Coderre: That's the point I want to make. I want to add also to what Paul just mentioned. We have already some agreements between the States and ourselves. There are different legislations. It's not just a matter of free trade, but it's also immigration, CPIC, and there are privacy acts. The fact is that we have to also send the message that we are working together.

If I remember when we had the people from the States, when they were talking.... We already do have some agreements among our countries in the way we use data, and it's protected under mutual legislation. I can understand the nobility of what he wants to accomplish, but I think it's not necessary to put that up, since we already have legislation, treaties, and other agreements that protect those data.

I can understand where you're coming from. I think that we don't want to create another problem, but we want to be protective of our own data. That's another issue.

The Chair: Okay.

Brian, and then I'm just going to summarize the last few amendments so that we can have them on the table.

[*Translation*]

Mr. Paul Crête: Did Mr. Binder have a comment on this issue?

[*English*]

The Chair: Brian.

And then, Mr. Binder, you had a comment?

Mr. Brian Masse: I have a question for Mr. Binder, if that's possible.

If it's just going to be the phone number and a date on it, how do you verify that the person who called in from a phone number in a residence is actually the person who doesn't want to be on the list? How does that work? Is that all you're ever going to receive from anyone—just a phone number? So can I just call from my house and say, “258-3596, I don't want to be on the do call list”, and they put the date down—September 3—and that's it?

Mr. Michael Binder: Again, a colleague can help me a bit, but the way I understand it, it's up to the companies then to download that number to their databases, and from then on they're prohibited from phoning that number. But there's no other information.

The Chair: What if I, to be mischievous, called in my neighbour's phone number, with whom I'm having a fence problem? In other words, there's going to have to be some questions such as “Who are you, sir?”, “What's your mother's maiden name?”—something to ensure that I'm the person with the phone number.

Mr. Steven Williamson (Senior Advisor, Regulatory Affairs, Department of Industry): The way I can explain it is with respect to how the American system works. They basically verify it in two ways. If it's called in, what they do is they make sure it's from your home phone number by using the automatic number information that comes through, like call display—that kind of technology—to make sure it's from the home phone. As well, they have a verification mechanism if it's an online registration.

● (1720)

Mr. Michael Binder: But they don't store the data.

Mr. Steven Williamson: It's not for the person, it's for the telephone number.

Mr. Brian Masse: What if you don't have call display, then? It sounds very....

The Chair: We're going to cut it off there. We've had some good points raised.

Mr. Brian Masse: I guess the thing is the Census of Canada, Statistics Canada, had to do this to protect their data, so it doesn't violate our trade agreements.

The Chair: Paul, and then we'll move on.

[*Translation*]

Mr. Paul Crête: Does Mr. Villeneuve or his team have anything to say in answer to Mr Coderre’s questions or on the issue of whether the amendment complies with the free-trade agreement? Would the amendment, as it is currently worded, contravene existing free-trade agreements?

[*English*]

Mr. Michael Binder: I'll have to consult further, but my opinion now is that as long as there's no discriminatory prohibition on anybody to bid on the contract, it's not against NAFTA. But whether then, by insisting that they're to remain in only in Canada...that's a different twist, and on this one I'll have to check.

The Chair: That's good. We got some good comments on the table. A very good discussion, colleagues.

The bells are going to start ringing, I guess, shortly. There are three types of amendments remaining to discuss. One is—and I might just ask for a minute and a half each—C-3, which is the requirement that four months after the end of the fiscal year, which I guess would make it end of July, there would be an annual report. I'll summarize and then I'll ask for comments.

Paul, the Bloc, is proposing under BQ-2 that there be a licensing regime for telemarketers.

[*Translation*]

Mr. Paul Crête: Yes, as a way of recovering costs. The CRTC’s Mr. Richard French gave us that idea as a way of covering the costs of the system when it is up and running. He explained that a proportion of the set-up costs will have to be borne by the Government if they cannot be recovered from participant corporations.

[*English*]

The Chair: Do we get the same people who did the gun registry to organize the licensing system?

Some hon. members: Oh, oh!

The Chair: That's an end-of-day statement.

The third category of amendment is the government's proposing a review after five years, and the NDP, a review after three years. I think that's going to be an easy one to resolve when we have our meeting.

Let's just take two minutes on C-3, James, and then two minutes on BQ-2.

Mr. James Rajotte: C-3 is basically doing an annual report. It's a common thing that should be done in the sense that any time we set up any sort of registry, we should be doing a report to ensure that the purpose for which you have set it up is being fulfilled—that the concerns, especially in proposed subsection 41.6(2) are being fulfilled. I think it's very important that we do, in terms of the number of Canadians using the list, costs and expenditures related to this list, number of telemarketers accessing the list, any inconsistencies in the prohibitions. So this I think would certainly be a prudent thing to add.

The Chair: The questions you might get when we get back to this, and I'm proposing Wednesday, June 1.

Hon. Jerry Pickard: Mr. Chair, might I just ask James a question?

Would you have any problem, James...? As I understand it, CRTC does regularly report on an annual basis, and that usually comes out in November. From my view and from what I've been told, there's no problem with your suggestion of an annual report. The timeline of four months just brings us to the middle of summer. That may not be or might not facilitate the best opportunity, and it won't open it up to anyone anyway, because we don't have sitting days in the summer. Could you extend that to six months rather than four months? That will give them more time to collect data and put things together.

It'll probably fit the bill that they can include this in their annual report. Okay?

● (1725)

The Chair: Fair comment.

Paul, a couple of minutes on your licensing proposal.

[*Translation*]

Mr. Paul Crête: Once again, this was a proposal put forward by Mr. Richard French from the CRTC. He told us that the cost of implementing the system could not be recovered under the current wording of the legislation.

As a way of avoiding this situation, we are advocating that the CRTC, or other Government body, be empowered, by adding “creation of a licensing system for telemarketing companies”, “to recover costs relating to the setting up and maintenance of a national no-call list [...]”

This is taken almost word for word what Mr. French said. Indeed, he actually said: “It would be impossible to recover costs as the Bill currently stands.”

I do not know whether Mr. Binder could advise us on this issue.

[*English*]

The Chair: Jerry, do you have any comments on that?

Hon. Jerry Pickard: It's my understanding that CRTC now has a broad spectrum in dealing with things under section 41, cost recovery, and it's not necessary to establish a second telemarketing regime.

I think from my recollection another comment that I had as well was that to start doing the type of thing asked for in this regulation, they'd need a whole new set of expertise in order to look at costs, corporations, and so on, which isn't necessarily in existence. So that may be very difficult to go forward with under the simple system. We make it very much more complicated and require a tremendous amount more expertise in order to look at costs and things like that, I understand.

The Chair: Paul.

[*Translation*]

Mr. Paul Crête: I am just trying to say that this could be done. Allow me to quote you a small part of Mr. French’s brief:

> Bill C-37 does not deal with the incremental costs for the CRTC of creating and implementing this list. The proportion of the start-up costs to be borne by the CRTC is extimated at between 1.2 million and 1.5 million dollars. There will also be annual incremental costs for the CRTC.

That quote is just to show that we need to build cost recovery into our legislation. Witnesses told us that telemarketers would be quite happy to have this type of system, since, at the end of the day, it would eliminate pointless calls to people, who do not want to be called.

Since, as far as I understand it, there is cost recovery built into the rest of the initiative, we wanted it to be extended to the implementation phase as a way of saving money for Canadians.

[*English*]

The Chair: Mr. Binder.

Mr. Michael Binder: Again, we didn't have much time to take a look at this, but I've got to tell you I've an aversion for yet another licensing regime, which requires conditions of licences, applications, and all the rest of the things that go with it. We're not trying to re-regulate it. We're trying to deregulate by and large. There is a budgetary process for getting money for CRTC, and recovering through this process is not something I would jump for joy with here.

The Chair: Before I go on, to recover fees, to get some revenue back from the participating telemarketers, you don't need a licensing system? You can still...?

Mr. Michael Binder: The way the bill is now, the administrator, whoever wins the contract of setting up the do not call list, is allowed to charge for managing the database—the cost recovery debt—but it doesn't allow the CRTC to recover its own costs. If CRTC wants more money, they have to go to Treasury Board like every other department and ask for more money.

The Chair: Paul.

[*Translation*]

Mr. Paul Crête: My goal is not to have an additional licensing scheme. We are advocating an alternative solution to this problem as a way of ensuring that set-up costs are covered by businesses themselves. This is quite simply based on the recommendation by the CRTC people themselves. After all, they are the ones that have to deal with the system. They are worried about having to take on additional costs to the tune of 1.5 million dollars. This is what we are trying to do here.

If there are any alternative ways of addressing this problem or if someone can tell me how theses costs can be recovered under the existing legislation, then I shall withdraw my party’s amendment. This is the recommendation that we heard and took on board.

[*English*]

The Chair: So if you're satisfied that the recovery regime could take place as the bill is proposed, you would be okay?

● (1730)

[*Translation*]

Mr. Paul Crête: If it includes implementation costs.

[*English*]

The Chair: The answer would be yes. In other words, when you tender this and company X gets the contract to deliver the do not call legislation, you will be paying them, or they will be paying you, or they will do it for free and collect the money...?

Mr. Michael Binder: The administrator will be tasked with collecting the money from all the participants, the telemarketers. It's exactly the way it's done in the States. They pay the administrator. It's a not-for-profit.... But it does not go to the CRTC, it goes to the administrator.

The Chair: Just while we're here—the bells are coming—let's say you have a notional idea. It's $5 million a year, notionally. You seek contractors. They offer to do it. They say, “We can do it. We think we can raise $3 million, so we need $2 million from you”. Another one says, “We can do it for $2 million. We need $3 million from you”.

There is going to be a federal contribution of some sort through the CRTC, but the contractor would have the obligation and the authority to gather fees from the clients.

Mr. Michael Binder: Right.

The Chair: Okay.

Paul, would you accept that it's possible to do this, to have revenue with the bill as proposed?

[*Translation*]

Mr. Paul Crête: If someone can confirm that this is achievable under current legislation, I shall withdraw the amendment. However, I would like to get this information first.

[*English*]

The Chair: Maybe we could have a memo or a letter from you, Mr. Binder, to the committee on the question of the fee recovery, to answer Mr. Crête's question.

To you, Jerry, before we adjourn.

Hon. Jerry Pickard: To the question of licensing too, and I would like to redirect that to Paul as well. I understand that under the Telecommunications Act, section 41.... The Competition Act has the control in that area as well. I believe that within the Competition Act there are definitions about who can do telemarketing. As a result, getting another licensing group would be just a duplication in a different area.

The Chair: We'll get a letter from Mr. Binder.

Bon job, tout le monde. Very good, everyone. Very impressive. Thank you very much. Well done.

We're 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

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