



House of Commons
CANADA

Standing Committee on Industry, Natural Resources, Science and Technology

INDU • NUMBER 042 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Wednesday, June 8, 2005

—
Chair

Mr. Brent St. Denis

All parliamentary publications are available on the
"Parliamentary Internet Parlementaire" at the following address:

<http://www.parl.gc.ca>

Standing Committee on Industry, Natural Resources, Science and Technology

Wednesday, June 8, 2005

• (1535)

[Translation]

The Chair (Mr. Brent St. Denis (Algoma—Manitoulin—Kapuskasing, Lib.)): Good morning, everyone.

[English]

I'm pleased to call to order this June 8 meeting of the Standing Committee on Industry, Natural Resources, Science and Technology. We are continuing our study of Bill C-37. We're down to the last couple of clauses.

We are pleased and honoured to have with us today Canada's new, or relatively new, Privacy Commissioner.

Congratulations. It's your first appearance here. I understand, Ms. Stoddart, it's our good fortune that you were at meetings in the region, in Gatineau, with privacy commissioners of the provinces and territories and that you were able to excuse yourself from those meetings—but it may not be a very long time—and bring your message to us on Bill C-37.

The principal reason for the invitation to you and your office was a very worthwhile subject raised by Brian Masse of the NDP, having to do with the USA Patriot Act and its relevance or irrelevance on the issue of Bill C-37. But just before I go to you, I think John Duncan wants to raise something.

Mr. John Duncan (Vancouver Island North, CPC): Yes, I do.

I have a motion I'd like to enter. Because of the 48 hours' notice and all that, I'm wondering if there's an opportunity to put that in at this point.

The Chair: If it's an amendment to the bill, yes, you can do it. You don't need 48 hours' notice.

Mr. John Duncan: No, it has nothing to do with Bill C-37. It has to do with the witnesses we had here talking about a variety of subjects, including the Quebec-New York border crossing.

The Chair: Can we deal with clause-by-clause? Can it be in our business meeting? We're having a business meeting right after clause-by-clause.

Mr. John Duncan: Sure.

Actually, I believe Paul Crête will enter it. It's a joint motion.

The Chair: Okay. I'm sure there will be no problem, but with your indulgence, John and Paul, we'll do the clause-by-clause first. I suspect we'll be finished this within the hour.

Mr. John Duncan: Okay.

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): No one knows.

The Chair: Yes, no one knows.

Ms. Stoddart, we invite you to start. Perhaps you can keep your comments to five, six, or seven minutes, and then we'll have questions.

Thank you.

Ms. Jennifer Stoddart (Privacy Commissioner, Office of the Privacy Commissioner of Canada): Thank you very much, Mr. Chair.

[Translation]

I would like to thank the committee members for inviting me. Since this invitation is relatively recent, our presentation this morning will be rather informal.

[English]

I am currently chairing with the Information Commissioner, the Honourable John Reid, the federal-provincial annual meeting of privacy and information commissioners across Canada, who are now meeting in Gatineau. They have joined me in addressing a letter to you that I have tabled with the chair.

The amendment you have asked me to come to speak to you—

The Chair: Excuse me, Ms. Stoddart. It just arrived at the meeting. We don't have copies to distribute, but it's a short letter. I believe you're going to explain the letter.

Ms. Jennifer Stoddart: Okay. I could come back to that.

We're very pleased to address the amendment suggested by the honourable Monsieur Masse, and to tell you how important this work is of establishing a do-not-call list. We were recently given information from Ekos, and you may have had this, that about 62% of Canadians in the last year have attempted to remove their names from a marketing list. So this is an important privacy initiative. Industry Canada surveys suggest the same thing.

The position of the Office of the Privacy Commissioner—I'll first put it into the context, Mr. Chair, of this amendment to the Telecommunications Act—is that we welcome you going ahead and establishing the list, but we would respectfully suggest that you delay any exceptions to the establishment of a do-not-call list until such time as you have consulted with Canadians, as was originally suggested by the minister when he announced this legislation.

There is, I would say, a certain amount of concern by Canadians about an exemption for charities. There's a concern about an exemption for a previous business relationship. In fact, I respectfully suggest to you that we have on the books an existing law, the Personal Information Protection and Electronic Documents Act, known as PIPEDA, that does address this very satisfactorily.

To come very quickly to the suggestion that the honourable Mr. Masse has made, and to put it in turn in context, my office has taken I think a very forceful position in terms of our concern about the circulation of personal information of Canadians beyond borders. We have spoken to the clauses of PIPEDA that address that. We have asked the federal government to do an inventory of its own practices and policies in order to address the questions of the lack of guidelines for the information that Canadians give to the federal government. The Honourable Mr. Alcock has responded to these concerns, and we expect to see shortly draft contractual clauses for the federal government.

So global circulation of the personal information of Canadians is a fact of life. It's an important issue. It's an issue of jurisdiction of Canadian law, and so on.

In the present context, my understanding is that the situation of the telemarketing industry totally reflects the global spread of business. We have Canadians being called by telemarketers who are geographically situated in the United States. We also have an important Canadian telemarketing industry, situated to a great extent in the Maritimes, I think, that calls into the United States.

My staff, who have worked firsthand with these issues of telemarketing databases, are with me today. I've been given to understand from them that indeed the best response in this particular case—this is, perhaps, unexpected—and the best way to achieve what I gather are the aims of the honourable Mr. Masse would be to facilitate the ability of the CRTC database to communicate with its American counterpart, which has been quite successful from the American point of view in controlling unwanted telemarketing calls, so that we may have this seamless privacy protection, given the interrelationship between the two telemarketing industries. That would simply go to the ability of the regulator to exchange the information so that Canadians who give the information to the Canadian database could also, if necessary, be inscribed on the American database so that they would also be protected from unwanted American telemarketers' calls. As I understand it, this is only the date and the telephone number.

• (1540)

That in a nutshell is our position, Mr. Chair. I hope all the members have had a chance to see the letter in which the Office of the Privacy Commissioner received the support of some ten privacy commissioners across Canada in encouraging you to consult Canadians on the extent of the exemptions to this data bank. The

concern of many of them is about overly broad exceptions to the do-not-call registry. With great respect, they believe that to adopt exemptions at this stage would be premature.

The Chair: Thank you, Ms. Stoddart.

We're going to have copies made of your letter, which you brought with you to the meeting. We appreciate that. They will be distributed as soon as the staff get copies.

With the indulgence of colleagues, as this is Brian's motion, I'll go to Brian, then I'll get to you, Michael, after Brian. The list is open from there, colleagues.

Brian.

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

Thank you, Madam Commissioner, for attending our hearings today and taking time for us.

What I was really looking at was a specific issue. I'm glad to hear that you don't have reservations about the sharing of information, but my specific concerns relate to the USA Patriot Act, section 215 in particular. I know that in the past I've had to raise this issue extensively in the House of Commons and actually pursue our census last year. In fact, in May of 2004 they actually had to amend their census-gathering information and procedure in a current contract with Lockheed Martin. We estimate it cost millions of dollars to fix that contract to protect Canadian privacy.

What I have specifically tabled and what I'm worried about—and I'm willing to withdraw it if it's not going to be a risk, but at the same time I am a little concerned—is that if we are going to be allowing American companies to hold our data, through this process, outside of our country, would the USA Patriot Act not then supercede Canadian privacy, and would that information be vulnerable without our knowledge?

Ms. Jennifer Stoddart: Yes. My understanding is that if information is stored in the United States, it is, as a matter of law, subject to American law. And the converse is also true. So that would be the situation.

Mr. Brian Masse: But you don't have any problem, then, with the fact that we would be making the do-not-call lists vulnerable to the USA Patriot Act?

What my amendment calls for specifically is limiting that this work be done in Canada, so that the system and the data that's used to enter it and to store it and to manage it would not be vulnerable to section 215 until we get either a treaty about that, which I understand is required to fix the problem, or, alternatively, see what the President of the Treasury Board is going to bring forward, which we've been waiting on for quite some time, with all due respect.

Does that not still leave us vulnerable, and would it not be prudent for us to protect Canadian privacy?

Ms. Jennifer Stoddart: Yes. I share your concerns entirely. And as you say, we've been waiting for some time. I raised these issues last summer. I joined my colleague from B.C., Commissioner Loukidelis, who has signed this letter today, expressing concerns about the information that Canadians have abroad and what may be happening to it and so on.

I think the question the committee must ask itself, in the context of the present legislation, is would this further the aims of protecting significant information of Canadians from the purview of the USA Patriot Act? I would think that the best way to do that is for the federal government, in the federal jurisdiction, to go on with the present process and bring in a holistic approach to the management of Canadians' personal information abroad, including possible agreements with the United States on this.

This may still take some time. As you have pointed out, we have not yet seen the whole response of the Treasury Board, which is doing this inventory and coming up with these draft clauses. In the meantime, if we were to do so, my understanding is that if we go to this, it would, ironically, prevent Canadians from being protected from the calls of telemarketers.

If you weigh that against the fact that data from this database will be in the United States, we have to look at exactly what data it is. My understanding is that it is the date and the telephone number.

• (1545)

Mr. Brian Masse: It's actually now the e-mail as well. We've heard testimony that e-mail would be part of this.

Have you been provided a—

The Chair: I think just for the purpose of confirming that the caller was entitled to be the caller—is that...?

Okay, I'm sorry. Go ahead, Brian. We'll clarify that after.

Mr. Brian Masse: We can certainly check the blues; I'd be happy to do that.

I guess the question would be, have you been briefed on a procedure that a company would be performing to enter and maintain this data? Have there been some standards or regulations presented to you on this?

Ms. Jennifer Stoddart: No, there have not, and that goes into the broader issue of who exactly would be running any kind of operation having to do with Canadians' personal information.

But I guess the point I was trying to make was that even if you add the e-mail addresses, it's a relatively small number of pieces of personal information about Canadians that are probably also available somewhere else. What is important with this legislation is that Canadians have effective protection against those calls—however you, in the end, define them in the legislation—that they do not want to receive.

The broader question that you're raising is ongoing. I share that, but I don't think approaching it through this particular act at this time would add to Canadians' privacy protection; in fact, it would leave them vulnerable to telemarketing calls from the United States and would prevent us from trying to cooperate with the Americans on privacy protection, which is exactly the message we want to get out, that we would like to cooperate with them on respecting each other's jurisdictions, on respecting the privacy of each other's citizens. I think this should be encouraged in this case.

Mr. Brian Masse: I understand that. I just worry that we're having to take a leap of faith here. The risks might be low, but if you talk to someone like Maher Arar, you know there are issues that are still

being wrestled with on Canadian privacy and the use of that information.

Do you know right now how many Canadians have personal information that is vulnerable to section 215 of the Partriot Act? I understand that, the way it works, we're not even entitled to know who's under investigation, where that information goes, or how it's managed and how it's disposed of.

Ms. Jennifer Stoddart: That's right. That is the challenge of that kind of national security legislation: nobody knows what's happening under it.

Mr. Brian Masse: I'm just wondering whether it would be prudent, at this point in time, to put a clause in this bill until we can negotiate such a treaty to make sure that the privacy is protected. I don't understand why we can't negotiate or we wouldn't be negotiating a treaty on this so that we would exempt that element of it and go together with a do-not-call list on both sides that has some procedural element related to PIPEDA on our side that would provide Canadians, at least, with a course of action.

The Chair: Is there any final comment on Mr. Masse's remarks?

Ms. Jennifer Stoddart: I very much agree with Mr. Masse's concerns, but I think, to be effective, the government has to go ahead with a broad policy approach to this, including a qualitative examination of the kinds of contracts it's signing with companies for the processing of its personal information, if it is doing that. We have to start by doing the inventory and seeing what clauses and safeguards we put into that.

But you're speaking here less about a control of data issue than the issue of regulatory effectiveness across jurisdictions, and given the integration of the economy, it seems to me that what we want right away, in this particular instance, is inter-jurisdictional regulatory efficiency.

The Chair: Thank you.

We have Michael, Paul, and then Jerry.

Mr. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Mr. Chair.

My understanding is that this do-not-call list is going to have phone numbers and dates in it. Frankly, I can't see what all the concern is about, because this information—and much more than this—is currently available publicly. Anybody can contact a data company and order a CD of all the phone numbers and addresses, or even e-mails and names of people, on a list. Where do you think these telemarketing companies get their information in the first place?

To say that we can't have this data potentially exchanged in the future with U.S. telemarketing firms would neutralize this list and would make no sense when it's currently publicly available. At some level this entire discussion is begging the question. It's circular. I don't understand it, so maybe somebody could clarify this for me.

•(1550)

The Chair: I'm not sure if you have a comment on Mr. Chong's...?

Is it more of a comment, Michael?

Mr. Michael Chong: No, it's not a comment, it's actually a question. If the information is publicly available today, I don't understand how it is an issue of privacy if, in the future, we decide to exchange this so that American telemarketing firms will not contact the Canadians who have decided they don't want to be on this list. That's my question.

The Chair: Okay.

Ms. Jennifer Stoddart: I think I can basically agree with you. I have said that most of this information is publicly available, except the unlisted numbers. While I agree with the previous honourable member's concerns about the extent of the Patriot Act, I don't think it's in question in this particular issue. I think that if we were to go ahead with this amendment, it would make the whole do-not-call marketing list or database that you're setting up far less efficient—which I know is not the intention, but I think they're two separate parallel issues.

Mr. Michael Chong: Thank you.

The Chair: Okay, Michael, thank you.

Paul.

[*Translation*]

Mr. Paul Crête: My first question is the following. With an automatic transfer between the two countries, would businesses in both the United States and Canada be able to say—unless it is formally stated in the law, but it is probably not written into American law at the present time—that certain calls cannot be made, on the basis of a list provided by Canada?

There will probably have to be an amendment to this effect in the American law. On our side, a section in the law providing for this situation will also be needed. A business that does telemarketing in Canada might consider that the government is not complying with its own law if it is prohibited from making calls to the United States when it is not explicitly so stated in the law.

This reasoning is possible particularly in the opposite direction, since the United States already has a law that does not specifically mention this matter. I am not familiar enough with their law to be positive, but perhaps you have the answer to my question. Cannot a person be subjected to calls if we don't have a guarantee that both countries have adopted the same type of behaviour?

Ms. Jennifer Stoddart: This is what I understand in the light of the explanations I have been given concerning the operation of this list. However, I didn't have a lot of time to prepare for this appearance.

The people at Industry Canada would be better able to give you an explanation of how databases function. I was simply told that there was a possibility of exchanges of regulations, legally speaking, I imagine. I have not heard that other amendments to the law are necessary in order to ensure that we are also protected in Canada against calls coming from the United States. I cannot tell you it how functions exactly.

Mr. Paul Crête: Okay.

A person would have a right not to be bothered by calls if he doesn't want to. We would have to ensure that telemarketing companies have no legal grounds for contesting it.

Ms. Jennifer Stoddart: That's right.

I think there are people at Industry Canada who know precisely how it works. They might be better able to inform you.

•(1555)

Mr. Paul Crête: This is something that cannot be settled unless we are ensured of the reciprocity of such a measure. We cannot give the Americans an advantage without receiving a guarantee in return.

Ms. Jennifer Stoddart: I don't imagine so.

The United States has agencies equivalent to our CRTC, the Federal Trade Commission and the Federal Communications Commission, who, from what I understand, are interested in working with us.

I know that people in my agency have met with members of those commissions and that they are interested in working with us on questions that concern both jurisdictions.

Mr. Paul Crête: You mean that a section in the law should specify that this aspect of the law will come into force only when there are reciprocal measures on the American side, in order to ensure its effectiveness.

Ms. Jennifer Stoddart: Again, I believe that these are rather delicate questions of law. I don't know, but I believe that most Canadian agencies commonly cooperate with their American counterparts, unless legislation expressly forbids it.

Mr. Paul Crête: Okay. I have another question on a completely different subject.

At the beginning of your presentation, you said you hoped there would be no exceptions to the law. Does that include political parties and non-profit agencies of any kind?

Ms. Jennifer Stoddart: I must say that political parties are part of the democratic process. As Privacy Commissioner, I don't have the same concerns, just like the other commissioners who were with me this afternoon. I was referring, however, to the original statement by Minister Emerson, who said that the principle would be adopted and then Canadians consulted afterwards.

The question of the other types of exemptions, in particular, for businesses that already have an established relationship and for charities, is important. The majority of Canadians, according to polls, object to both these types of calls. I therefore encourage you to refer to the primary intent of this bill.

Mr. Paul Crête: You have just put your finger on a major problem. Indeed, the Minister said that we should adopt a principle and then hold consultations and determine the rules of the game. We said that there would be a principle, a bill was presented, and it's now three weeks that we are stuck because we don't have the details of those consultations. We are working on a product that has not been given sufficient advance consideration and thought to allow us to make a final recommendation. As you said, the question of exemptions with respect to politicians is very important for the quality of democratic life. I am happy to hear to you say it, since I share this point of view.

On the other hand, with respect to non-profit agencies, it's a matter of life and death for some of them. If we exclude them from a list, this will take away their changes of obtaining revenue, or there will then be two types of exemptions.

If we created two categories of exemptions, that is, if we exempted all those who can issue tax receipts for a donation, while other non-profit agencies would not be entitled to the same exemption, what would be the consequences?

Ms. Jennifer Stoddart: I cannot help you with respect to the type of exemption for charities. However, with few exceptions, calls from charities can be considered unsolicited calls. Major indicators tell us that a majority of Canadians consider these calls from charities an intrusion on their privacy. However, this doesn't stop them from giving money or supporting the work of these agencies. They merely say that they want to be approached some other way.

Mr. Paul Crête: My example is perhaps awkward, but if Sunday church collections had been prohibited, after a few years a lot fewer people would be giving money. It is the same for non-profit agencies. If we do not allow them to do canvassing, this will create very strong pressures on society. If these agencies are no longer allowed to call on citizens to obtain their financing, they will have to turn to government for more and more.

I understand your concern, it is very well. However, it seems to me that it is difficult to strike a balance.

• (1600)

Ms. Jennifer Stoddart: Indeed, it is a difficult task that you have before you. Your example of a church collection is interesting. A person chooses to go to a church, synagogue, mosque, etc., and it is normal to be asked for money while there. But we are referring to a particular type of canvassing: telephone calls. We are not discussing the importance of charities and their goals, or the fact that we should all give, and that this is an important social problem. I quite agree with you, Mr. Crête. We are discussing who can call us, especially just when they know we're home. Polls indicate that many Canadians think that almost no one should call them, even charities.

Mr. Paul Crête: I would like to ask you one last question, briefly. That argument also holds for political parties. If you ask people if they want to receive telephone calls from political parties, the percentage of those who say no must probably be as high as for the other groups. The difference comes from an argument of another order. We cannot rely only on opinion polls when considering what we should put into legislation.

Ms. Jennifer Stoddart: I must say, Mr. Crête, that I haven't seen any polls on political parties. I didn't have the impression that people consider them a big problem. I haven't seen anything in this regard.

Mr. Paul Crête: That depends a bit on the popularity of the political party. We don't have so many problems these days.

[English]

The Chair: Merci, Paul.

Jerry, I think yours may be the last intervention on this.

Hon. Jerry Pickard (Chatham-Kent—Essex, Lib.): Thank you, Mr. Chair.

Thank you for coming, Madam Stoddart. Many of my questions were answered in your comments and in the letter that was just given to us. I would like to clarify only one of the aspects, and that is the e-mail issue.

If people register by e-mail, they would receive confirmation by e-mail, but e-mail will not be included in the list. There is no connection of e-mail address to that list, when that list is together and out in the groups that will handle the list. So I think that differentiation is clear to understand: e-mails would be received only by those who were receiving confirmation and checking them to make sure they were valid.

I do appreciate your other comments, because they confirm exactly what the minister had put forward in the initial part and what the department had brought forward. So I think that's a very solid confirmation.

Thank you.

The Chair: The point on the e-mail, Jerry, is that if a consumer e-mails in their phone number to be registered on the list, they get a confirmation back by e-mail. That e-mail then is scrubbed away, eliminated.

Hon. Jerry Pickard: That's correct.

The Chair: Final comment, Michael?

Mr. Michael Chong: Thank you, Mr. Chair.

On the subject of e-mail, I just wanted to go on record to you, Madam Stoddart, that a number of months ago it came to my attention that the Office of the Privacy Commissioner had issued a statement concerning collection, use, and disclosure of e-mail addresses without consent, and that in their view this was illegal. It concerned a case regarding season's tickets from some Ottawa team and a professor from some local university.

I think that's far too narrow an interpretation of the Personal Information Protection and Electronic Documents Act. Businesses have been collecting, using, and disclosing e-mail addresses for a number of years now, and I think they've considered them unprotected. I think a broader reading of PIPEDA would be much more prudent, because I think the narrow reading of this act fails—

The Chair: Is this on Bill C-37?

Mr. Michael Chong: Yes, because if we are to collect these e-mail addresses, I think it could be an issue.

Let me just finish by saying that I think it fails to reflect modern business reality, where there's very little, if any, practical distinction between phone numbers and e-mail addresses. I just wanted to indicate that to the committee.

The Chair: Thank you, Michael.

Ms. Stoddart.

Ms. Jennifer Stoddart: Perhaps I could respond briefly to the member.

You're not alone in thinking that. There is a division of opinion on the role e-mail addresses play in our society, and whether or not they are akin to telephone and public directories and so on. This morning, in the federal-provincial privacy commissioners meeting, we had officials from Industry Canada tell us about the review of PIPEDA, the numerous consultations, the parliamentary review, and so on. There will be many chances to go over this. Many people share your concerns.

• (1605)

The Chair: Thank you.

Paul, briefly.

[*Translation*]

Mr. Paul Crête: Mrs. Stoddart, I see that two people didn't sign the letter you sent us, the Chairman of the Quebec *Commission d'accès à l'information* and the Alberta Information and Privacy Commissioner.

Ms. Jennifer Stoddart: Yes, in fact, there were three representatives who didn't sign, including the one from Newfoundland.

Mr. Paul Crête: Is that simply because these people were not present, or does it reflect a desire not to sign, or is it a question of jurisdiction?

Ms. Jennifer Stoddart: I can answer that, because it has just taken place. The Information and Privacy Commissioners for Newfoundland and Alberta said that they were aware of the charities' need to make phone calls and how important it is that Canadians donate to them. They therefore had difficulty supporting it.

My colleague Mr Saint-Laurent did not explain why he didn't sign; it happened rather quickly. I imagine that it may be because it is not unusual for Quebec to not sign policy statements on federal legislation. At any rate, he didn't express any opinion.

Mr. Paul Crête: Was he present at the meeting?

Ms. Jennifer Stoddart: Yes.

Mr. Paul Crête: He didn't sign, but didn't say why he didn't sign.

Ms. Jennifer Stoddart: No.

Mr. Paul Crête: You can be sure that when it is a matter of antipersonnel mines and access to information, there are questions of jurisdiction. Thank you.

The Chair: Thank you, Paul.

[*English*]

The last word goes to Brian, since you got us on this subject.

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

Just quickly, if I'm from Ottawa here and want to register on the do-not-call list, and say Lockheed Martin wins the contract and they're doing this out of Michigan, I e-mail in to give them my phone number and whatever other information. Is that information then not vulnerable to the Patriot Act?

Ms. Jennifer Stoddart: Under certain interpretations, yes. It has been pointed out that American companies, even abroad, that have a substantial link to the United States, to American legislation, can be called on under the Patriot Act to give information to the American authorities.

Mr. Brian Masse: Thank you.

The Chair: Ms. Stoddart, thank you very much. I know you have colleagues who are at meetings that you should be at. We appreciate that on such short notice you and your colleagues were able to be here. You're politely excused.

We invite Mr. Binder and his delegation back to the table. We have the issue of how this system will work. There's a one-pager that Mr. Shaw did up, which we can go through. Then we will come to a vote on Brian's amendment.

Again, thank you.

Ms. Jennifer Stoddart: Thank you.

The Chair: Just while we're changing witnesses, I'd like to point out for the record that a colleague of ours, Ms. Patty Torsney, actually introduced a private member's bill on this issue a little over a year ago, Bill C-520. Her bill is structured differently from the government's bill, but I just wanted to read into the record that she did do this ahead of the government. She broke some trail, I think, with the department on this. So we thank Patty Torsney—or I do, anyway.

Mr. Binder, I think you had responded to a request made last meeting about a kind of walk-through on what happens when somebody calls in. There is a memo that's been distributed to everybody. I might just invite you or one of your colleagues to quickly walk through that. Then I think we'll be prepared to vote on Brian's amendment.

Mr. Michael Binder (Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Department of Industry): I will ask Mr. Shaw to take us through.

The Chair: This one here, colleagues, is the U.S. do-not-call registration process.

Mr. Michael Binder: The only comment I'd like to make is that there's still confusion, I think, about what happens to e-mail.

First of all, people who phone in can get confirmation through a phone, so there's no e-mail at all. For those who want to register via e-mail, there's a procedure about how you verify this is the right e-mail. Once the verification is gone, the e-mail does not appear on the list.

• (1610)

Mr. Brian Masse: That's not the point.

Mr. Michael Binder: It is the point, because nobody—

The Chair: Brian, we're going to put you on the list.

Mr. Michael Binder: And again, on the PIPEDA, one can argue that this list is not personal information. Personal information is associated with a name, a place, etc.

I can tell you there's going to be a long debate about this. The whole idea right now.... We'll get into the marketing. The telemarketing association itself insists that they share their list, the internal list that they manage right now. Telemarketers that want to operate out of the U.S. into Canada must use their do-not-call list. Because otherwise, the whole idea for the do-not-call list does not work.

Larry, over to you.

Mr. Larry Shaw (Director General, Telecommunications Policy Branch, Department of Industry): Very quickly, I think the system is well understood with respect to a telephone call-in. You call in to a 1-800 number; you go through it. They have the automatic identification number, and they can confirm that the number is in fact the number that's going on the list. You're asked to confirm it by pressing on your keypad. That's very clear, I think.

The other way is via a web address, an Internet address. You go in and you provide your telephone number. Of course they have your e-mail address, because you've sent it to them. They send an e-mail back to you with the telephone number on it, confirming that it's the telephone number. You click on a link that is embedded within the e-mail that is sent to you. Once you've confirmed that, the e-mail is sent back to the registrar, and the number and the date go on the list.

That is the end of the e-mail. The e-mail address is then scrubbed. There is absolutely no reason for it to be maintained, so it's gone. It does not appear anywhere.

The Chair: I'm sorry, Mr. Shaw....

Mr. Larry Shaw: The only other point is the one that I made previously.

Let me just back up one second. On the do-not-call list, there is no difference in the data that appears, whether you're registered via telephone or via the Internet. There is no difference in the data that's on the do-not-call list.

The Chair: I think we can go straight to questions.

Again, I would ask your indulgence. Since this is Brian's motion, we'll start with Brian, and then go from there.

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

First of all, Mr. Chair, I have a little bit of frustration here. I asked for this in writing a number of times, and we still—

The Chair: I imagine they're going to use the same system as the U.S.

Mr. Brian Masse: Well, we imagine. Still, at the bottom it says, "U.S. Do Not Call registration process"; it doesn't say "the process that we are definitely going to be abiding by". I would have expected that. It still doesn't have that.

But more importantly, Mr. Chair, I'd like to know how long it's going to take them before the e-mail and the information is scrubbed, and what standards they're going to use for scrubbing, because the fact of the matter is, regardless of it—and this is the whole point of it—we lose control of certain elements of time about that

information. If you're telling me, despite what the Privacy Commissioner.... I understand she's saying this is low-risk, but at the same time in her last testimony she said this is a risk. I've sent it in to you. How quickly does my e-mail get scrubbed by you, then? How does it get done, and how does it protect against a system we have no knowledge of?

Mr. Larry Shaw: My understanding is it is scrubbed right then, as part of the process. There is absolutely no reason not to scrub it then. So it is scrubbed immediately. Once the registration is finished, once the number is entered on the database, it's scrubbed as part of the process.

Mr. Brian Masse: We've had other discussions previously in this committee about how long it takes to get on the system and have a response. You're saying that if I e-mail in right way that I'm going to get an automatic response back, and it's going to be scrubbed immediately?

Mr. Larry Shaw: Yes, as quickly as you can reply to it.

● (1615)

Mr. Brian Masse: As quickly as you can reply to it.

Mr. Larry Shaw: But you have to reply to it.

Mr. Michael Binder: I would just like to add that you have to remember you're trying to manage a database of 92 million numbers. This is not a manual system. It's pretty much automatic, and that's what's causing it.

The last point I would like to make is that we have to remember always that consumers give that number with consent and they want that number to be shared with any telemarketer, whether Canadian or American. We understand the concern about that, but I don't think it's directed at this particular list. It's on many other lists—and we're going to have other occasions to debate this—but I don't think it's on this particular list.

Mr. Brian Masse: My job is to move this issue as fast as I can for everything. We're going to be waiting for legislation to come back, and maybe the President of Treasury Board might actually act on something. Anyway, there's no point in....

The Chair: Thank you, Brian.

Go ahead, please, James, and I have no one else on the list after that.

Mr. James Rajotte (Edmonton—Leduc, CPC): Thank you, Mr. Chairman.

Mr. Shaw, I want to thank you for this. I do want to just clarify. I think you addressed it at the last meeting, but could you take me through it again? If I'm a telemarketer, once the list is established, just sort of walk us through the steps. Do I go to a secure website and compare my numbers with the numbers that are on this list? Or does the list even transfer it over and I keep that and scrub it every three or six months? Can you walk us through that process?

Mr. Larry Shaw: Yes. Under the existing American rules, telemarketers have to update their list at least once every 30 days. The registrar keeps the list as current as they possibly can with new entries, and at least once every 30 days the telemarketer has to go and download the new list. They don't compare it to the old list; they just download the new list, and from then on that is their do-not-call list. So they are not allowed to call numbers on that list.

Mr. James Rajotte: They would download it from a general website.

Mr. Larry Shaw: From a database. Quite frankly, I don't know exactly how they do that, because it's a pretty big database, but I assume it's just done over the web.

Mr. James Rajotte: Okay. Thank you.

Mr. Larry Shaw: Okay.

If I may, Mr. Chair, there were two questions that were asked last week. I was able to talk to the Canadian Marketing Association and get some confirmation on the use of the CMA list and the American list.

One question, I believe, was from Mr. Rajotte, who asked whether Canadian firms telemarketing into the U.S. respect the list. The answer is yes, they do. They have access to it, and they respect it.

Are CMA members, when they are using American-based call centres or telemarketers to call into Canada, obliged to use the CMA list? The answer is yes, they are obliged to use it and not call people on that list.

I just wanted to confirm that, as well.

The Chair: Colleagues, you've had time to consider the testimony today. I'm going to call for a vote on Brian's amendment, NDP-C.

(Amendment negated) [See *Minutes of Proceedings*]

The Chair: Thank you, Brian, for your efforts.

Mr. Brian Masse: Thank you. I appreciate the committee actually pursuing this.

The Chair: It's a good subject and it needed airing.

We've had amendment CH-E.1. We did a straw vote, where we incorporated for the charities Income Tax Act subsection 248, charities, as exempt. We incorporated the business relationship—what we called the Rajotte-Chong version. We had a good airing of that as well.

If there is nothing further to do, I will ask somebody to move that. Maybe it would be appropriate for James to move amendment CH-E.1.

Is there any debate, Paul?

Mr. James Rajotte: I will move it.

[*Translation*]

Mr. Paul Crête: Mr. Chairman, I just want to inform you that I will move a subamendment so that, with respect to charities, subsection 149(1) be considered, rather than subsection 248(1).

[*English*]

The Chair: Okay, is there any debate? Paul is proposing basically the non-profit version. He wants to get on record as putting it to the

committee. We had a straw vote, but I respect that he wants to have a vote on his version of the charities exemption.

So your motion is, if I may phrase it for you, Paul—

• (1620)

[*Translation*]

Mr. Paul Crête: That means replacing subsection number 248(1) with subsection number 149(1).

[*English*]

The Chair: Okay, is there any further debate on that?

(Subamendment negated) [See *Minutes of Proceedings*]

The Chair: Thank you, Paul.

Back to the main motion, unamended, as it was proposed. Do I have a mover?

Mr. James Rajotte: I so move.

The Chair: James Rajotte is moving amendment CH-E.1. This is the amendment we straw-voted on the other day.

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

The Chair: With that, we're going to proceed to the concluding steps in Bill C-37.

(Clause 1 as amended agreed to on division)

(Clause 2 agreed to on division)

The Chair: Clause 2.1 has already been carried. I'm trusting Susan on all this.

(Clause 3 agreed to on division)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the committee order a reprint of the bill as amended for use of the House at report stage?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Just to be sure, did I make any mistakes there?

Ms. Susan Baldwin (Procedural Clerk): Not that I'm aware of.

The Chair: Good.

Congratulations, colleagues.

Now we're going to suspend and go to an in camera meeting of the committee. John or Paul wanted to raise something. It's probably committee business.

Apart from members and members' staff, we have to invite others to leave the room.

Mr. Binder, Mr. Shaw, and Ms. Walter, we'd like to thank you very much for your patience and help over the last number of meetings. We look forward to seeing you again on some other important issue.

[Proceedings continue in camera]

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

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

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

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.