



House of Commons  
CANADA

# Standing Committee on Industry, Science and Technology

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INDU • NUMBER 065 • 1st SESSION • 39th PARLIAMENT

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EVIDENCE

**Monday, June 4, 2007**

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**Chair**

**Mr. James Rajotte**

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## Standing Committee on Industry, Science and Technology

Monday, June 4, 2007

• (1530)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I'd like to call to order meeting number 65 of the Standing Committee on Industry, Science and Technology.

Pursuant to the order of reference of Thursday, May 17, 2007, we are studying Bill C-47, an act respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trade-marks Act.

We have two sessions today. The first is from 3:30 to 4:30, with representatives from the Department of Industry.

We have three representatives. First, we have Ms. Susan Bincoletto, the director general of the marketplace framework policy branch. We've been keeping you very busy, Ms. Bincoletto. Thank you for coming before us again.

We also have Ms. Julie D'amours, counsel with legal services. Welcome.

In place of Douglas Clark, we have Darlene Carreau, counsel in legal services as well.

Ms. Bincoletto, I think you'll be doing the address today, so begin any time.

Thank you.

**Ms. Susan Bincoletto (Director General, Marketplace Framework Policy Branch, Department of Industry):** Thank you very much, Mr. Chair.

I'm very pleased to be here today to begin the examination of Bill C-47, Olympic and Paralympic Marks Act.

The legislation is being proposed for two main reasons: first, to follow through on a commitment to the International Olympic Committee, the IOC, during the bid phase of the 2010 Winter Games to adequately protect the Olympic and Paralympic brand, if the games were awarded to Vancouver; second, to enable the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games, commonly and from now on called VANOC, to maximize the private sector participation necessary to make the games a financial success.

My remarks today will situate Bill C-47 in its larger context, explain the type of protection it offers, and compare it with the legislative approach taken in other countries that have hosted or will be hosting the Olympic and Paralympic Games.

[Translation]

The 2010 Winter Games in Vancouver will have an enormous impact in Canada and around the world. Consider these numbers: 5,000 Olympic athletes and officials and 1,700 Paralympic athletes and officials. At least 80 participant countries in the Olympics. More than 40 participant countries in the Paralympics. We are expecting 10,000 members of the media and 3 billion television viewers.

These games will be an opportunity to showcase Canada to the world and will result in a significant sport, cultural, social and economic legacy for Canadians. To this end, the federal government has committed \$552 million to deliver a successful 2010 Winter Games, including \$290 million for sport and event venues. This financial commitment extends to federal essential services such as security, health and immigration, as well as border and meteorological services. It will include a Legacy Endowment Fund that will provide operational funding for 2010 Winter Games sporting venues and fund high-performance and amateur sport programming at those venues and elsewhere in Canada.

• (1535)

[English]

But the federal government's financial contribution is only one part of funding necessary to make these games a success. Increasingly, events of this magnitude are dependent on private sector support to be financially viable. Bill C-47 will provide the marketplace framework necessary for that support to flourish, while safeguarding legitimate business practices and non-commercial endeavours.

I'd like to take a few minutes to talk about the importance of corporate partners to the Olympic Games. Over the past decade, corporate participation has become a significant means of generating revenues for events of all kinds, be they local, regional, national, or international in scope. Businesses sign on as partners because they support the event's goals. They sign on because they recognize the value of being associated with an event, in terms of their own image and the potential impact on sales.

The foremost example of the value and importance of corporate partnership is the Olympics. The global audience attracted to the Olympic Games and increasingly to the Paralympics is of obvious interest to companies that want to reach current and potential customers.

The Olympic movement has developed a sophisticated approach to working with those companies. The IOC and national bodies such as the COC, the Canadian Olympic Committee, work closely with companies and organizations that want to become partners of the Olympic Games and national teams, and that want to use Olympic symbols of various kinds in corporate marketing and communications.

[*Translation*]

Companies compete to earn the right to be official partners in particular product categories for the entire Olympic movement, for a national Olympic body and for specific games. Companies compete to receive licences that allow them to put Olympic symbols and marks on products. They compete for the right to produce items with Olympic themes, for something as simple as a souvenir T-shirt, or as sophisticated as a marketing campaign focused around an entire product line.

These partnerships are now a critical part of the business plans for Olympic and Paralympic Games. In the case of the 2010 Winter Games, VANOC has projected that it will receive 40% of its revenues, or \$725 million, from games-related partnerships and licensing agreements.

Now, I would like to take a few minutes to review some of the key measures in Bill C-47.

[*English*]

I should note at the outset that the current Trade-marks Act offers some protection now to Olympic organizers for Olympic symbols, logos, and words. However, the government is concerned that the Trade-marks Act may not fully address the legitimate needs of Olympic organizers in responding to threats to their intellectual property rights.

The government is likewise concerned that the current legal framework does not provide sufficient protection against so-called “ambush marketing”, an increasingly common phenomenon in which non-partner companies find ways to falsely associate their business with the games, in the public's mind.

The first thing that Bill C-47 does is identify what Olympic and Paralympic words, symbols, and other indicia it serves to protect. These can be found in schedules 1 and 2 of the bill.

The next thing it does is identify VANOC, the COC, and the CPC, the Canadian Paralympic Committee, as the entities authorized to exercise the rights and remedies associated with these marks, or to license those rights to their various corporate partners where appropriate.

Bill C-47 then sets out two main types of conduct that it would prohibit. The first such prohibition applies to the use of an Olympic or Paralympic mark in connection with a business, or a mark that is likely to be mistaken for one, without the consent of VANOC until 2010; and after that, for the marks found in schedule 1, consent would have to be given by the COC or the CPC.

The second such prohibition applies to the so-called ambush marketing behaviour I mentioned earlier. It prohibits non-partner companies from behaving in a manner that is likely to mislead the public into believing that they or their products or services are

endorsed by, or otherwise commercially associated with, the games, VANOC, or the COC or CPC.

• (1540)

[*Translation*]

Beyond that, the bill sets out the various remedies available in the event these two prohibitions are not respected. For the most part, these are the same remedies available to rights holders under the Trade-marks Act, with one noteworthy exception, as I'm about to explain.

Trade-mark litigation is often lengthy and it can be very difficult to convince a court to put a stop to the allegedly infringing activity pending the outcome of the trial. Given the short duration of the Games, and the tremendous potential for economic harm during that period, it is important that speedy interim remedies be available to immediately stop this type of misconduct. Bill C-47 thus provides that a rights holder, namely VANOC, the COC/CPC or a corporate partner, may apply to the Court for an injunction against an alleged infringer, or ambush marketer, pending trial, without having to prove that it would suffer “irreparable harm” if the impugned activity continues. Having to prove “irreparable harm” is the single greatest obstacle in convincing a court to grant this type of remedy in ordinary trade-mark cases.

However, this is a time-limited exception which will expire the same year as the Olympic flame is extinguished in Vancouver.

So, under Bill C-47, when a person or company seeks to profit improperly from the 2010 Winter Games, the legal framework will be in place for VANOC to protect its rights—and the rights of its partners and licensees—quickly and effectively.

[*English*]

As I've explained, Bill C-47 gives the designated Olympic organizations the authority to protect the Olympic brand from unauthorized and illegitimate use. But this protection is neither overly broad nor oppressive.

Most importantly in this regard, it should be understood that Bill C-47 only applies in a commercial context. For example, the use of a protected Olympic or Paralympic mark is only prohibited when it is “in connection with a business, as a trade-mark or otherwise”. This “in connection with a business” phrase was taken from the Trade-marks Act and has been interpreted rather strictly by the courts. In order for the use of a mark to qualify as infringement under the act, its primary purpose must be commercially driven. The use of a mark as a tool to promote goods or services in the marketplace would be the obvious example.

This is important because some of the news coverage of Bill C-47 suggests that it could apply outside a commercial context, to stifle artistic works, or to prevent individuals from parodying the games. That is not the government's intent, as evidenced by the “in connection with a business” proviso and the inclusion of a “greater certainty” provision, which confirms that the use of an Olympic or Paralympic mark in a news report or for the purpose of criticism does not constitute infringement under the bill.

So if someone wants to create a piece of art for non-commercial purposes, to criticize the Olympic Games in a sketch, to publish an editorial cartoon, to make derogatory comments on a website or through a newspaper article, they can refer to an Olympic mark or include a representation of an Olympic logo, as they see fit.

In addition, the bill contains a grandfathering provision that prevents it from applying to anyone who began using a protected Olympic or Paralympic mark before March 2, 2007, the date of the bill's introduction in this House. As a result, persons or companies that were already using an Olympic or Paralympic mark in connection with a business will continue to be able to do so without fear of facing legal proceedings under the bill, provided the use in question relates to the same products or services or the same class of product or service as before.

• (1545)

[Translation]

Similarly, this bill contains a number of safeguards to protect the legitimate use of an Olympic or Paralympic mark in a business context. For example, a person may use such a mark in an address, in the geographical name of their place of business, or to the extent necessary to explain a good service to the public.

It also bears mentioning that Bill C-47 has a time-limited aspect to it. The special enforcement measures it confers lapse December 31, 2010, once the Games' year is over.

Finally it is important to note that VANOC has committed to use its intellectual property rights under the bill in a discipline, sensitive, fair and transparent manner. It will develop guidelines which describe the criteria and process VANOC will apply in determining what type of activities it considers problematic under the bill.

I will conclude my remarks with a brief comment on the international context of Bill C-47.

It is important to remember that Canada is not out of step with the international community with this proposed legislation. We are simply reflecting best practices established by other host countries of recent and upcoming Games.

Moreover, Canada already passed time-limited legislation similar to Bill C-47 for the 1976 Montreal Games, which enabled the organizing committee to act swiftly in the face of potential commercial misuse of the Olympic symbols.

[English]

That kind of legislation became the norm during the 1990s. The United States, Australia, Greece, and Italy have all strengthened the legal protection for Olympic-related intellectual property rights. Furthermore, the upcoming games in London and Beijing are already the subject of such protection under the national laws of those host countries.

As I said earlier, partnerships have become a fundamentally important source of revenue for major events, particularly international sporting events. And governments around the world have recognized the need to protect the IPRs of organizers in order to ensure that those events attract the necessary revenues from partners

and licensees. The government believes Canada can and should do the same through Bill C-47.

Thank you for your attention, and I'm open to your questions.

**The Chair:** Thank you very much for the presentation, Ms. Bincoletto. It was very good.

We'll start with questions from members. The first round is six minutes.

We'll start with Ms. Fry.

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Thank you very much for your very well-documented bits of information. It answered a lot of the questions I wanted to ask. You've answered the questions on blogging, the use of the Internet, art, cartooning, and that sort of thing.

I want to preface my question with the statement that as one of the members from British Columbia who pushed very hard to get the games to Vancouver and British Columbia and who supports the games extremely well, I have had small businesses in my riding that have been concerned about one specific piece, which is the number of items you have added to the wordmark or trademark pieces. Some of them are words like "game city". While Vancouver and Whistler are game cities, and someone may want to refer to it as such in anything they put forward, it's a pretty broad use of the words "game city".

Lots of people are concerned not so much about the pieces you've added that come about in the bill, the specific words and phrases, but the fact that you have now changed some of the legislation. In the past, one would have to ensure that people had created irreparable harm according to the courts before you could accuse them of infringement or before you could seize their property or stop them from doing this. Lots of small businesses are concerned that by taking this away, you have taken away any redress or address they may have with the courts if they feel they have been wrongly charged.

I understand. I know the people at VANOC, and I know they have said they would make sure they're very fair in using this piece of legislation. But I think there is a concern.

If small businesspersons have to go to court in order to recoup whatever assets have been seized and they don't have that kind of money, then they've lost a ton of money. It may be a small business where somebody is selling hot dogs or t-shirts or it may be a pizza parlour calling itself the City Sky Pizza Parlour, or Game City Pizza, or whatever. There's a real concern from small businesses that this could cause a problem. Could you respond to that for me please?

• (1550)

**Ms. Susan Bincoletto:** Thank you very much for your question.

This bill was developed with two objectives in mind. One was to ensure the sponsorship partnership was secure for a period of time. We were also very much mindful of legitimate business, especially small business concerns, with this added protection.

It is why we've secured or safeguarded the prior use, prior to March 2, 2007, for existing businesses that use Olympic marks. If small businesses currently in operation in the Vancouver area have been using certain Olympic marks and have no intention of changing the way they will use their goods and services, this bill will not apply to those businesses. It means the waiving of the irreparable harm test will not be available to VANOC under those circumstances.

That's my answer to the impact on small businesses.

The reason we felt it was important to waive one of the three tests that go before a court to determine whether or not there is infringement is because the games are of very short duration. During that time, there could actually be a lot of damage done to the sponsors and to the organizers of the games.

Litigation takes a long time, and it is therefore important for the courts to actually be able to stop an offending activity immediately. Again, it is to be stopped for the duration of the games, and it will end at the end of the year that the games end as well. The waiving of irreparable harm is not taken lightly.

**Hon. Hedy Fry:** In the bill, words like “twenty-first” fall under your legislation; “tenth” falls under the legislation; “medals” falls under the legislation; “Vancouver” falls under the legislation. So if someone wanted to use those words past the March 2 deadline, just in anything they do—There may be somebody who has a little house that they want to put up as a bed and breakfast during the games. They live on the Sea to Sky Highway, and they call their little bed and breakfast Sea to Sky Bed and Breakfast, because that's where they live.

I'm not talking about corporations trying to muscle in on corporations that are sponsors. I understand all of the rationale for this and how important it is, and that there is precedent for it. My real concern is that these are the kinds of people who may have put \$2,000 into fixing the bathrooms in that little guest house, and now that's going to be seized, and they will have no recourse to the law. This is the concern that some people have: that protecting the games, which is a very important thing to do, could inadvertently hurt small people. Some of these words are pretty ordinary words. “Twenty-first”—people say the twenty-first century. People talk about “Vancouver” all the time.

• (1555)

**The Chair:** Thank you, Ms. Fry.

Ms. Bincoletto.

**Ms. Susan Bincoletto:** You're referring to schedule 3 of the bill. I think it's worth taking a few minutes to explain what schedule 3 is about.

The prohibition in the bill refers to schedule 1 and schedule 2. The marks for which a use and adoption are prohibited are the words that are found in schedule 1 and schedule 2.

Schedule 1, if this bill passes, would have permanent protection. Those are the words that a lot of our international partners have protected around the world, those fortunate enough to have hosted the Olympics and Paralympics. Those are more generic words relating to the IOC, so the Olympic movement.

Schedule 2 has temporary application. The protection of those words and symbols will expire at the end of 2010. Those are words that are linked to the Vancouver games more specifically.

So schedules 1 and 2 list the types of protections.

Schedule 3 is intended to be an indicator, a help for a court. It is not a prohibition. You will not be prohibited from using them, but if the judge or court is faced with a case of ambush marketing—i.e., an unfair association by a business or a company with the games—the court can look at schedule 3 and take those terms into account in determining whether or not ambush marketing has occurred. That is all. It is simply an indication and a help, a guidance for the court to determine whether or not ambush marketing has occurred.

**The Chair:** Thank you, Ms. Fry.

We'll go to Monsieur Malo.

[*Translation*]

**Mr. Luc Malo (Verchères—Les Patriotes, BQ):** Thank you, Mr. Chairman.

A moment ago, in your presentation, you clearly stated that people or organizations who want to use Olympic trade-marks or symbols protected by the bill for the purpose of creating a parody or merely a work of art are protected, which means that they are not affected by the bill.

Let me give you a more concrete example. Tell me whether or not this corresponds to your statements. Let us say that a publisher wants to publish a special issue of a magazine on the Olympic Games. Can he do that without violating the provisions of the bill? For example, can a publisher who regularly produces a humour magazine publish a special issue on the Olympic Games without being subject to the bill?

**Ms. Susan Bincoletto:** Could you just give me a second?

**Mr. Luc Malo:** Certainly.

[*English*]

**The Chair:** Ms. Bincoletto.

[*Translation*]

**Ms. Susan Bincoletto:** I will ask my colleagues from Legal Services to answer this.

[*English*]

**The Chair:** Okay.

[*Translation*]

**Ms. Julie D'Amours (Counsel, Legal Services, Department of Industry):** Your example is very hypothetical. As you might know, trade-mark issues are very much based on facts. Therefore, it is difficult to answer, even if the case is stated in a fairly specific way, because we do not have all the facts. Let us keep in mind that the bill deals with a company's use of terms protected as trade-marks or for other reasons.

• (1600)

**Mr. Luc Malo:** Therefore, a publisher could not use those terms.

**Ms. Julie D'Amours:** Would a publisher use terms that are protected as trade-marks in order to make his publication stand out among other publications on the market and thus promote his company? That is an issue for the courts.

Unfortunately, I cannot give a clear answer to your question. We must keep in mind the issues that the courts will have to consider in examining a company's activities.

**Ms. Susan Bincoletto:** At present, the bill provides an exception that specifically allows criticism. I think that you know this provision, because it has already been discussed. It reads as follows:

For greater certainty, the use of an Olympic or Paralympic mark or a translation of it... in the publication or broadcasting of a news report relating to Olympic Games or Paralympic Games, or for the purposes of criticism relating to Olympic Games or Paralympic Games, is not a use in connection with a business.

**Mr. Luc Malo:** No matter whether it is true or false.

**Ms. Susan Bincoletto:** You raise an—namely, whether one factor would prevail over the other important issue. This will be decided on a case-by-case basis. The judge will have to determine whether the objective is of a commercial nature or whether it has to do with criticism or parody.

**Mr. Luc Malo:** You mentioned a number of historical facts. You showed how similar legislation has been applied in many places in the past. Ms. Fry told you that she had some reservations about small businesses.

Can you tell us whether, in other parts of the world where similar legislation was enforced, small businesses have already been accused of fraudulently using such trade-marks? You could reassure us by clarifying this issue.

**Ms. Susan Bincoletto:** It is very difficult to answer this question. First, we would have to study the foreign legislation and case law to identify cases where small businesses were prosecuted in court as well as cases that were settled out of court. That would involve a lot of work. I have no answer to this question.

**Mr. Luc Malo:** Thank you.

Thank you, Mr. Chairman.

**The Chair:** Thank you.

[English]

We'll go now to Mr. Shipley, please.

**Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC):** Thank you, witnesses. I appreciate your coming.

I was taking a look through some of the information. You say there will be 5,000 Olympic athletes and officials, some 80 countries, 40 participating countries for the Paralympics, 10,000 members of the media, and about three billion viewers. I suspect that with those numbers there will always be some element of concern that arises in making everything flow smoothly. We're trying to bring in those things that will take away some of the issues that will detract from the Olympics. Quite honestly, this is all about the Olympians; it's about the people.

Could you expand on the ambush marketing, for example? I know you mentioned it in a cursory comment, but how much work is actually being done to protect our small businesses prior to this happening, so those concerns don't come about the small family

businesses, as Ms. Hedy Fry has indicated? We don't want to capture those people in a problem. What education program is taking place to help raise the awareness of ambush marketing and protect the Olympic brand?

• (1605)

**Ms. Susan Bincoletto:** As I said earlier, this bill starts kicking in, when and if it passes, for any new uses past March 2, 2007, so any currently existing businesses that have been using certain marks that would be protected under this bill would not be affected by the bill.

That would apply as well for ambush marketing. The application of the ambush-marketing provision would kick in after the coming into force of this bill and would end at the end of December 2010, so it is for a period of time. For anything that happened before that, the remedies available under this bill would not be available to the VANOC for the period of the coming into force until the end of 2010 or the COC and CPC afterwards.

It is an extraordinary means for a finite period of time. It's a snapshot of additional protection that is being granted to the organizing committee in order to secure the marketplace from unfair practices by commercial activity that has not really sought to become a full partner in the Olympics game.

Before March 2, this bill does not apply.

**Mr. Bev Shipley:** What's the education program that you—

**Ms. Susan Bincoletto:** Well, the government sets this framework. This is a piece of legislation that will be out there. This provides for some rights and protections for private parties. The government is not in the business of educating private parties as to how this bill will work.

You will hear from VANOC after us. You will hear how they intend to use this additional protection and these remedies that would be provided under this bill in order to educate small businesses and those who may be affected by it to clarify what is acceptable and what is not.

**Mr. Bev Shipley:** From your perspective, then, how can we get some assurances to know that VANOC will actually use these special or additional powers judiciously?

**Ms. Susan Bincoletto:** Well, again, you will hear from VANOC after me that they will publish—

**Mr. Bev Shipley:** Yes, but I'm asking the industry where that protection's going to be, so that the people know that the VANOC will.

**Ms. Susan Bincoletto:** Mr. John Furlong, the CEO of VANOC, has written to the Minister of Industry to confirm his and VANOC's commitment to actually publish guidelines that will allow the participants in the marketplace to better understand the process for exercising these new rights in a transparent and fair manner, a manner that will clarify that they are not going to be abusive. They will be better positioned to tell you how they plan to conduct that, but the commitment has been made to the Minister of Industry in this regard.

**Mr. Bev Shipley:** Thank you.

**The Chair:** Thank you, Mr. Shipley.

We'll go to Mr. Masse.

**Mr. Brian Masse (Windsor West, NDP):** Thank you, Mr. Chair. Thank you to the witnesses for appearing here today.

One of the things raised as a concern is the issue around exemptions. Wouldn't it make sense to have, for example, exemptions for aboriginal bands and not-for-profit community groups that have been traditionally using inukshuks and other symbols in part of their promotions on a regular basis? Maybe a third party, such as the City of Whistler or the City of Vancouver, could then issue licences or have a fee for licences for those groups. I understand that as the legislation is written right now, there's nothing compelling VANOC to have to actually deal with that. I'm sure they would probably want to do so, but given what's going to be descending on the Olympics, having an independent ability outside the process to issue those licences might be beneficial for all parties involved.

**Ms. Susan Bincoletto:** First of all, not-for-profit institutions that are not connected with a business wouldn't fall within the scope of this piece of legislation. Therefore, we'd have to look at it on a case-by-case basis. In certain cases community centres or aboriginal groups that don't conduct business per se might not fall within the scope of the legislation; therefore, there might not be any need for an exception.

Second, this is intellectual property; intellectual property, generally speaking, belongs to the rights holder, and the rights holder has the exclusive right to determine what he or she wants to do with it. To that extent, I think this mirrors conceptually what intellectual property is all about. The Olympic brand belongs to a few, and therefore it is up to them to decide how best to license that brand.

• (1610)

**Mr. Brian Masse:** Yes, but there is a fine line between common use of the English and French languages and aboriginal symbols in intellectual property. This is the challenge. That's why I think some of you are looking for independent processes.

I want to quickly move on. I only have a few minutes to touch on a few issues.

Concerning the sunset clauses, I know there is one for schedule 2, but why not for schedule 3, as well? Why wouldn't there be a sunset clause in schedule 3?

**Ms. Susan Bincoletto:** Schedule 3, as I explained earlier, applies as a guide for the court to determine whether there has been ambush marketing. The court can decide to disregard completely the words that are in schedule 3, or it can use it as a guide to determine whether that, in combination with other factors, could actually make the case that there has been ambush marketing.

The ambush marketing provision ceases to exist at the end of December 2010. Therefore, the value of schedule 3 ceases to exist at the end of 2010 also, because one goes with the other.

I don't know if, technically, schedule 3 also ceases to exist.

**Ms. Darlene Carreau (Counsel, Industry Canada, Legal Services):** Well, it stays there and can be reactivated, but as it stands now, by regulation, the ambush marketing ends December 31, 2010, and so will schedule 3.

**Mr. Brian Masse:** So you're saying that it's redundant. I want absolute assurances. You just said it could be reactivated.

**Ms. Susan Bincoletto:** It could be for future games. Let's assume that 10 years from now or 15 years from now we're fortunate enough to have another Olympic Games in Canada. Then we could reactivate certain sections of the bill to make them relevant for the new games.

But as of December 31, 2010, by regulation, the protection granted under the ambush marketing provision will cease to exist, and therefore, the relevance of schedule 3 will also cease to exist, because schedule 3 is only there to enable ambush marketing.

**Mr. Brian Masse:** I have two other quick questions. First of all, one of the things that has been raised is electronic media and having a specific inclusion for them. I know you've discussed some of the things, but blogging and other electronic media do have symbols and so forth. Wouldn't it be worthwhile to actually enshrine that in the bill?

Second, has there been any concept of creating a kind of independent appeal process? For example, within 48 hours, if there was a questionable practice or use brought up, it could be done independently so VANOC isn't seen as being the judge and jury in the use of any of the symbols when questions are raised about them out there in the public.

**Ms. Susan Bincoletto:** We haven't looked at that, because we felt that the judicial system is there to do just that. If there is litigation, then the courts and the judge will decide if there has been frivolous litigation or whether there are actually grounds for an infringement case.

**Mr. Brian Masse:** Might that process, though, hurt someone who is in a process in which they feel they're legitimately using the symbols correctly and so forth? Wouldn't going through the legal process put them at a disadvantage, as opposed to having some other process? Throwing it all on the courts as a strategy is maybe....

You know, why not maybe have some type of appeal process beforehand so it can be dealt with during the time period of the games and have a reporting process back in a due-diligent time?

**Ms. Susan Bincoletto:** That could be seen as being a little burdensome in terms of adding an additional step. I think what we are doing is relying on the natural venue, which is the courts.

I think you will hear from VANOC that they will put in place a mechanism so they can help educate people as to what they should or shouldn't be doing with marks, symbols, and logos that basically belong to them. So it will clarify the future use of those marks.

**Mr. Brian Masse:** I think part of the difficulty we're having right now is that we're waiting to hear about that—

**The Chair:** It's your last question.

**Mr. Brian Masse:** —and you don't even know what that is. I think that's the problem we're having right now. We would expect the government to have that type of answer now, as opposed to it being drawn out later on.



•(1615)

**The Chair:** Okay. Thank you. That will be a comment, then.

We'll go to Mr. Byrne.

**Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.):** Thank you very much to our witnesses.

This law appears to be a very effective tool to bring a set of rules or order to the Vancouver Olympic Committee's process for financing their games. It allows quick action on the part of the Vancouver Organizing Committee to prevent Canadian-based businesses from commercially capitalizing without proper license agreements on the trademarks.

Say I own a small business and I've just ordered 185,000 T-shirts from Southeast Asia and I'm going to bring them in through the port of Halifax and I'm going to distribute those T-shirts through a network of students right across Vancouver Island. How does this law prevent me from doing that?

**Ms. Susan Bincoletto:** There are remedies in this law that are very similar to what is in existence now under the Trade-marks Act. I will ask my colleagues from the justice department to explain what kinds of measures are put in place to enable the Ministry of Public Safety, which is the ministry responsible for the border services agency, to actually detain and stop further distribution of allegedly infringing goods.

**Ms. Julie D'Amours:** We're assuming that the T-shirts are infringing, bearing a mark contrary to schedule 1 or 2. Basically, in a case like that, VANOC or the COC or the CPC content by VANOC may apply to the court to get an interim order that will direct the Minister of Public Safety to stop the cargo of T-shirts at the port of Halifax and detain them for a while.

**Hon. Gerry Byrne:** Can I interject with a quick question?

**Ms. Julie D'Amours:** Sure.

**Hon. Gerry Byrne:** VANOC would actually have to be aware that they are entering through the port of Halifax or Vancouver. Let's say Halifax. It's a more appropriate example, given that customs agents may be more alert to it in Vancouver. So VANOC would have to be aware that they're entering into the port of Halifax. They would then have to put forward the necessary prescription through the courts. In essence, there's a prescription against Canadian.... This law provides increased protection from Canadian-based infringers, but not necessarily against international-based infringers of trademark law.

**Ms. Julie D'Amours:** There is a border measure in place here. VANOC would have to provide enough evidence to get that court order. Obviously, they would have to know that the shipment is coming in to the port of Halifax and must be able to provide some level of detail to the Canadian Border Services Agency in order for them to be able to look for the shipment and detain it, and for the court to have sufficient grounds to give the order for a detention to take place. Of course, there's a level of uncertainty there.

**Hon. Gerry Byrne:** Ms. D'Amours, I appreciate the answer, but basically what it says to me is that there's a set of rules that would apply for the international shipment that would be a little bit more onerous than say for VANOC to come in and say, for example, a corner store is selling those T-shirts with the inscription, with the

logo, the trademark on them. Very quickly, VANOC could move in on the corner store in downtown Victoria or Vancouver and seek a remedy. But it's a little more difficult to do it from an international perspective, if I'm reading it correctly, using those—

**Ms. Julie D'Amours:** Yes, simply because of the factual situation.

**Hon. Gerry Byrne:** Can I ask—

**Ms. Susan Bincoletto:** But in the Canadian cases, they still have to go and apply for an order, so it's the same thing.

**Ms. Julie D'Amours:** It's that they have more evidence with the corner store.

**Hon. Gerry Byrne:** Or you can bring in a large order across the border. That's the point.

The second issue is if this is sustainable law, should we also enact similar legislation for special events, momentary events, events such as the *Ville de Québec* commemoration, the 400th anniversary commemoration, because of course that too will be based on corporate sponsorships? There will be a trademark established, there will be a logo. Vancouver, the Olympics being a high-profile event.... There are others as well, obviously.

•(1620)

**The Chair:** Ms. Bincoletto.

**Ms. Susan Bincoletto:** This bill came to be created because the IOC requires that a host city for Olympic or Paralympic Games protect its marks, its indicia, and protect against ambush marketing. That's why we've done it in this case. There was an international commitment from the government to actually provide adequate protection to Vancouver in order to get the games. So we purposely left it Olympics-specific, because there is a danger that if we enlarge it, then concerns that have been expressed in terms of “need to”, “for exceptions”, and not to unduly interfere with legitimate businesses may increase in size. So on the basis of our commitment to the IOC, on the basis of discussions with VANOC, which has made a case to us that it needed additional protection for the specific event, we are making this proposal in this bill to apply specifically to the Olympics.

**The Chair:** Thank you.

Thank you, Mr. Byrne.

We'll go to Mr. Van Kesteren.

**Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC):** Thank you, Mr. Chair.

Thank you, witnesses, for coming again.

It has been charged that the bill lowers the bar for interlocutory injunction. Why is that?

**Ms. Susan Bincoletto:** I don't have my documents in front of me. I'm going to have to turn to my justice department lawyers, who have become indispensable in these cases.

You have to have a serious issue, you have to have balance of convenience, and you have to show irreparable harm. Those are the three tests. Again, it's a question of balancing the interests. You cannot simply decide that you want to stop somebody from selling T-shirts without having had a proper court look at the situation and determine that there has been abuse.

One of the most difficult tests in a number of intellectual property cases is showing irreparable harm. It is a lot easier to simply say you can continue to do that, but at the end of the day you will pay the penalty, and so be it. In the case of the Olympic Games, the threat of potential infringement is the greatest during that period, from February or even before. As soon as Beijing is over, all eyes will be on Canada, and the threat for infringement is going to be greater.

We need to have a special remedy to allow the activity to cease immediately. Waiving the irreparable harm is eliminating a big obstacle for the rights holders to actually stop the infringing activity, but it does not eliminate the other two tests, in which they have to show that it is a serious issue—in other words, they can't frivolously take everybody to court and stop everybody—and there has to be a balance of convenience so that the other party has the right to use the process fairly.

**Mr. Dave Van Kesteren:** Have other countries followed this example? Are we following the example of other countries in this same procedure when they host the Olympic Games?

**Ms. Susan Bincoletto:** Yes, there have been a number of countries that have waived the irreparable harm test: Australia, New Zealand, the U.S.

**Mr. Dave Van Kesteren:** Britain?

**Ms. Susan Bincoletto:** Has the U.K.?

**Ms. Julie D'Amours:** Yes, I believe so.

**Mr. Dave Van Kesteren:** I get your drift.

What about the public education campaign that VANOC plans to roll out for the trademark enforcement? Can you tell us a little bit about that?

**Ms. Susan Bincoletto:** I think it would be more appropriate for you to ask the question to VANOC, who is just behind me.

But again, as part of the deliberations surrounding this bill, I think we took the commitment from VANOC to actually conduct that kind of education and to use educational tools prior to litigating very seriously. This is a piece of legislation that would help them, but they wouldn't necessarily use this to abuse their position.

**Mr. Dave Van Kesteren:** We can ask them that.

I just want to follow up on Mr. Byrne's concerns. Don't we have existing laws in place in the trademark laws to protect us from those types of scenarios?

**Ms. Susan Bincoletto:** In the Trade-marks Act there is currently trademark protection, but trademarks are always challengeable. My colleague here from the Intellectual Property Office is in a better position to respond, but briefly, they are always challengeable. So are the official marks challengeable on the basis of whether an organization or entity is a public authority or not.

What we wanted to do in this piece of legislation is to ensure that for a finite list of marks that are included in schedule 1 and 2 there is an unequivocal understanding that those marks are non-challengeable. But they are finite. It is not a long list. It is what other countries have done in the past and has already been done for the 2012 games. It goes beyond, but it is also necessary in order to meet the commitment so that sponsors are secure in their investment.

As for ambush marketing, there is no ambush marketing provision in the Trade-marks Act, so this is new. There is a passing off in the Trade-marks Act, but this is new. This is deemed as being a much more serious and growing problem in the Olympic Games.

• (1625)

**Mr. Dave Van Kesteren:** Thank you.

**The Chair:** Thank you, Mr. Van Kesteren.

We'll go now to Madame Brunelle, please.

[*Translation*]

**Ms. Paule Brunelle (Trois-Rivières, BQ):** Good afternoon, ladies. Thank you for coming.

Essentially, this bill seeks to protect trade-marks. Actually, it has to do with the value and importance of partnerships. If I were a sponsor and if I had paid substantial sums of money, I would not want everyone to be allowed to use the same logos.

Moreover, you stated that 40% of the revenues, namely \$725 million, come from partnerships. If Bill C-47 had not been tabled, have we any idea of what we could get in the way of partnerships? Is it really that crucial?

**Ms. Susan Bincoletto:** I have no figures; this is very hypothetical. I can neither confirm nor deny anything. Perhaps those in charge of the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games, or VANOC, could tell you what kind of problems they would have if this bill were not passed. Obviously, they already have partnership agreements. The people working on the ground are the only ones who could tell you how many more partnerships they would have if the bill is passed.

**Ms. Paule Brunelle:** Perhaps we can look at this in another way. Certainly, some partnerships have already been signed. Do the contracts promise legislation to protect trade-marks?

**Ms. Susan Bincoletto:** I cannot answer that question. Contracts are made between VANOC and certain partners like Bell Canada, that invested \$290 million in this venture. You should put this question to them.

**Ms. Paule Brunelle:** Very well.

You are asking us to pass this bill because the International Olympic Committee wants it. Am I right?

I understand that an interim injunction or an interlocutory injunction can be enforced more quickly, and I think that this is a legitimate measure. We need not wait for the games to be over before taking the merchandise off the market. How will this actually be done? Will we have a T-shirt police watching everyone?

**Ms. Susan Bincoletto:** Generally, these are civil procedures. The owner of the right would have to investigate and determine whether or not there is an infringement.

**Ms. Paule Brunelle:** If a competitor has a similar product and uses the trade-mark.

**Ms. Susan Bincoletto:** That is what I mean. It is not up to the government to enforce the legislation.

**Ms. Paule Brunelle:** Schedule 3 contains the expressions that are permitted, if I understand correctly. Are these the expressions that could be used?

**Ms. Susan Bincoletto:** No, Schedule 3 allows the court to determine whether the case involves ambush marketing by considering other relevant facts. It is a list of terms that the court could study or use to make that determination. The terms are not prohibited, they are terms that the court can take into consideration in various cases. If these terms are also used, they could lead the court to decide that there is a case of ambush marketing.

• (1630)

**Ms. Paule Brunelle:** Now I understand more clearly. I saw the figures "2010" and "XXIst". People should be allowed to use them without getting sued.

**Ms. Susan Bincoletto:** There must also be a combination.

**Ms. Paule Brunelle:** It means that the terms must really be connected to the games.

**Ms. Susan Bincoletto:** Exactly. This means that a single term is not sufficient, there must be a combination of terms.

**Ms. Paule Brunelle:** Very well. Thank you.

[English]

**The Chair:** Merci, Madame Brunelle.

We are at 4:30. I know members may have some more questions, but I believe Ms. Bincoletto and the three of you are back here tomorrow morning at 10 a.m. for clause-by-clause, which will go at least an hour and perhaps longer, depending on how many issues the members have.

We have the other witnesses here, so I am going to suspend and allow the other witnesses to come to the table.

I want to thank the three of you for coming in, for your answers, your presentation, and we will see you tomorrow morning at 10 a.m.

Members, we'll suspend for a minute or two.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1635)

**The Chair:** Members, we call the meeting to order again for the second part of our study of Bill C-47.

We have with us for one hour the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games. We have, first of all, Mr. John Furlong, the chief executive officer; secondly, Mr. Bill Cooper, who is the director of commercial rights management; and thirdly, Ms. Anita Chandan, who is the vice-president of Hunter Licensed Sports Distribution Corporation.

I believe, Mr. Furlong, you'll be making the opening statement and then you'll be open to questions from members.

**Mr. John Furlong (Chief Executive Officer, Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games):** Yes.

**The Chair:** Do you have about a ten-minute opening statement?

**Mr. John Furlong:** Roughly, yes. Is that okay?

**The Chair:** Yes.

You can begin any time, Mr. Furlong.

**Mr. John Furlong:** Thank you, Mr. Chair, and good afternoon, everybody.

I must say, it's quite a privilege to be here to have a chance to speak with you this afternoon with my colleagues, Bill and Anita.

My goal, after having sat at the back of the room, is to try to make you more comfortable with where we are on this bill. We're in the happy position, I think, to be here and to be able to say that we've enjoyed fantastic support here in Ottawa from all of the parties in the House of Commons for a long, long time, and that feels very good to us.

My job is to lead the organizing committee and to make sure that our project is delivered on time and on budget. A preoccupation of mine is to maintain the reputation of VANOC both here in Canada and around the world and to look after our good health as best we can.

The vision we have at Vancouver 2010 is a vision of a stronger Canada because of our passion for sport, for culture, and for sustainability. Our goal, really, is to try not to just deliver spectacular Olympic and Paralympic Games in Vancouver, but to be relevant in every home in the country, to share this experience with all Canadians, to count in all parts of Canada so that this event will be one that touches the soul of the whole country and leaves profoundly positive, lasting legacies that we will enjoy well into the future.

So I thank you again for the opportunity to be here. We're working extremely hard in Vancouver to deliver excellent games that you will all be proud of and will all feel that they were really worth the effort that we're putting in.

In less than three years, the Olympic flame will arrive in Canada and three billion people will watch this project unfold on television around the world. We will have the largest television audience in Olympic history. So now, of course, we're putting that story together so that we have something profoundly important to say. We want to make the country proud, and these are Canada's games. These are your games. They're about all of us and not just about a few of us on the west coast. For us, our inspiration is about trying to do something great for the country and about shaping our international reputation.

Our private sector partners have made unprecedented financial commitments to the games, some of the biggest in Olympic history in any country in the world, including the United States and China. The situation we're in today is that we have this extraordinary partnership between government and the private sector in that our government partners have taken on responsibility for providing us with funding to deliver spectacular Olympic and Paralympic venues and they're also looking after securing the games. The private sector is responsible for generating the revenues necessary to stage the operations of the games. That's the area of concentration for us today, the sort of \$1.65-billion operating budget, which relies entirely on private sector funding.

It's quite the partnership. Half of that budget, half of that \$1.65 billion, or so, comes from Canadian companies, big and small, through sponsorship, licensing, and merchandising programs, from companies like the one Anita Chandan is from. Anita is with Hunter Canada in Montreal. She's here with us today and she is one of the proud licensees of Olympic merchandise.

So we have to raise enough money to deliver the games, and our goal is, because this is a one-time opportunity, to leave a positive financial legacy that will benefit young people in sport so that we can maintain this important Olympic legacy that's developing on the west coast. It's important for us to do this so that we are never put in a position of having to come and ask anybody to help us out. We want to deliver it this way. This is the partnership we have, and we fully intend to deliver on that. We never want to come back and have to ask for help because we haven't been able to meet our obligations.

This is about protecting everybody's investment, yours and that of our partners, so quite a bit is expected of us in that regard. This bill, from our perspective, is essential to protecting the Olympic brand in Canada and the integrity, particularly of the Vancouver 2010 Olympic and Paralympic Games, to protect the investment of these small and large companies that are proudly supporting this project, some of them at levels we have never seen before in Canadian history. It's really important for us to protect those companies that have made this commitment on the basis of our commitment to them.

• (1640)

As you know, it was stated earlier that we gave a promise in 1993 in Prague that this protection would be there, and we've given that promise as a result of that commitment. These companies and our partners have relied heavily on it, and hence we have these extraordinary commitments today, which I spoke about earlier.

The other thing about this is that if we can maintain that, we have a very good chance of attracting more support from other companies who are looking at the Olympic Games as a great opportunity to invest, not just in this project, but in the country itself.

So it is about keeping our word and about protecting these marks, because we said we would. I remember the words we used in Prague—that a promise made in Canada is a promise kept. It is about protecting small businesses. You'll hear from Anita in a few minutes about her company and their particular story and what led to their decision to invest in the games. It applies only in connection with a business or commercial association. That's the only thing we're concerned about. It's business or commercial association with the

games. It's not about people who wish to parody, protest, or write about the games. That's not our goal.

This bill honours Canadian athletes, because it helps to ensure that the necessary funding to have our athletes on top of the podium in 2010 is in place. As you know, we are partners with the Government of Canada in making sure that we have enough money to have the best team in the world on the field of play in Vancouver in 2010. The Government of Canada has committed \$55 million, and VANOC, working with our partners, has committed the other \$55 million. Many of these companies are out there raising that money today and are relying heavily on this protection to do that.

It also, I think, enhances the prospect of legacy funding after the games. If we do a good job and we can provide the protection, and we find new partners, then there's a good chance we will leave a very great financial legacy such as the one that was left by Calgary after the 1988 games.

I want to tell you that we will work to ensure that any concerns from athletes respecting their ability to use their status as Olympians and Paralympians will be addressed. We will work with you to ensure that this is not an issue. Of course, as you've heard also, the legislation is time-limited, as it applies to VANOC and the 2010 games, to December 31, 2010. However, it will continue to provide the COC and the CPC with the ability they need to protect the Olympic and Paralympic brand after the 2010 games are over. As was mentioned earlier, should Canada decide to bid for the Olympic games in the future, then this piece of legislation will be an important legacy for them, because this was a considerable piece of work for the organizing committee back in 2002-03. There was quite a lot of work that had to go into getting these assurances in place.

One of the questions asked—and I'll cover it here—is about the guidelines and education. Once the legislation—and maybe I'm assuming something here—is passed, we would immediately then produce the guidelines and the education program, put those on our website, make them public, communicate them across the country. The effect those guidelines will have should be to give everyone the assurance that there will be no freelancing from VANOC. VANOC's interest is to be fair-minded, to be honest and thoughtful and upfront in how we deal with this. So our goal would be to have those guidelines everywhere so we could prevent this from happening and not have to deal with it after the fact. So we would move quickly to make those public so people would know how we're holding ourselves to account and what we're asking the community to do as well.

I think, really, we need to use common sense to apply this, and we will. You have my word on it. We are committed to applying the legislation in a disciplined, sensitive, fair, and transparent manner. We have to do this so it will benefit everybody. We trust that all of the parties will come together around the games and that this is something we will all support. This legislation is important to us. It will help us to do a good job. It really speaks only to the future and not to the past.

Our primary objective, Mr. Chair, is to work our way through these things as they come up. It's not to walk to court; it's not to seek those remedies. It's to sit down and work through with people what we need to do to achieve a good outcome. That's the best, I think, for everyone. If we can do that well and we work well together, we believe we can deliver a project in Canada that is unprecedented worldwide. Our goal, as I said, is just simply to do our job the best way we can.

• (1645)

What I think I'd do now is ask Anita to make a few comments for her company, if that works for you.

**The Chair:** Well, we're at about ten minutes, Ms. Chandan, so could you be very brief? We do have a number of members who want to ask questions.

**Ms. Anita Chandan (Vice-President, Hunter Licensed Sports Distribution Corporation, Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games):** Sure.

First of all, thank you very much, Mr. Chair, for the opportunity to speak.

I'd like to speak on the part of small business. There are many different partners in the Olympic movement. There are large companies like Bell Canada who have invested in this movement, but there are also very small companies like our own.

[*Translation*]

Hunter Canada is a small company established in Montreal. We have an office in Montreal and another one in Toronto, which is now the address for our new licence. We also have a distribution and sales centre in Vancouver.

[*English*]

We were very pleased recently to be chosen by the Vancouver Olympic Committee to produce novelty items and souvenir items using the Olympic marks. We are perhaps, then, your official T-shirt company that you were talking about.

While the eyes are going to be on Canada during the Olympic Games, our mandate is to give every Canadian and every visitor to the games the opportunity to take home a souvenir, a souvenir representing the quality of what Canadian companies can represent.

We are firmly based in Canada. We do over 80% of our production in Canada. We're a Canadian company, offering Canadian products, believing in the Canadian movement.

I have to say that our Olympic licence represents a significant strategic investment on behalf of a company of our size. We're a small company, doing approximately \$5 million in sales.

In undertaking this venture we had to make a commitment to pay the guarantees in the sales, guarantees of over actually a half million dollars, which is not a small amount for a company of our size. However, this is dwarfed, really, in comparison with the funds that we're going to invest in this program over the course of the next three years.

We invested because we're confident that this investment will be sound and that our business will grow, and it will give a positive legacy to our firm.

My journey to Vancouver began in Lillehammer in 1992 as a licensee of the Canadian Olympic movement, and we were thrilled when VANOC decided to choose us to be a part of this amazing event. However exciting the opportunity was, we really had to think, as a small company, what this investment would do to us. If we managed it properly internally, and if we were given the protection that we needed from our licensor, this could be an opportunity to raise our company to the next level, doubling our sales staff, doubling our sales in general. However, if it wasn't managed properly internally and if we didn't have protection and were faced with other companies that didn't make these kinds of investments, then it could ruin us as a company, following the games. This is the type of investment that is make or break for companies of our size.

We are concerned about the losses that we could incur should adequate legal protection not exist to effectively address the sale of cheap counterfeit Olympic goods. We've already begun production on merchandise based on forecasted sales, and this will result in a large amount of inventory that we're going to carry leading up to the 2010 games. If passed, Bill C-47 will offer our business the assurance that our exclusive rights to produce officially licensed merchandise will be protected and that the value of its significant investment will not be compromised by the saturation of counterfeit products in the marketplace.

As a Canadian company, Hunter is proud of our association with the 2010 games. We feel that our licence is just one important legacy that the games will deliver to Canadians and Canadian businesses.

We do feel, I'd like to say, that VANOC has made it a point to make this Canada's games—not just Vancouver's and not just B.C.'s. The group of licensees ranges from Montreal to Quebec City to Toronto to London to Winnipeg—all across the country—with the same goal in mind: to be part of this program.

We intend to increase our jobs in Canada—increase our marketing team, our sales team, warehouse team, as well as production staff. Our company is a reflection of Canada, with the ethnic and cultural diversity within our own company.

Whether a small company like ours or Bell Canada, I think that we all have the same aim in mind: to be a part of this program and to make a commitment to the Olympic movement, as well as to athletes. The royalties that we pay to VANOC go to athletes, so companies like retailers or consumers buying from outside the licensee base don't have to pay the royalties, which again, goes back to the Olympic movement.

So on behalf of Hunter Canada and other official licensees, I would ask the committee to support the smooth passage of this bill.

• (1650)

**The Chair:** Thank you very much.

We'll go now to Ms. Fry, for six minutes, the opening round.

**Hon. Hedy Fry:** Thanks very much.

I want to congratulate John for having so far done a great job on the games. I know that VANOC has worked very hard to meet a whole lot of needs to protect people, including things like social housing, etc. So when I ask these questions, I want to make it very clear that this is about some of the confusion with regard to existing intellectual property law that is there and how this may or may not infringe, albeit for a short time, on some of that legislation.

One of the concerns we have is about some of the vagueness in some of the language here that is often referred to as “VANOC will make sure that”. Therefore, with all due respect to VANOC and the good work it has done, it means that you have a group of people making decisions with regard to seizing property, etc., and making applications to the court without that legal recourse people used to have in the past, which was to be able to have an injunction that said that it was irreparable harm. The irreparable harm piece I think is one that most people who deal in intellectual property law are concerned about, because they feel that this suddenly has changed the legislation for one group only, and that is VANOC during the Olympic Games. They have changed legislation because irreparable harm was an important piece of this legislation.

Having asked that question on the irreparable harm piece, which I think is of concern to most people, I know that VANOC has said they would come up with some guidelines about how they would interpret harm, etc., and how they would be fair. Do you know when those guidelines will come about? And why do you feel it's absolutely necessary to remove that need to show irreparable harm, as is normal for most intellectual property law?

**Mr. John Furlong:** Thank you for the question. Let me deal with the second part first and come back to the harm.

On the guidelines, they'll come out as soon as this passes, because we haven't seen the final document yet. We'll make those guidelines public quickly and we will move to distribute them in every way we can, through small business associations, on our website, everywhere we can. We think in and of themselves they will provide a balance as to how we act in respect to Bill C-47. The more the public knows, the better chance we have of having no problems. Frankly, I think we've tried to take the position that most organizations don't really want to take advantage. In many cases, it's inadvertence or simply a mistake.

On the harm, as I think it was answered earlier—and I'll have my colleague speak to it a little—I think the concern we have is the time. It's being in a situation where we have no other way to remedy. The games are coming quickly; we're in a very narrow window, and we have no way. This is why it's designed this way. I think other countries have had that experience, where time is not your friend sometimes. I think if we were here for 20 or 30 years, it would be different, but we aren't. We need to be able to take action quickly.

We have given our word to many organizations. We're concerned that someone who has not acquired these rights or been given these rights, and they've been given to someone else, and that someone else is protected—that we live up to our commitment to them. We need to be able to do that.

Do you want to comment further on that?

**Mr. Bill Cooper (Director, Commercial Rights Management, Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games):** Yes. I would emphasize the immediacy of the damage done by ambush. Ambush is about an immediate impact and therefore the remedies required are immediate. I would also emphasize that if we are not in a position to be able to address the damage being caused during an ambush scenario, that affects the staging of spectacular games, but it also affects the legacy we leave for amateur sport in Canada. If our sponsors do not have a positive experience, the likelihood of them renewing and staying committed to the Olympic and Paralympic movements in Canada is much reduced.

● (1655)

**Hon. Hedy Fry:** Is there any international reach to this? In other words, can somebody in the United States start producing T-shirts that people who come to the games from the U.S. can buy there and wear if they want? Does this only pertain to Canadians in Canada, or does it apply to any place in the world? Can you confiscate a T-shirt from somebody's suitcase, if they come and start wearing it and it doesn't come out of this particular company?

**Mr. Bill Cooper:** Our jurisdiction is domestic only, but we work very closely with all the national Olympic committees and we do work closely with the USOC when it's relevant. In the instance that you cite, a person could travel into Canada with an infringing T-shirt, assuming they made it into Canada. If it's not shipping in goods, then that's one case.

One thing to be aware of is that, like most sporting events, spectators are subject to the terms and conditions on the backs of their tickets. If there were an instance when thousands were wearing certain marks and therefore creating an ambush platform, that could be addressed through spectator services.

**Hon. Hedy Fry:** You've used combinations of words that I think have been disconcerting to many people, like “tourism 2010”, “where next”, “Whistler sliding centre”, and “see you in Whistler”. These are terms people use all the time about just Whistler and may coincidentally use over the next three years.

The ambiguity of these combinations of words is causing a problem. It's something that could easily be remedied if you amended it to have just the basic Olympic and Paralympic trademarking combinations.

**The Chair:** Mr. Furlong.

**Mr. John Furlong:** The words in and of themselves are not the worry; it's when they're used to create an association with the Olympic Games to take advantage of them for commercial purposes. That's where we're concerned. They're only used in that manner where they're going to get the attention of Vancouver 2010.

**The Chair:** Thank you.

Thank you, Ms. Fry.

We'll go to Monsieur Malo.

[*Translation*]

**Mr. Luc Malo:** Thank you, Mr. Chairman.

I would like to thank our witnesses for coming.

My first question is for you, Ms. Chandan. I imagine that the current Trade-marks Act works quite well for your company at present. How should this legislation be improved? Why is Bill C-47 so important for your company if you are currently able to do a certain amount of business under the current Trade-marks Act?

**Ms. Anita Chandan:** I will answer in English.

[*English*]

When VANOC puts together their education campaign and guidelines, this bill will deter companies from even taking the step of making the counterfeit merchandise or misusing the trademarks.

We are protected to some extent through our association with VANOC and our contracts; however, this is going to deter a lot of the people who would perhaps infringe on the laws.

[*Translation*]

**Mr. Luc Malo:** Thank you.

Mr. Furlong, the first time I heard that a bill protecting Olympic trade-marks was to be tabled in the House, was in February. It was tabled in March, and this is now June.

Since the process began, we have known that the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games, or VANOC, will be tabling its guidelines. However, we have not received them so far. We have had the bill for quite a few months, and you certainly contributed to preparing it. Many business people are telling us that they do not know how the bill will be interpreted by VANOC.

Do you not think that it would have been useful to see those guidelines before parliamentarians support this bill in the House, so as to clarify things for all the parliamentarians, business people and citizens who want to know how this bill will affect their daily lives?

[*English*]

**Mr. John Furlong:** Thank you for the question.

I think it's just a choice we made to wait until we were through. It's a lengthy process and there is quite a bit to it, so we chose to wait until the end to see how the legislation unfolded. We will be going to some expense to put out publications, put this on our website, and deliver a broad education program across the country.

As you heard from Anita, this is not just a Vancouver situation. Most of our sponsors are not from B.C. They're from Ontario, Quebec, and central Canada.

So it was just our choice to do that. The guidelines will be as you would expect. They will be open and clear about what we think the rules are. You might, for example, see a suggestion in the guidelines for organizations that are thinking of doing something to call us. We need to see what the final legislation looks like before we complete it, but we're obviously working on it.

I'll have you make a few comments about what we're doing now.

• (1700)

**Mr. Bill Cooper:** I want to emphasize that if and when Bill C-47 is passed, we will not be starting from scratch with the guidelines. I want to put you at ease there. There's been an enormous body of work done already on the guidelines—as much as we thought was reasonable and sensible, given how much impact this committee process must have on the law. Ultimately, that law will dictate to a large extent how those guidelines look.

What I can tell you is that we've done a lot of work. We've worked with the IOC and the COC and the CPC already. We've worked with the athlete groups and worked with the national sport organization groups to make sure that the core, the heart and soul of the guidelines we have, the architecture, already adequately reflects their concerns.

I can also tell you that as it pertains to education, we are already in the marketplace, to the extent that we can be in the absence of Bill C-47, educating the public as best we can. As to mechanisms, we are basically using industry segments, working with our partners, who might know their own industry segment well, and in addition working with their respective agencies and suppliers to make sure we can penetrate relevant sectors.

For instance, we're getting in front of agencies, communications and PR companies, to make sure that before they plan the communications platforms of their respective clients—in the pre-Beijing phase, as an example—they're informed of what allowable thresholds are with respect to aligning with the Olympic and Paralympic brands.

We're obviously quite well equipped already to launch our website. We have some material there already and we're quite keen, with this process coming to a close, on being able to make it more robust and to have more material available. We will also engage in above-the-line advertising, wherein we will actively communicate to the consumer what's real and what's not and why it's important to buy real and thereby fund athletes and not take money from athletes. In that sense, consumer awareness is a growing concern for us and a growing priority on our website as well.

Finally, I just want to emphasize that in our meetings thus far with athlete groups and sponsors with significant international experience, such as VISA and all the NSOs, we've had very positive feedback on our personality and our mechanisms for interpreting thresholds thus far.

**Mr. John Furlong:** One of the things I think I'm detecting is that you're worried that there may be something that shows up in the guidelines that is a bit of a shocker. Let me just cover it this way. For us, the number one asset that Vancouver 2010 has, and the only thing we're really selling today, is the reputation we have. It's the promise we've made.

When we're in the public arena arguing about this, it does no good for the Olympic Games and it does no good for our project. We, I think, have to be prudent. We have to be fair-minded and honest. Our goal is to make sure that the guidelines are clear and easy for people to use, because there is just no advantage for VANOC to be having arguments with anybody. When this is done, we will articulate them as clearly as we can.

**The Chair:** Thank you.

We'll go to Monsieur Arthur.

**Mr. André Arthur (Portneuf—Jacques-Cartier, Ind.):** Thank you, Mr. Chair.

Good afternoon, sir.

The introduction of Bill C-47 before the House is a promise made to the IOC. Could you explain to us what was asked of you by the IOC? What was promised by you to the IOC? What exactly is the deal we are trying to honour here by adopting Bill C-47?

**Mr. John Furlong:** In a nutshell, Mr. Chair, the IOC asked us in 2002-2003 to commit to legislation that would give full protection to the Olympic brand and Olympic marks in Canada. I think it was the view at the time and it was agreed at the time that what existed was not enough. We gave an agreement that such legislation would be passed; the government gave that commitment. We gave it as a commitment in Vancouver when we were evaluated and again in Prague when we actually submitted our file.

So the expectation is that the legislation would be passed to provide the kind of protection this bill now speaks to. It is what's expected; what's in the bill today is what the IOC has expected us to do. It's comparable to what they've asked Australia, England, and others to do.

• (1705)

**Mr. André Arthur:** I understand that the IOC asked you to ask the Canadian government to ask the Canadian Parliament to protect their trademarks—not yours, not the ones from Vancouver, but the international committee's. Isn't that so?

**Mr. John Furlong:** No, the legislation—

**Mr. André Arthur:** They didn't ask you to protect Salt Lake City's or Beijing's.

**Mr. John Furlong:** No, but all of the marks that come under—anything under our jurisdiction, which is the rings, the Vancouver 2010—all of that—comes under what they required us to do, all of it.

**Mr. André Arthur:** But they did not ask you to protect the Vancouver name, or the Whistler name. This they didn't care about.

They wanted to protect their own trademarks, to deal, for their own benefit, with their own sponsors, who are not necessarily yours. Is that so?

**Mr. John Furlong:** No, I think they wanted protection in place for everything they're connected to. They have the same interest in the Vancouver 2010 brand being protected as they do the Olympic rings, and as they do the torch and so on. They would have expected that.

**Mr. André Arthur:** You gave us your word a few minutes ago that the application of those rules, the enforcement, would be “reasonable”. That is the word you used, “reasonable”, for what it will be.

I understand, Mr. Furlong, that you're a man of honour, and you speak for the Vancouver committee. You don't speak for the IOC. How can you satisfy the Parliament of Canada that the enforcement by the IOC will be reasonable when we know that every time it has been observed, this organization has been found to be one of the most corrupt international organizations in the world?

**Mr. John Furlong:** The responsibility has been passed to Vancouver 2010 to provide this protection in Canada. We have the jurisdiction here, so the duty is ours. It's our responsibility to put the protections in place. It's our responsibility to seek the remedies. It's our duty to do what it is we're talking about in here.

So it's for us, not for them, to do that.

**Mr. André Arthur:** You are going to be the agent of the IOC in the enforcement of those rules, and we can take your word that the enforcement in Canada, in the name of the IOC, will be reasonable?

**Mr. John Furlong:** Well, I stick by my comment earlier that, yes, it will be reasonable.

**Mr. André Arthur:** And it's going to be your enforcement, not theirs.

**Mr. John Furlong:** Yes.

**Mr. André Arthur:** Okay. Thank you, sir.

Thank you, Mr. Chair.

**The Chair:** Merci, Monsieur Arthur.

We'll go to Mr. Masse.

**Mr. Brian Masse:** Thanks, Mr. Chair.

Thank you to the delegation.

One of the concerns I raised earlier, and was not totally satisfied on, was with regard to the section of the bill that talks about publication and broadcasting being protected. It doesn't have a specific notation for electronic media.

Would you be open to the inclusion of electronic media, given your comment that you're not going to be out there discussing the pros and cons and so forth with regard to the debate out there? Electronic media is an emerging form that's different from broadcasting and publications.

**Mr. Bill Cooper:** We treat electronic media under the broad category of media itself. It would be just another platform. So yes, I think in any approach we would take to the media at large, we would have an equal approach to electronic media.



**Mr. Brian Masse:** That would be helpful. Really, it's good to hear that.

I know you've raised...and I think it's legitimate in terms of the argument that you have a problem if there is some type of disagreement with regard to the use of a logo or symbols and so forth. The normal legal process wouldn't work very well to protect those who have purchased the property rights for those.

I guess the other side of it is that if they have to go through a legal process, and there is no real due course there, then they're kind of shut out. Is there any discussion or opportunity to create some type of independent organization, an independent voice that comes into VANOC, that can maybe help to mediate these, or that can decide within 48 hours—like in an appeal case, for example—and then send it to the courts? Would you be open to that, to having a due diligence review, and thus greater comfort that there could actually be an independent organization from VANOC, or at least a component, that would give the opportunity for things to be heard right away?

**Mr. John Furlong:** For us, typically we have to be able to act swiftly. But the process you speak of kind of exists now. We immediately start to try to remedy this using other means. We collaborate, we have a dialogue, we visit with these companies to try to have this settled.

You know, we start out believing that most organizations have made a mistake and that we need to help them fix the mistake, if we possibly can. It's when we get past that and there clearly is no other place to go that we have moved to the other. So I think we sort of do it now. We try right away to have a dialogue.

Wouldn't you say so, Bill?

• (1710)

**Mr. Bill Cooper:** Yes.

As John said earlier, our main asset is reputation. As a subset to that, we really take very seriously the objective of going through as many layers as possible before we would even consider a remedy such as this. To that end, everything we're doing right now is based on voluntary compliance.

We do exceptional levels of education. When we see something in the marketplace that seems to be leading towards an unauthorized association, our first reaction is to engage with the party to try to coach them through voluntary compliance and to try to reach a mutual agreement on what are allowable thresholds. Thus far the success rate has been extraordinarily high.

**Mr. Brian Masse:** It's just that I think you're sensing a little bit of discomfort in the sense that I don't think there are any alternative motives here, but I don't have any of the guidelines or processes in front of me yet I'm being asked to approve that basically through this process here, and then it's going to be presented to me elsewhere. So I need assurances, and maybe you can give them to me today, that aboriginal groups, for example, and not-for-profits are going to have clear-cut access to be able to get authorization either by fee or no fee, and hopefully in the proper cases, no fee, and that it will be done expeditiously. I know you'll have a lot to do, but I'm hoping I can get assurances that those organizations—not-for-profits and aboriginal groups—will be able to find their way through this process quickly.

**Mr. John Furlong:** I'll have Bill speak specifically to this, but we do have a program right now. This is really about commercial, it's about business, it's for profit that this bill is about. We have programs in place where we sometimes grant rights to non-profit entities. Off the top of my head, I don't have a list for you, but we do that. But this bill is really aimed at those who would seek to profit by using marks unlawfully and so on and so forth.

Bill.

**Mr. Bill Cooper:** I'd just emphasize that. It's really about unauthorized commercial associations, and aboriginal artists or other non-profit organizations would fall well out of that. In that sense, they would be free to use the marks in artistic expression, etc., etc. That would also tie back in to the need, which we embrace, for public education, so those entities know that they can do that, and what the allowable distances are that they can go with that.

**Mr. John Furlong:** We're in the happy position, Mr. Chair, today to be able to say that we have a relationship with the aboriginal communities of Canada that's quite unprecedented, and in fact they're partners in putting on the games. So there's a lot of programming going on to encourage that and working with that. In fact, they're probably one of the groups that are the most knowledgeable on how to work with the Olympic Organizing Committee, so the likelihood of having challenges there is actually less than it might be if we hadn't actually started down that road. We believe that this aboriginal participation is going to greatly enhance the image and reputation and performance of the organizing committee on 2010.

**Mr. Brian Masse:** Do I have more time, Mr. Chair?

**The Chair:** You have five seconds, so the answer is no. Thank you, Mr. Masse.

We'll go to Mr. Byrne.

**Hon. Gerry Byrne:** Thank you very much.

A quick question to you, Anita, and then we'll move, if I can, to John.

Congratulations: you're a \$5-million company and you're going multi-million-dollar after this.

Can you give the committee some examples of sporting organizations or key events that you've done promotional marketing material for in the past?

**Ms. Anita Chandan:** We are a licensee of all of the major sports properties. As the latest addition to our licensing efforts, we are doing programs with the FIFA Under-20 World Cup, which is coming to Canada this summer. We are working on the President's Cup. We have, as I said, all of the major properties: the NFL, MLB, NHL, NBA, CFL, and Hockey Canada and Hockey USA.

**Hon. Gerry Byrne:** So for the NHL, you basically are the official licensor of—

**Ms. Anita Chandan:** Licensee for specific categories. You see all of the Senators car flags all around—

**Hon. Gerry Byrne:** Yes.

**Ms. Anita Chandan:** —that would be us.

**Hon. Gerry Byrne:** How do you protect that? You do not currently have Bill C-47. Obviously the Stanley Cup right now is a lot of hype, a lot of momentary enthusiasm, which will last forever when the Sens take the cup.

**Some hon. members:** Hear, hear!

**Hon. Gerry Byrne:** How do you protect your interests right now using existing trademark law?

• (1715)

**Ms. Anita Chandan:** You know, this is a small community, and there are very strong partnerships that go between the licensees and the licensors. I think the discussion was going on before us about who's policing this. We, as licensees, based on the investment that we make in all of our licences, do a lot of policing ourselves. If I see those counterfeit T-shirts, I'm going to be calling VANOC.

**Hon. Gerry Byrne:** Okay, it sounds like a really good point. The Olympic committee seems like a pretty sophisticated organization as well that could do a fair bit of policing without new laws.

Anyway, I'll move to the next point, which is to John. We really appreciate the fact that you've given to the committee some commitments that you will not react with a heavy hand on some of this. I guess one of the questions I have is that you stated to the committee that you haven't released your voluntary guidelines on the basis that you do not know exactly where this legislation is going to go, what final form it's going to take. Are you anticipating that the Parliament of Canada will significantly amend this legislation you've read, Bill C-47?

**Mr. John Furlong:** No, I'm not anticipating that.

I think it's how we work when we typically set out. On thinking about it now, should we have started to finish this? After hearing the questions, I probably would have said we should have come and finished them, but we're not in that position. We thought when we were done, we'd put it out and do a thorough job. We'd do it in such a way that it was quite clear we're not being heavy-handed and we're trying to encourage cooperation and an understanding of what we're trying to do.

We believe it's in everybody's interests that this work. It's a big project, and it's important that it work. We want the public to support it, embrace it, and think we're acting in their best interests, because it's really their project.

**Hon. Gerry Byrne:** Given the spirit of what you're saying, which I think the committee accepts, how would you feel if a friendly amendment were proposed? For example, do you anticipate that many street vendors would not be prosecuted but would be taken out civilly as a result of this legislation? On the streets of Vancouver and Victoria, do you anticipate that you'll actually use this legislation to shut down many street vendors?

**Mr. John Furlong:** Well, I hope not. I hope it won't have to happen.

**Hon. Gerry Byrne:** What would cause it to happen or not to happen?

**Mr. John Furlong:** Well, I think it would happen if we saw companies taking advantage and taking to the streets to take advantage of rights.

**Hon. Gerry Byrne:** I asked about the street vendors, not companies.

**Mr. John Furlong:** Well, we have to keep in mind one thing. We've made promises to companies that distribute very specific products, over a wide range. By the time we get to 2010, there'll be as many as 30 or 40 licensees of very specific things. In the case of Anita, it's key rings, pucks, and stuff, while others have T-shirts.

The difficulty is that when you come to a product and someone goes off and sells it, and it's been sold to someone else, our credibility as an organizing committee is gone. We have to be able to do it. But if we saw it, we would take whatever steps we could to bring it under control, without having to go into a courtroom. That's how we do it now.

As I said, the number one asset we have is our reputation. We don't want to be on the front page of the paper arguing about this all the time. Our belief is that if you put the legislation in place, it will move us to the 90-yard line on having people respect the fact that this is a very unique thing we're trying to do. The other 10% will be how we work our way through some of the issues that come along.

**Hon. Gerry Byrne:** It sounds like the feedback you're giving to the committee is that anyone who infringes on the trademarks will indeed will be dealt with accordingly and will be curtailed, whether it's a street vendor or someone a little higher up on the food chain.

**The Chair:** Okay. Could you answer the final question?

**Mr. John Furlong:** There are two categories. There are people who make mistakes. If people make a mistake, we'll work with them to try to remedy it. But when it's intentional and deliberate, we have to stop it or we have no credibility. We'll have nothing else that we can communicate or offer to any other company, because they'll know we can't keep our word.

But at the same time, we have to manage the piece you're talking about as thoughtfully as we possibly can.

**The Chair:** Thank you.

We'll go to Mr. Carrie, please.

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

We've finished up an investigation into counterfeiting. I think most of us were pretty disgusted at how easily these people work in Canada.

I have to tell you first-hand that none of us knew about our colleague's T-shirt importation business out of Halifax, although we have noticed he's been dressing better lately.

Even in the *Ottawa Sun* yesterday, they had an article on how the NHL's fashion police are sniffing out fakes and the RCMP is getting involved.

We've heard some people say this legislation is going too far, but I'm going to go the other way. Is it going far enough? Do we have criminal provisions in this bill? If we don't, why don't we? What will this do for protection?

We have Anita sitting there. She's made huge investments. Maybe she could explain a little about how difficult it was to become a sponsor.

Are you going to protect her company from the counterfeiters out there through this legislation?

• (1720)

**Ms. Anita Chandan:** It is a difficult process. We go through the RFP, and we go through a bidding process. We have to show the committee we are the best company for the job.

I stand here today saying they made the right decision and we are the best company for the job. We're Canadian, we're diverse, we have a rich cultural heritage within our own company, and we offer the best possible quality product.

**Mr. Colin Carrie:** Are you happy? Does this go far enough? Do you think there should be criminal provisions?

**Ms. Anita Chandan:** It's a step, and it's a step in the right direction. It gives me a sense of comfort that the money, time, and energy that we as a small group of people and as a company have invested will be protected.

I really believe it will act as a strong deterrent. I think a lot of the companies that infringe by using these marks, at least at our level in terms of merchandise, are not huge corporations. A lot of them are small companies that would be deterred by this type of legislation. I feel comfortable that it would satisfy us.

**Mr. Colin Carrie:** Are there criminal parts to the legislation of other countries?

**Mr. John Furlong:** I don't have the answer to that. I know it's taken quite seriously, and it's a serious matter, because we all end up in the same situation.

To your point about whether it is strong enough, my view of this as follows. The impact of this legislation will be to take care of 85% of those out there who might. I think you will have sent a message to everybody that we all need to play fair here and that this is an important thing for the country. We're all in this together. Let's all play fair.

I think most of what we might be faced with will go away. There will still be a number who will try, and the legislation will help us swiftly deal with those. We think it's enough to do that. I appreciate your comments, because our goal is to simply not allow somebody to take an advantage that they have not lawfully acquired.

**Mr. Colin Carrie:** We talked a little about ambush marketing. Could you give us an example that you've seen of this type of situation, regarding the Olympics, of ambush marketing?

**Mr. Bill Cooper:** I'm not sure that it's prudent for us to talk about specific examples, but I think I can come pretty close.

I think what you typically have is a situation in which a non-sponsor takes a series of expressions—let's take images of winter Olympic sports—that align closely with the Olympic movement but aren't specifically protected under a specific mark. These are very sophisticated markers. We have to take that into account; hence the need for such a complex piece of legislation. They'll take those, blend them together, perhaps put them on a product or on messaging around the product. Not only that, but the timing of their media buy

and the placement of their media buy will factor in to make the combined experience confusing to the consumer.

There are any number of cases to some degree in Canada. More significantly, we saw around the Atlanta Olympics and recent FIFA World Cups any number of examples that you can see on intellectual property websites and sponsorship websites that sort of articulate and spell out the cases at hand. They all come down to that objective to basically fool the consumer by blending expressions.

I want to emphasize that when they blend those expressions, they are very intelligent marketers, and therefore they don't choose traditionally protected marks such as the rings or the torch. They invariably choose ones that are much more difficult to protect under traditional trademark and copyright. Hence, the growing need for anti-ambush legislation.

**The Chair:** Okay.

**Mr. John Furlong:** There was a case in Torino, in which a soft drink company decided at the eleventh hour to do something that was right in the line of sight of thousands of spectators, which created the illusion that it was in fact an only partner. It got shut down instantly. The test was what people thought when they saw it. It was clear what they were trying to do.

• (1725)

**The Chair:** Thank you.

Madame Brunelle, please.

[*Translation*]

**Ms. Paule Brunelle:** Mr. Furlong, please allow me to ask you a question about the recent past.

During the previous Parliament, I was the official languages critic. Last February, the Standing Senate Committee on Official Languages tabled a report entitled "Reflecting Canada's Linguistic Duality at the 2010 Olympic and Paralympic Winter Games: A Golden Opportunity". I would like to quote an excerpt from it:

—there are still a number of challenges to ensuring the full and fair consideration of the two official languages at the 2010 Games. The Committee feels that concrete and immediate action must be taken to guarantee compliance with linguistic criteria in the selection of host cities, in the provision of adequate funding for French-language organizations in setting up projects for the 2010 Games, in the representation of French-language communities in VANOC and in the cultural celebrations associated with the Games, in the broadcasting of the Games to the entire English and French audience and regarding bilingual signage outside the host cities.

Where are you at with these recommendations? Have you made any progress. We know that language posed major problems for francophone athletes among others. It has always been very difficult. Have you made any headway with this?

[*English*]

**Mr. John Furlong:** Thank you for the question.

There are two things. First of all, it's our obligation. We are contracted to make sure that we are a fully bilingual organizing committee. The organizing committee has embraced the spirit of that rule, which is to promote these two languages through the power of the Olympic brand. We are attempting to do that. I would say today we are fully bilingual. Most everything we are doing is in both languages. The signage is in both languages. We're working hard to raise the watermark on our performance in that area, but more than that, we're trying to embrace the spirit of the official languages concept inside the organization. It's expected in Canada. We do have two languages.

I think today we feel that we're further along than we might have been, given that we are in Vancouver. We have, give or take, approximately 25% of employees who speak French today, which is a dramatically higher number than for most businesses in British Columbia. We're trying very hard to make sure that absolutely everything we do is delivered in both languages as well as we can. The signage today is in both languages, and we'll continue to do that. We'll continue to consult with francophone communities on how to do that better.

[*Translation*]

**Ms. Paule Brunelle:** Thank you.

[*English*]

**The Chair:** Merci.

We have a couple of minutes left, so I'm going to take the next Conservative spot—as long as the Conservatives don't object.

My understanding is that there was legislation passed for the games in Montreal but there was no legislation for the games in Calgary, and there were some problems.

The arguments here make logical sense to me, but can you explain it to Canadians? What is being protected by passing this legislation? Is it primarily T-shirts, hats, apparel? Is it other things? With regard to the words or the symbols in schedule 1, what is the stuff we're actually worried about by passing this legislation?

**Mr. John Furlong:** It's a good question, Mr. Chair.

The organization sells categories of sponsorship that cover a wide variety of areas. We've sold sponsorship to the top players—for example, telecommunications, banking, oil and gas, automobiles, home renovations, and so on. The first order of business for the organizing committee is to protect all the sponsors who have acquired rights to sell merchandise or services in a specific category, and then we have the licensees who have acquired the right to sell certain products.

They have committed extraordinary amounts. Today, for example, we have signed 23 contracts in the sponsorship area. Those 23

contracts represent the 23 largest commitments these companies have ever made under the banner of sponsorship in Canada. In every single case there has been a discussion about protection of their right to be the exclusive provider in that category. We have given those commitments. We're talking about commitments anywhere from \$500,000 to \$200 million. Number one, it's for specific categories and protecting their right to perform inside of that category.

The likelihood of us having to do a lot of what the member was saying would only come up if these words and marks on our products are used in connection with the Olympic Games. If they're used on their own, we have no interest in them; it's only as they are applied to the games.

● (1730)

**The Chair:** My question, Mr. Furlong, is what are they worried about? Are they worried about the selling of apparel? What is it? When you approach a company and they say they want their intellectual property rights protected, it's because they do not want someone doing what?

**Mr. John Furlong:** They're worried about another company creating the illusion that they are in fact an exclusive Olympic partner when they have not acquired that right. That's their worry. They believe that being an Olympic partner is profoundly important; it's quite powerful. They want to be seen as the companies that have supported Canada's games. They want to be known as the one in that category. They've all competed for that right.

**The Chair:** So for instance if a financial institution signs on as the official financial institution supporting the games, they do not want competing financial institutions—

**Mr. John Furlong:** Correct.

**The Chair:** So the apparel is much smaller in terms of the scope of the legislation?

**Mr. John Furlong:** Yes.

**The Chair:** Okay. That's all we have.

I think that's all the time we have, as well.

I want to thank you for coming before us today. I think I can speak on behalf of the entire committee in wishing you the best of luck towards the 2010 Games, from an Olympic point of view, an athlete's point of view, and from a commercial point of view as well.

**Mr. John Furlong:** We appreciate it very much. Thank you for your support.

**The Chair:** Thank you for coming.

The meeting is adjourned.







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

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

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