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Chair

The Honourable Michael Chong

Standing Committee on Industry, Science and Technology

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• (0900)

[Translation]

The Chair (Hon. Michael Chong (Wellington—Halton Hills, CPC)): Today is Thursday, June 10, 2010. Welcome to the 22nd meeting of the Standing Committee on Industry, Science and Technology.

[English]

We're here pursuant to Standing Order 81(5) to review the supplementary estimates (A) for 2010-11. We have a number of votes to review today. We're going to spend one hour in giving members of the committee a chance to review the estimates and then we'll take the vote just before 10 o'clock. At 10 o'clock, we'll switch up and move into the second item on the orders of the day, which is the review of Bill C-14.

Without further ado, we have in front of us today Richard Dicerni, the deputy minister, Department of Industry; Mr. Paul Boothe, the senior associate deputy minister; and Madam Kelly Gillis, the chief financial officer of the department.

Welcome to all three of you. It's delightful to have you here. Thank you for coming on such short notice.

We'll begin with Mr. McTeague.

Hon. Dan McTeague (Pickering—Scarborough East, Lib.): Actually, Chair, we have given this careful consideration, and it may come as music to the ears of our friends here on the other side, but we have no questions of the witnesses.

The Chair: Okay. Thank you.

[Translation]

Go ahead, Mr. Bouchard.

Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ): Thank you, Mr. Chair. I have several questions and I want to thank you for allowing me to ask them.

First of all, welcome to today's meeting. I have a few questions concerning the Economic Development Agency of Canada for the Regions of Quebec.

Mention has been made of over \$32 million in supplementary estimates. What exactly are the additional funds being requested for? Are these capital funds? Are they funds to subsidize businesses or non-profit organizations? What exactly will the money be used for?

Mr. Richard Dicerni (Deputy Minister, Department of Industry): Unfortunately, I do not have a great deal of information to share with you about these additional funds, as this is not really

the responsibility of the minister or of the department. One day, we will have to speak to the people who draw up these documents to have them clearly distinguish between the areas for which we are responsible and those for which we are not.

When I last appeared before your committee, Mr. Massé asked me similar questions about the Federal Economic Development Agency for Southern Ontario. I pointed out to him then that there was a minister responsible for this file and that we had no right of review over this agency's operations and that consequently, we were not accountable for the way in which supplementary estimates were spent.

Mr. Robert Bouchard: So then, if I understand correctly, you request the additional funds, but the \$32 million in question are earmarked for the Economic Development Agency of Canada.

Mr. Richard Dicerni: Yes, these funds are earmarked for the Economic Development Agency of Canada. I have no hierarchic relationship with this agency. It has its own minister and deputy ministers and has been delegated full authority to make the decisions needed to identify the areas in which it wants to get involved.

Mr. Robert Bouchard: I see. I understand what you're saying, but why have these funds been requested? If I understand correctly, you are requesting these additional funds on their behalf. Isn't that right?

Mr. Richard Dicerni: Perhaps I could ask Ms. Gillis to explain to you how it works.

We complete the portion of the request that concerns the department, that is we request funds through the supplementary estimates process. I'm more than willing to talk to you about that. However, the government bureaucracy includes in the budget papers the funding for development agencies which now operate in a fully independent way. There isn't even any kind of sovereignty-association relationship between the department and these agencies.

• (0905)

Mr. Robert Bouchard: Fine then. My question pertains to the Economic Development Agency of Canada and the requests for excessive amounts, or additional funding. You've given me an answer and I thank you very much. I had an inkling of what that answer would be, namely that authority is really delegated to the minister himself and to the department. Since there was an amount entered here, I thought that you would have this information. It's all right.

[English]

The Chair: Go ahead, Monsieur Cardin.

[Translation]

Mr. Serge Cardin (Sherbrooke, BQ): Maybe it would be appropriate then to have Mr. Lebel appear before the committee. Is he not the responsible official?

Mr. Richard Dicerni: I believe that would be Ms. Vinet, the deputy minister.

Mr. Serge Cardin: Mr. Chair, how much time do we have to discuss these supplementary estimates?

The Chair: I believe we have three days until the conclusion of the business of supply.

[English]

It's three days before the end of supply, and I believe the last day of supply is yet to be determined. It's supposed to be June 23, but as you know, Parliament may rise early. It might have to be reported by next week, by June 15. If supply ends on Friday, June 18, then the estimates would be deemed reported by June 15.

[Translation]

Mr. Serge Cardin: Tomorrow is June 11. Next Tuesday is the cut-off date. So, we could hear from Mr. Lebel on Tuesday.

The Chair: We could, if that is what the committee wants, but...

Mr. Serge Cardin: The circumstances are rather unique. I'm not trying to be critical in any way. However, we're being asked to examine supplementary estimates and we don't have the responsible officials here with us.

[English]

The Chair: Well, the deputy minister is here, along with the assistant deputy minister and the chief financial officer.

[Translation]

Mr. Serge Cardin: Mr. Dicerni is telling us that he has no authority over this agency. Minister Lebel does have that authority. Therefore, I think it would be a good idea to extend an invitation to him.

[English]

The Chair: Certainly, but I don't think there's a wish on the part of the committee to review this on Tuesday for a second hour and to have another group of witnesses. However, if the committee directs me otherwise, we will do that.

I'll take your point. If members of the committee indicate to me in a majority fashion that they wish to have a second hour to review the supplementary estimates and to have a different group of witnesses, then I will do so, but I don't think that's the wish of the committee.

If you have any further questions, go ahead.

[Translation]

Mr. Serge Cardin: Mr. Chair, you can't assume anything. We would need to ask the committee. I think others would be interested in my colleague's question regarding the Economic Development Agency of Canada for the Regions of Quebec.

[English]

The Chair: Okay.

To the members of the committee, is it the wish of the members to have a second hour to review supplementary estimates (A) and to call a different group of witnesses?

Some hon. members: No.

The Chair: No. I don't see consent to do this.

Monsieur Bouchard.

[Translation]

Mr. Robert Bouchard: You have to understand that this is a rather unique situation. No one can answer our questions about the 20% or so in additional funds that we are supposed to look into and ask questions about this morning. The Deputy Minister maintains that he has no authority over this matter. These are funds that are being transferred. His department bears no responsibility. Therefore, this is a rather unique, and even puzzling, situation.

As my colleague just said, if Mr. Lebel cannot appear, then surely a deputy minister should be able to, much like we are hearing from deputy ministers this morning. He could answer our questions next Tuesday. If the minister can't make it, then surely a deputy minister could come here to answer a few questions about the Economic Development Agency of Canada for the Regions of Quebec.

[English]

The Chair: I'll suggest that we continue as the majority wishes to continue, which is to review them and then vote on them today, but I will ask the deputy minister if he would liaise with his counterpart, who has the details on the questions you've posed, and ask that those answers be submitted to the clerk of the committee for your information.

Go ahead, Mr. Dicerni.

● (0910)

Mr. Richard Dicerni: From a government perspective,

[Translation]

you may recall that virtually the same thing occurred when the Minister responsible for Western Economic Diversification Canada appeared before the committee in mid-May along with his deputy minister. The committee put a number of questions to the minister and to the deputy minister. We have the same situation here in the case of the Economic Development Agency of Canada for the Regions of Quebec.

When Mr. Massé asked me some questions about the Economic Development Agency for Southern Ontario, I told him that the agency was not my department's responsibility.

We will do another follow-up and ask the Treasury Board, the agency that instructs us on the drafting of this document, to make a clearer distinction in future as to the accountability of the various departments and ministers. If there are any questions—and I've taken note of the ones that you had—we can arrange after the meeting to have you get in touch with my colleague Ms. Vinet. I will pass along any questions you had to her.

The Chair: At our next meeting on the study of the supplementary estimates, you can ask me to invite the head of the Economic Development Agency of Canada for the Regions of Quebec to appear.

Mr. Wallace requested this meeting so that the committee could review the supplementary estimates. I invited these three witnesses because I thought they were in the best position to answer questions.

However, when we hold our next meeting on this subject in the fall, we could then invite the head of this agency to come here and answer our questions.

[English]

You can ask me at that time and I will invite him or her.

[Translation]

Are there any other questions?

Mr. Robert Bouchard: I'm open to your suggestion. Why don't we agree right now to invite the minister responsible for this agency and her deputy minister to appear before the committee at one of its initial meetings? Of course, the estimates will have been approved by then, but we could still ask questions about the agency. Therefore, I'd like us to agree on this today, that is, that will we invite the minister and her deputy minister to appear at one of the initial meetings of the Standing Committee on Industry, Science and Technology so that members can ask some questions about the agency's operations.

[English]

The Chair: You have my commitment that we'll do that when we review the next group, supplementary estimates (B).

[Translation]

Mr. Robert Bouchard: What do Supplementary Estimates (B) cover exactly?

The Chair: That is something that we will examine in the fall,

[English]

the main estimates, the supplementary estimates (A),

[Translation]

in the spring,

[English]

and the supplementary estimates (B) in the autumn, and then the supplementary estimates (C), often around Christmastime.

So at the next opportunity, I will commit to you that we will invite the minister and any other people you wish to invite at that point.

It was Mr. Wallace who asked me to set this meeting. I did it, and I invited the three witnesses I thought were best. The next time, please suggest to me who you'd like to invite and I will invite them.

[Translation]

Are there any further questions for the witnesses?

Mr. Serge Cardin: I'm fine. I would have liked to comment further, but I don't think I would get anywhere. Thank you.

[English]

The Chair: Okay. *Merci.*

Mr. Wallace.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chair.

I think the Bloc actually is making a point, not just for this committee, but for all committees. I'm somewhat saddened that they don't know what the supplementaries (B) and supplementaries (C) are. If we make it the policy of the committee—policy might be a bad word, but maybe practice—that we are going to look at the supplementaries, unless we turn them down, then a meeting or so in advance you can ask who we'd like to see. It would require people to have at least a preliminary review of what's in the supplementaries and would make sure that we have the departments properly represented here.

Anyway, I had submitted a few questions, and I have a few others just to keep you on your toes.

There is about a 2.5% change in these supplementaries (A) compared to what you had. What policy is driving that change?

• (0915)

Mrs. Kelly Gillis (Chief Financial Officer, Comptrollership and Administration Sector, Department of Industry Canada): In looking at the 2.5% change in our operating vote, about 88% of it relates to what we have as a funding model within Industry Canada, where part of our resources comes from repayable contributions.

For the strategic aerospace and defence initiative, for example, some of the repayable contributions from the previous year are then returned to us in the following year to continue to support that program. It's not a policy change, but because there is revenue uncertainty in the repayments, we have to get it through the supplementary estimates process.

Mr. Mike Wallace: Thank you for that.

You call them repayments. Are they a carry-over?

Mrs. Kelly Gillis: They're not a carry-over. Within the contributions that are made originally, certain portions are repaid to the Government of Canada, and a portion of those can be used to further support the program in future years.

Mr. Mike Wallace: And they're not in the main estimates because you won't know what they are until the end of the fiscal year. Is that correct?

Mrs. Kelly Gillis: That is correct.

What you see in supplementary estimates, actually, if we go to page 122 and look at vote 10, which is our grants and contributions vote, is a payment of \$39.8 million. This relates to the repayment from the previous year, for repayments that were made up to and including March 1, 2010. They come in through supplementary estimates (A). You'll see again, when we come back with supplementary estimates (B), what repayments were made for the last month of the year.

Mr. Mike Wallace: You just reflect the last month.

Mrs. Kelly Gillis: That's correct.

Mr. Mike Wallace: Is the repayment piece...I don't want to say standard, but is it around the same amount every year or does it vary from year to year?

Mrs. Kelly Gillis: It will vary from year to year.

Mr. Mike Wallace: Can it be zero?

Mrs. Kelly Gillis: Hopefully it will not be.

Mr. Mike Wallace: Okay. So there will always be... Even though this is showing an increase, this is money that has been—

Mrs. Kelly Gillis: It's part of a program.

Mr. Mike Wallace: —an opportunity to recapture.

Mrs. Kelly Gillis: Yes.

Mr. Mike Wallace: Okay.

Mr. Richard Dicerni: It goes back a number of years. Some agreements were entered into in the late nineties. The agreement included that the department, should the company be successful in its initiative, would get a certain slice of subsequent sales. It's dependent on a number of factors over which we don't have much control.

Mr. Mike Wallace: Is it policy that the money go back into the program to reinvest or does it go to general revenues?

Mrs. Kelly Gillis: A portion of it will come back—there are certain limits—to fund the program itself and the rest of it will go back to general revenues.

Mr. Mike Wallace: Thank you for that. It's very interesting.

Mr. Paul Boothe (Senior Associate Deputy Minister, Department of Industry Canada): Mr. Wallace, could I add to that? It creates an incentive to—

Mr. Mike Wallace: To be successful...?

Mr. Paul Boothe: —recover the money from the program. I think that was the original thought in the recycling of these funds to the program.

Mr. Mike Wallace: I think it's excellent.

Mr. Richard Dicerni: We have fairly dramatically increased our due diligence with some of our major companies by having quarterly visits. We put together a bit of a SWAT team to monitor the performance of the companies to ensure a higher degree of predictability in their profits on those particular elements.

Mr. Mike Wallace: From a net point of view, the additional investment of sending bodies to visit these people has generated more money for us. Is that correct?

Mr. Richard Dicerni: It has generated more accurate results. It's always hard to say whether there's more money, but there's a much greater reliability because we inquire about forecasts as they relate to the next quarter's sales, the following quarter's sales, and so forth.

As Kelly was saying, part of it goes back into the base of the department, which we in turn use to manage the department. So we have an incentive to have predictability.

Mr. Mike Wallace: Right. Those were very good answers. Thank you very much.

Bill C-9, the budget implementation bill, has now made its way through the House and is off to the Senate. We'll make the assumption it's going to pass; otherwise, we're in an election. That doesn't matter to you guys, but what will it do to supplementary estimates (B)? Is there a lot in the budget that would affect the industry department?

● (0920)

Mrs. Kelly Gillis: Yes. It would not affect Industry itself, but overall within the portfolio there will be a number of items that are still in the works right now going through supplementary estimates (B), such as Precarn, the community access program, and the college and community innovation program. There will be a number of items in supplementary estimates (B), and potentially in supplementary estimates (C), depending on how fast the items are approved.

Mr. Mike Wallace: I assume that the department, knowing what's in the budget, makes the assumption that it might pass and gets ready for that. Is that not correct? Why does it take all the way to supplementary estimates (C) for it to be implemented?

Mrs. Kelly Gillis: It depends upon whether a memorandum to cabinet is also required and upon some policy decisions regarding the items. There are various steps in the process.

Mr. Richard Dicerni: There are x number of things that are in the budget but that subsequently require a more definitive specific memorandum to cabinet, which will then authorize a Treasury Board submission to be prepared.

Mr. Mike Wallace: I completely understood our having had implementation bills on the previous budgets broken into two, one in the spring and one in the fall. It would make sense that you can't spend the money or budget the money until they're approved, but this time, it's all in one fell swoop, as far as I know. It was just a question.

My next question, if I still have time, is about the transfer of money from... It looks as though there's a transfer of money from FedDev to NRC. I think I read in these estimates documents that IRAP is taking up a whole bunch of it. First, is that true? Second, what is the demand for IRAP compared with our ability to service it?

Mr. Richard Dicerni: Without getting into the discussion that we had over the Quebec agency a little bit, and the department's role, here you're looking at two agencies that are, broadly speaking, part of the Industry Canada portfolio.

I will speak to this briefly, because when FedDev was established last year, we in the Department of Industry had a significant role in establishing the agency, defining its parameters, and kick-starting a few activities. In that sense, we recommended to the government and the minister that IRAP be expanded for southern Ontario. The program is always oversubscribed. It is very positive and very popular with small and medium-sized businesses.

In light of the economic difficulties in southern Ontario, it was felt that this would be a good investment to make and it would also be good for the new agency, because it would permit the agency to get to know a number of the key customers that the IRAP group was dealing with. Minister Goodyear decided to repeat this initiative this year, which is why the reference is in this year's supplementary estimates.

Mr. Mike Wallace: To me, it looks like it's a transfer from FedDev to... Because FedDev doesn't actually implement it—it's NRC.

Mr. Richard Dicerni: The NRC, which is where IRAP is based.

Mr. Mike Wallace: That its home and that is a temporary... What happens in the future?

Mr. Richard Dicerni: It's been temporary for two years.

Mr. Mike Wallace: So it will depend on the policy decisions from us?

Mr. Richard Dicerni: This is a question that you may wish to ask Minister Goodyear and his deputy minister, Mr. Archibald.

Mr. Mike Wallace: So for you, on the bureaucratic side—which I am fully supportive of—what does it do for planning? What would be best for you guys if we were to do it?

Mr. Richard Dicerni: Again, these are matters that should be addressed with Mr. Goodyear.

For IRAP, the more lead time you have, if you're developing a program, the better it is. But this is a matter that honestly you may wish to discuss at some point with the NRC here, and FedDev, because they're the two players who have the money and who are receiving money.

Mr. Mike Wallace: While I still have time, I have another question. It's about the money that's going to the technology cluster initiative. I'd like to know how much money is already spent. Or is this brand new money? I think it's new money, but is there already an investment in the cluster? How long have we been doing it? And what do we expect out of this new cash that we're giving them?

● (0925)

Mrs. Kelly Gillis: It's \$135 million over two years. You see half of it in these particular supplementary estimates. It's for money that sunsetted last year, so it's to reinstate money that ended from last year.

Mr. Mike Wallace: So just to get this clear, there was a two-year program that sunsetted...?

Mrs. Kelly Gillis: No. I don't know how many... I'd have to look into the terms of reference.

Mr. Richard Dicerni: There were a number of clusters established over the last 10 or 15 years at the NRC. The government extended a number of them so that they would all come to a sunset phase at the same year—and that was last year—in order to be able to take stock of all of the clusters across the country.

The government has mandated a group to look at the effectiveness of clusters—what they are doing and how effective they are at knowledge application and so forth—and has given the clusters two years of additional money in order to permit this assessment to come

through. But they have been in existence for 10 or 15 years across the country, some in P.E.I., some in Jonquière...

Mr. Mike Wallace: Are we on schedule to get a response on where we are?

Mr. Richard Dicerni: Yes. I would suggest that by the end of the year one will have come to a determination.

The government also appointed a new president for the NRC who started in mid-April, so he's taking stock of these and seeing how well they're working with the various institutes, because many of those clusters are linked to the 18 major institutes that the NRC runs across the country.

The Chair: Thank you very much, Mr. Dicerni.

Monsieur Gravelle.

[*Translation*]

Mr. Claude Gravelle (Nickel Belt, NDP): Thank you, Mr. Chair.

[*English*]

I'm just starting to try to understand this bill. Can you tell me who discovered the problem with the measurements?

Mr. Mike Wallace: That's in the next hour.

Mr. Claude Gravelle: That's in the next hour? Okay. I'm early, then.

Measurement Canada is currently responsible for these measurements, correct? So now we're going to appoint contractors to do it or find private companies to do this...?

[*Translation*]

Mr. Richard Dicerni: I believe the bill is before the committee and that some hearings were held earlier this week.

Moving right along, this is a special agency operating within Industry Canada. First, we'll wait until the bill is adopted. In order to broaden the coverage and enhance our capacity, we intend to enter into a contractual relationship with a number of individuals who will do the evaluations. We also plan to verify operations in a number of other cases.

Once the bill is adopted, we expect to have more capacity to monitor gas pumps. As I said, we will be debating this matter in thirty minutes.

[*English*]

The Chair: Monsieur Gravelle, we also have the second hour to ask questions about this. Since it is within the department, you can ask the deputy minister about Measurement Canada, but they really came prepared today to talk about supplementary estimates (A).

[*Translation*]

Mr. Claude Gravelle: Who did you consult during the course of drafting this bill?

● (0930)

Mr. Richard Dicerni: We starting working on this bill two years ago. We carried out an evaluation blitz in the summer of 2008. Based on our findings, we concluded that it would be to our advantage to increase the number of verifications and to increase the fines when infractions are noted. We consulted with people working in this area.

My associates will be here at 10 o'clock and they will be able to tell you who they consulted with exactly.

[*English*]

Mr. Claude Gravelle: I have a question for you, Mr. Chair. Is it in the first hour or the second hour that we can talk about the cuts to ACOA?

The Chair: To ACOA? You can ask the deputy minister about that right now. In fact, it's the first vote, so you can ask him about it. As I said before, though, while the votes fall under Industry Canada, it is a stand-alone agency, unlike FedNor, and he may not have the exact answers. The president of ACOA—I believe it's a woman—would be able to answer.

As I said before to other members, the next time we review either the main estimates or the supplementary estimates, if you wish to ask specific questions of specific agencies, let me know and I will ensure that those witnesses are invited.

This meeting has been called because Mr. Wallace has been pestering me—in a good way—to review the supplementary estimates each and every time. I commend him for that diligence. To that end, he was only interested in seeing the deputy minister, the chief financial officer, and the assistant deputy minister, so those were the witnesses I invited. But if other members wish to hear from other witnesses, you just have to let me know and let the clerk know and we will invite them.

So you can go ahead and ask about ACOA, but be forewarned that the deputy minister may not have the exact answers, as it's a very large department with a number of agencies.

Mr. Claude Gravelle: Okay. Thank you.

Are you the only guy that Mr. Wallace pesters?

Voices: Oh, oh!

A voice: No.

Mr. Claude Gravelle: I'm going to ask about the 5% cuts to ACOA. ACOA is an economic development agency that promotes jobs and development in Atlantic Canada. Why would the government cut this agency by 5% at a time when jobs are needed, when there's an economic downturn in Canada, and when unemployment is especially high in Atlantic Canada?

Mr. Richard Dicerni: In order to be logical with myself, I will take note of the question you've raised, because I would give you the same answer that I gave to Monsieur Bouchard in regard to my accountability versus the accountability of the president of ACOA and her minister, Mr. Ashfield, because we in Industry Canada—and I will definitely write the Treasury Board on this—to have more clarity between our accountability, which is fairly wide, and those agencies over which, apart from FedNor, we have no direct responsibility, accountability, and so forth.

But we will take note. I will pass it on in the same way that I will pass on the comments that Monsieur Bouchard made about

[*Translation*]

the Economic Development Agency of Canada for the Regions of Quebec. I will do likewise for Ms. Collette of ACOA.

Mr. Claude Gravelle: Thank you.

Mr. Richard Dicerni: You are welcome.

[*English*]

The Chair: *Merci, monsieur Gravelle.*

Mr. Rota.

Mr. Anthony Rota (Nipissing—Timiskaming, Lib.): Thank you, Mr. Chair.

Thank you for being here this morning.

I'll save my FedNor question for my second question and start off with something else. I'll just carry on a bit with what Mr. Wallace was talking about, about FedDev and IRAP working together and how there seems to have been a transfer that has gone over to IRAP. That money was in place to allow the program to hit the road running and get in place. IRAP had the networks in place and ready to go, so the money for FedDev went to IRAP. The money went out and it was allotted the second year, giving it the chance to do the same thing, basically, because I would image the infrastructure isn't quite in place.

How long does it normally take to get infrastructure in place? Also, how much of that money went to infrastructure for FedDev so that it can be ready to distribute the funds that would help with economic development?

• (0935)

Mr. Richard Dicerni: I have somebody who'll get back to you on the specifics in terms of where they're at.

When the government announced that FedDev was to be based in Kitchener-Waterloo, we had a head office established and we found some space there. There were a few offices that already existed—one in Peterborough and one in Stratford—but that was it. The notion of set-up is quite far-ranging because it goes, obviously, to real estate, but it's also about setting up your IT system to ensure you can communicate. It also goes to recruitment of staff. It also—

Mr. Anthony Rota: How long does that normally take? More than—

Mr. Richard Dicerni: I don't think there's a normal period of time.

The other aspect is the external networks. I know that they hired an ADM, for example, to be based in Kitchener, and the person started in February.

Before that person is able to establish his network within the community, to know who the persons are at the chamber of commerce who they can deal with, and at the economic development agency... In Kingston, it's Bob King, and you should really deal with Bob King, because he's credible and he knows what he's talking about. To establish those networks, to know the small and medium-sized businesses, it takes some amount of time. So I assume the view of the minister was to capitalize on the exiting IRAP networks and—

Mr. Anthony Rota: If you don't mind, I appreciate the IRAP, and maybe this is more of a political question than anything else. I was just wondering how much of it actually went out and was invested in this infrastructure or the actual bureaucracy for FedDev, my concern being that there is an ideology that says they don't believe in regional economic development, so to put it out in a network that already exists and then just be able to claw it back at a later date... But that's just a hypothesis that I've put in my own mind, and I won't trouble you with that.

Mr. Richard Dicerni: You can appreciate that we don't deal with hypotheticals—

Mr. Anthony Rota: I'll go to my next question, if you don't mind, about FedNor.

On May 13 we had the minister here. I was very specific in asking for a breakdown of the estimates for FedNor, because they weren't in place. The minister promised them, as he did in his prior visit, I think, a couple of visits before. What we got was a beautiful pamphlet with pictures. This time we didn't even get the beautiful pamphlet.

I was just wondering where that sat. I'm sure he would have asked you to put the numbers together. Are they in process? Are we about to get them shortly? I believe they were to be given to the chair of this committee. Are you aware of where that's at?

Mr. Richard Dicerni: Yes and yes.

Mr. Anthony Rota: Yes and yes? They are in process?

Mr. Richard Dicerni: They are in process and, yes, you will get them.

Mr. Anthony Rota: Okay. It's funny, because I was told by the minister that these are very obvious and that it was me who couldn't find them, and when Industry Canada can't find them, or it takes a while to put them together, I would be very... I'm just trying to make sense of what the minister said, which is very difficult at times.

Mr. Richard Dicerni: Well, for the record I take objection—

Voices: Oh, oh!

Mr. Richard Dicerni: —but we'll respond—

Mr. Anthony Rota: I'll get the breakdown—

The Chair: And as soon as the clerk receives it, she will distribute it.

Mr. Anthony Rota: I'm just hoping for a quick response as opposed to a lengthy one, or a non-response like last time. I'm not blaming Industry Canada. I'm sure the minister's office is—

The Chair: The deputy minister's staff have noted your request for a timely response.

Mr. Anthony Rota: Very good. Thank you. Those were my questions.

The Chair: Do we have any further questions?

Mr. Wallace.

Mr. Mike Wallace: Thank you, Mr. Chair. Thank you again for the few minutes.

I only have four, so you're almost out of here.

There is funding for subatomic and—my friend Mr. Garneau would like this—there is life science funding for a facility that is already funded. I want to know what the level of funding is, how long it has been around, how long we've been funding it, and what we are expecting to achieve at Industry from funding this facility.

Mrs. Kelly Gillis: For the funding that's in here, supplementary estimates (A), the \$25.7 million, that relates to funding that was committed in budget 2010, where five-year funding for \$126 million was provided. That's the funding that you're looking at.

• (0940)

Mr. Mike Wallace: You mean last year's budget...?

Mrs. Kelly Gillis: Yes. In the budget that's just going through now, there was \$126 million that was committed over five years, and you have a portion of it, the \$25.7 million, being asked for in these supplementary estimates.

Mr. Mike Wallace: This is not in Bill C-9, but in the budget prior to C-9?

Mrs. Kelly Gillis: No. This would be Bill C-9.

Mr. Mike Wallace: So even though Bill C-9 has not passed, you're able to put something in the supplementaries (A) to make that happen?

Mrs. Kelly Gillis: We have two items in supplementaries (A) that are related to Bill C-9: clusters and TRIUMF.

Mr. Mike Wallace: And has that facility been around for a long time and are we getting results from it?

Mr. Richard Dicerni: TRIUMF has been around for decades.

Mr. Mike Wallace: Decades...? Okay.

Mr. Richard Dicerni: It is a well-known international research facility that has established... May I read to you for the record...?

Mr. Mike Wallace: Absolutely, as long as it's not more than five minutes long.

Mr. Richard Dicerni: The \$126 million over five years received through budget 2010 is in addition to TRIUMF's existing A-base funding, which is \$19 million a year. This enables scientists at TRIUMF to undertake many important research initiatives, including life-science-based research initiatives. No other facility in Canada can match the capabilities offered by the TRIUMF facility, the research taking place at the TRIUMF-related foundation for new technologies in physical and life sciences, and the facilities that contribute to advanced materials research in Canada.

Mr. Mike Wallace: Okay. So it's been around a while. That's why I wanted to know, because I don't know anything about it personally.

Mr. Richard Dicerni: Pardon?

Mr. Mike Wallace: I just didn't know anything about it so I just wanted to—

Mr. Richard Dicerni: If ever you're out in the west coast, I'll mention to the president of the NRC... It is truly a—

Mr. Mike Wallace: Where on the west coast is it?

A voice: UBC.

Mr. Mike Wallace: Because I'm on the budget committee and we're looking for places to visit in the fall for the finance committee. That may be one of them.

Mr. Richard Dicerni: I believe that Mr. Rajotte, your committee's chair, would be intimately familiar with this.

Mr. Mike Wallace: I appreciate that.

On the money for the Space Agency that's transferred from NRC, from a practical point of view, why do we give the money to the NRC to transfer to the Space Agency? Why doesn't it go directly to the Space Agency? I don't understand why there has to be a transfer between organizations.

Mrs. Kelly Gillis: As you've seen in our last...and also with supplementary estimates (C), departments get together to promote different things together. For this particular one, the Space Agency is transferring from the NRC the \$35,000 for a grant to allow students to get involved in science.

Mr. Mike Wallace: I understand what it's for. I just don't know why we don't... Not in this book, but in the other ones, there are hundreds of transfers. It drives me crazy. So why didn't we just fund—

Mr. Richard Dicerni: The reason is...[*Technical Difficulty—Editor*]

A voice: The microphones aren't working for some reason.

The Chair: Mr. Dicerni, the microphones aren't working. We'll suspend for five minutes while they straighten out the...[*Technical Difficulty—Editor*]

[*Proceedings continue without recording—See Minutes of Proceedings*]

- _____ (Pause) _____
-

[*Proceedings continue with recording*]

- (1010)

The Chair: We're coming out of suspension. Welcome back. We're moving on to the second item on our orders of the day.

We're here pursuant to the order of reference of Thursday, May 13, 2010, to study Bill C-14, An Act to amend the Electricity and Gas Inspection Act and the Weights and Measures Act. In front of us today we have Mr. Boag, who is president of the Canadian Petroleum Products Institute, and Monsieur Montreuil, vice-president of the same organization. We also have with us Madam Huzar from the Consumers Council of Canada.

Welcome to our three witnesses.

We'll begin with an opening statement from Mr. Boag of the Canadian Petroleum Products Institute.

Mr. Peter Boag (President, Canadian Petroleum Products Institute): Thank you very much.

Good morning, Mr. Chair and committee members.

As the president of the Petroleum Products Institute of Canada, I certainly want to thank you for the opportunity to be here today and to share the views of the institute on Bill C-14. With me today is Monsieur Carol Montreuil, vice-president of the institute's eastern Canada division.

The Canadian Petroleum Products Institute is the national association representing the public policy interests of the downstream petroleum industry for all aspects of petroleum refining, distribution, transportation, and marketing for transportation, home energy, and industrial uses. Collectively, CPPI members operate 17 refineries across Canada, representing 80% of Canadian refining capacity, and supply some 10,000 branded stations with transportation fuels across the country.

CPPI members include Chevron Canada Limited, Husky Energy, Imperial Oil Limited, North Atlantic Refining, Parkland Income Fund, Shell Canada Products, Suncor Energy Products Inc., marketing under the brand name Petro-Canada, and Ultramar Ltd.

At the outset, I want to emphasize that CPPI and its members are committed to the principle that consumers should get what they pay for. CPPI members operate with the highest levels of integrity and have developed trust with their customers by providing full value for high-quality and reliable energy products.

CPPI members support the concept of mandatory periodic device inspections that are enabled by Bill C-14. Having a two-year mandatory inspection cycle was a principal recommendation of Measurement Canada's 2004 retail petroleum trade sector review. CPPI was a participant in that multi-stakeholder consultation and endorsed the recommendations of the review.

I would also like to take this opportunity to reinforce some remarks made by Measurement Canada officials when they appeared before the committee last week. First, I would like to acknowledge that the retail petroleum sector has a very high compliance rate, which met Measurement Canada's standards: 94% for gasoline pumps over a 10-year period. In 2007, the compliance rate, as reported in the Canwest story referenced by Measurement Canada last week, was 97%. Clearly our goal is to get to 100%, but the mid-to high nineties—and certainly in comparison to the other sectors that were described last week—are very high.

Moreover, Measurement Canada officials confirmed that the calibration error threshold is low at 0.5%, which is really about one cup of fuel for a 50-litre fill-up. They also confirmed that there was no evidence to suggest that calibration errors are the result of intentional actions on the part of refuelers. I think this is an important point to make in the context of some of the public commentary on the issue at the time that Bill C-14 was first tabled.

The last point I would like to make refers to the title of Bill C-14, the Fairness at the Pumps Act. Given that the act amends both the Electricity and Gas Inspection Act and the Weights and Measures Act and is applicable to a broad range of trade sectors, I would respectfully suggest that the committee consider recommending a change to the bill's name to better reflect this broad application.

I would conclude by reaffirming our position that our members are firmly committed to the concept and the principle that consumers should get what they pay for.

Thank you for your attention. Mr. Montreuil and I would be happy to take your questions.

- (1015)

The Chair: Thank you very much, Mr. Boag.

We'll now hear an opening statement from Madam Huzar of the Consumers Council of Canada.

Welcome.

Ms. Joan Huzar (Chair, Energy Committee, Consumers Council of Canada): Thank you very much, Mr. Chairman.

Just for those who may not be aware of our organization, the Consumers Council of Canada is an independent, not-for-profit organization. We were federally incorporated in 1994. Our goal is to bring a consumer voice to important local, regional, and national issues, and of course that's why I'm here.

The council works collaboratively with consumers, business, and government to solve marketplace problems. We aim to inform consumers, businesses, and governments alike about their rights, obligations, and responsibilities. Our volunteer board of directors consists of experts in the fields of consumer issues, consumer policy development, and business development.

The council provides informed opinion through its public interest network, which is a volunteer think tank of more than 400 thoughtful, engaged leaders from many different fields of expertise from across the country. As well, we have a network of young consumers, which is a virtual forum of more than 100 young professionals who keep the council in touch with their consumer demographic and able to better understand their needs.

We are arguably the most active multi-issue consumer group in Canada.

I will tell you that I live in Victoria, British Columbia, where unfortunately, our weather is just about the same as it is here right now, but I'm here in Ottawa attending another meeting so I was happy to be able to come to this presentation. Our offices are actually in Toronto, Ontario.

In general, the council approves of the government's intent to provide greater protection for Canadian consumers from inaccurate measurements at gas pumps and other metering devices.

I would agree with my colleagues that the short name of the bill doesn't encompass the broad scope of the actual bill. That was a good suggestion.

We like the four particular things that we pulled out, which are the administrative monetary penalties and increased maximum fines, the new fine for repeat offenders, the mandatory inspection frequencies, and the appointment of non-government inspectors trained to conduct these mandatory inspections.

Having said that we approve of all those things, we do have some comments to make.

First, on the administrative monetary penalties, proposed new subsection 29.11(3) sets a maximum penalty for a violation at \$2,000. Our opinion is that this amount is not going to promote compliance with the act. The offence penalties under section 33 set a maximum from \$20,000 to \$50,000 and under section 32 from \$10,000 to \$20,000. These penalties represent real inducements for compliance. The \$2,000 penalty, we would argue, does not.

The council questions the government's provision of the payment of "a lesser amount that may be paid as complete satisfaction of the penalty". My assumption is that this means that if you pay it on time you don't have to pay as much. Quite frankly, I don't understand that idea at all. How does a reduction in the penalty provide increased protection against non-compliance? Perhaps someone can explain.

Furthermore, the council questions the provision of compliance agreements, which are an admission of guilt but which may result in a "reduction, in whole or in part, of the amount of the penalty...". How does a reduction in the penalty provide increased protection against non-compliance?

Proposed section 29.28 allows the minister discretion as to making offences public under the act. It says the minister "may" make these public. This, in combination with revision of compliance agreements, seems to us to undermine the deterrent quality of the act. We would hope that the minister "will" make public those people who have been found guilty of an offence.

The council believes also that it is unrealistic to have, as the only recourse in a dispute, an appeal to the minister. Surely Weights and Measures Canada can establish a realistic dispute-resolution process. An appeal to the minister should be a last resort.

The council applauds the provision for an employer to be liable for a violation committed by an employee.

On the area of a new fine for repeat offences, we agree with proposed section 29.24, which establishes that a "violation that is continued on more than one day constitutes a separate violation in respect of each day" on which it is committed, and we wonder why there isn't an increased penalty, as there is in section 32.

● (1020)

Concerning mandatory inspections, if the intent is to conduct mandatory timetabled inspections, and not inspections conducted as a result of consumer complaints, then we support this requirement. Our concern is the provision of financial and human resources to carry out this function. It is our experience that government often makes consumer protection laws and regulations, but fails to provide the resources to ensure that protection. We would hope that the budget is going to be increased so that Measurement Canada can carry this out.

Finally, there is the appointment of non-government inspectors. We approve this concept of the appointment of non-government inspectors trained to carry out the mandatory inspection. Now, this may be my inability to read the legislation, but it appears there is confusion in the proposed act about who is an authorized inspector. Proposed subsection 26(5.1) seems to be in opposition to proposed subsection 29.12(1). Who is an authorized inspector under the act? In my reading of it, I could not determine who that person is going to be.

In concluding, then, we support this bill in the principles on which it's built. We believe the concerns we've raised need to be addressed to make this stronger consumer protection legislation.

Thank you very much, Mr. Chair.

The Chair: Thank you very much.

Now we'll have about 40 minutes of questions and comments from members of the committee.

We'll not be moving on to the third item on the orders of the day because Mr. McTeague has indicated that he's not going to move his motion, so we'll use the remaining time to 11 o'clock for the study of Bill C-14.

We'll begin with Mr. McTeague.

Hon. Dan McTeague: Thank you, Mr. Chong.

Witnesses, thank you for being here today.

Like you, I had some doubt as to the motives of the legislation given the dearth of evidence that these issues were in fact taking place. That's not to suggest that consumers do not in fact have concerns about whether or not they're receiving the proper amount of fuel that they believe they're paying for.

I want to go to you, Monsieur Montreuil and Mr. Boag, and then to you, Ms. Huzar, as to the underlying concerns that this legislation may give rise to even further complications and does nothing to eradicate that perception.

I agree with you on the title. The title is misleading and I think is somewhat gratuitous. I was concerned that at the press conference the minister referred to retailers by demonizing them as "chiselers"—some of them, anyway—when the evidence may very well point to the fact that issues of impropriety or the perception of a lack of quantity the person believes they're purchasing may be the result of mechanical failure, of wear and tear, which I think is normal in any circumstance.

Mr. Boag and Mr. Montreuil, I'm wondering if you could ascertain from your members if they accept the standard Measurement Canada provides, of 100 millilitres for every 20 litres of fuel, as an acceptable tolerance. I say that because if I'm driving Mr. Van Kesteren's car, which might be fuelled up at 60 litres of fuel, it means that under the current tolerance levels a consumer may lose one-third of a litre of gasoline. At a dollar a litre, that's 30¢ to 40¢ a litre. I think that would continue to maintain the cynicism that the public correctly has.

Mr. Boag, do your members accept the 100-millilitre tolerance level? Or do they believe or do they operate on a lower tolerance level, both at the gas stations and the refineries?

Mr. Peter Boag: Well, certainly I'm going to talk about the gas stations specifically. They accept that as the regulated standard now under current standards. It's not a discussion we've had in terms of whether they think that should be a higher level of tolerance or not, so I'm afraid that I really can't answer that question.

Ultimately, it's up to the government to decide to promulgate a standard, which they've done. That's certainly the standard members now take very seriously and certainly have within their own organizations.

While I'm not privy to all the details of how individual companies respond to that, they take this as a very serious issue. They have compliance programs that in many cases, I'm told, exceed the two-year voluntary standard, with some companies doing it as frequently as annually on a regular basis, and even more.

With respect to the specifics of the tolerance, I don't have a particular view of where members sit on that.

• (1025)

Hon. Dan McTeague: Fair enough.

Would it be in the interests of any of your members' companies, if they could do it, to in fact skew or play with the current arrangement of gas pumps we have? Or would there be an inventory impediment to trying to skew, as it were, to skim off in favour of the retailer?

Mr. Peter Boag: First, let me again reiterate that our members believe firmly that consumers should get what they pay for. They want their pumps to be accurate. They, as business people, would not want to risk jeopardizing the trust of their customers by that kind of action.

Hon. Dan McTeague: There is a standard test procedure that is recommended by Measurement Canada. I won't get into the detail; it's quite involved. But I have spoken to several people who work in this field and suggest that the current standard procedure, field procedure, is too open to the risk of interpretation.

Therefore, you may well get an organization, a fly-by-night business, that says they're certified, they've made all the standards, they meet all their criteria, so they're going to slap the sticker on and allow the 100-millilitre tolerance, as an example, which could be the sign of a wearing machine, and they won't have to inspect this for another two years.

Is there the possibility under this scenario of creating further injury and further problems and complications if there's no standard, set, defined, and interpreted guideline for tests?

Mr. Peter Boag: Like you, I'm not an expert on the actual calibration activity, so I'm afraid it's really difficult for me, not knowing the details of that calibration level, to offer an answer to that question.

Hon. Dan McTeague: Mr. Montreuil.

Mr. Carol Montreuil (Vice-President, Eastern Division, Canadian Petroleum Products Institute): Clearly, any time you have human intervention in calibration or manipulation, you are adding errors. So it has to be clear that we seek to get 100%, but given that you're involving humans and you're involving equipment, obviously this is prone to error.

Hon. Dan McTeague: When this issue first appeared with Glen McGregor's article, it was apparently a study by Measurement Canada, which neither Measurement Canada nor anyone has been willing to acknowledge took place.

Knowing how gasoline works when you remove it from the ground, I know that if it's not done in a proper way, it is liable and suspect, and possible errors can happen. Exposing gasoline that's at an ambient temperature in a tank to outside temperatures could have the effect of contracting or expanding it and therefore making the process of calibration certification a bit redundant and perhaps even useless, if not suspect.

I'm going to ask you, Ms. Huzar, in your opinion—and I won't ask you about calibration—is it conceivable that the government's position with respect to the penalties may have something to do with individuals who may have had one of their pumps malfunction not as a result of something they'd done deliberately, so that's why there's a difference in the fines, a difference between \$2,000 and \$20,000?

Has your organization considered that unwanted and unintended mechanical failure is captured by the legislation's saying there are circumstances that warrant a lower penalty or fine versus a higher mandatory, which your organization seems to support?

Ms. Joan Huzar: I think the key here is consumer trust. When I pull up to the pumps or occasionally go to a store where a butcher weighs something, my expectation is that the measuring device is accurate. That's number one.

Number two, my expectation is that somebody up there—although as an ordinary consumer I probably wouldn't know that Measurement Canada was the organization—is ensuring that this is what's happening.

So anything that government can do to maintain that trust is very important. I think we're really getting at the fraudsters. My assumption is that this is what this is aimed at: those people who are setting out to make a quick killing by doing whatever it is they do. In that respect, the legislation has to be sufficient.

As to the mechanical failure, it seems to me there's an obligation of a business to ensure that the mechanical stuff it's using—in this case, pumps or scales or whatever it is—is working.

• (1030)

Hon. Dan McTeague: I wonder if your organization took into consideration in the hoopla over this issue, which took place at the same time that energy prices were going through the roof, the fact that the government, by its own admission, found that 4% of the tested pumps were not in favour of consumers, while 2% were, and 94% were within compliance.

What would your organization and its membership think of the fact that under the current regulatory framework, despite all the legislation, the song and dance, and the fanfare, they are still, on 60 litres of gasoline, going to lose anywhere between 40¢ and 60¢ every time they fill up?

Would your organization be concerned that the tolerance level accepted by Measurement Canada continues to undermine and provide for the cynicism that you've alluded to?

Ms. Joan Huzar: On this aspect, as in any place in the marketplace that I would use computer scanning errors at the checkout as a comparable sample, I think our expectation is that it's right, that it's accurate. The scanning at the checkout is a little different because, with luck, you have in your head the number that it should be, and when it shows up on the cash you can see it's different, so you have an opportunity to challenge the cashier. You don't here. The issue is trust. I think the issue is the retailer's obligation to make sure their things are accurate.

The Chair: Thank you very much.

Monsieur Cardin.

[*Translation*]

Mr. Serge Cardin: Thank you, Mr. Chair.

Madam, gentlemen, good day and welcome to the committee.

Fundamentally, the important thing here is to maintain the public's trust. When it comes to weights and measures, there are some things that are more or less important. If we're talking about a scale to weigh calf's liver, errors are less costly than if we were weighing gold.

I agree with you as far as the title of the bill is concerned. Again, it's a bit misleading. Consumers are, as we know, quite sensitive to any variations in gas prices. If, in addition to that, we're saying that there may be measurement discrepancies that hurt the consumer, well that makes the bill even more attractive. Conservatives excel when it comes to such things. For example, they called the minimum sentencing bill Sébastien's Law. When they wanted to bring in amendments to the Criminal Code, they tabled the Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years); the short title of this bill is the Fairness at the Pumps Act. The bill should have been called the "Trust in Measurement Act" and that would have covered all weights and measures systems, include electricity and gas.

All, or virtually all, industry and consumer representatives agree that appropriate fines should be imposed and that these should not be left to the minister's discretion. Everyone agrees that proper fines should be imposed.

I don't believe that gas retailers manipulate the system. Just imagine how much gas a retailer would have to sell in order to reap some kind of benefit, especially considering the fines that can be assessed. I doubt very much that a retailer would do that. However, we need to take steps to guard against negligence. It's possible that when inspections are done, the devices are used incorrectly. How do we determine if the individuals using the weights and measuring devices are in fact negligent? The regulations may be clear on that score, but overall, the potential annual discrepancy between the price paid by the consumer and the quantity received is pegged at \$20 million. That's less than a 1 cent a litre variation in the price of gas at the pump. If I'm not mistaken, that's within the limit. I don't really see the problem. To my way of thinking, the problem isn't fraud, but primarily negligence.

The costs involved range from \$50 to \$200. What does the industry think about all of this? How has it reacted in general?

• (1035)

[*English*]

Mr. Peter Boag: On the cost issue, the general view of members looking in terms of what they're doing now... Again, I don't have the specific details of individual business transactions and the specific costs of individual firms, but I think the general information that members have been able to provide us suggests that the cost is anywhere between \$50 to \$200 to inspect and calibrate a pump. That's the kind of range there is.

[Translation]

Mr. Carol Montreuil: The industry goes further than the regulations require by carrying out inspections on an annual basis, or more frequently than is required, in the case of high-volume outlets. That shows how important this is to us and how cost is not an issue because we don't just do inspections every two years, as the regulations prescribe. Sometimes, we don't even let a year pass between inspections.

Aside from economic considerations, it's important to remember that the pumps are all part of a system that includes underground tanks and pipelines. We must ensure that there are no leaks in the system, from an inventory control standpoint and for the sake of the environment. The pumps are one component of the reconciliation process that allows us to ensure that environmentally speaking, the equipment is in sound working order. Therefore, cost is not a major factor. This is clear, in my opinion, from the industry's performance.

Mr. Serge Cardin: On the subject of consumer protection, have you done anything about water metering in general, Ms. Huzar?

Have you conducted any analyses of water consumption and have you any recommendations to put forward with respect to water metering?

[English]

Ms. Joan Huzar: Our organization specifically has not, but on general principles, water metering is I think desirable. People should know how much water they're using. I think that's a given. I know that a lot of communities in Canada are moving towards that.

I'll go back to consumer trust. Our assumption is that standards are set for how these things work. Our assumption is that the way you enforce standards is by having inspections. In the strongest terminology, I guess I would say that it's industry's responsibility to ensure that their equipment functions the way it ought to, and if a two-year inspection regime isn't sufficient, then maybe you need to look at something else at strengthening that.

But the standards are in place, I gather. It's the inspection regime that is the key to the whole thing, so anything you can do to strengthen that and make sure that inspection regime is above reproach will build consumer confidence, which is what this is about.

[Translation]

The Chair: Thank you, Mr. Cardin.

Monsieur Lake.

[English]

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for coming today.

Madam Huzar, I'm just taking a look at the specific comments you've made here. I'll deal with them one at a time.

On the AMPs versus the increased sorts of criminal fines, I guess, in a sense, and the difference between the maximum penalty being at \$2,000 versus the more serious criminal offences at \$20,000 to

\$50,000, I think we're talking about two different things. We're talking about—

• (1040)

Ms. Joan Huzar: One's a violation—

Mr. Mike Lake: I think it's important to differentiate, because Mr. Boag talked about the difference between things just being mechanically out of whack a little bit versus someone deliberately committing fraud, which is certainly not the normal situation when we're talking about the pumps being out of whack.

In a situation where there's an inspection done after a couple of years and there's simply a mechanical failure—they're a little bit out of sync—is it not reasonable that there would be more of a fine, like you'd pay a speeding ticket, a little bit more, obviously, with a maximum of \$2,000? Would you not see that as sort of a reasonable way of approaching a gas station, a private retailer? It's that simply after a couple of years their pumps are measured and are just not measuring properly.

Ms. Joan Huzar: I think that from a consumer's perspective I don't care whether it's fraud or the thing failed. I'm sorry, but it doesn't make any difference to me at all. I'm not getting what I thought I was paying for.

Mr. Mike Lake: Right. And that's why there's a—

Ms. Joan Huzar: And I take your point that most of the issue here, I gather, is not around fraud; it's around mechanical failure. But as I say, I don't really care. The issue we're raising is that with a fine of a maximum of \$2,000 for a violation, where's the incentive to make sure my stuff is inspected properly?

Mr. Mike Lake: I think, though, that the intention of the act is to ensure compliance and to get higher compliance rates. Obviously if you get fined \$2,000 the first time around for having a pump that's not measuring properly, and you haven't fixed it, and down the road you deliberately don't fix the pump and have all these pumps that are measuring inaccurately, of course you would then expect that there might be a case of fraud.

That's if you know your pumps weren't measuring properly and you didn't fix them over the course of time, but the idea of these lower penalties in that first case, as it was explained by the officials when they were here the other day, is that it's unreasonable to expect that we're going to go through months of criminal proceedings to attack a private retailer who simply didn't know he had a pump that wasn't measuring properly over two years but then eventually got fixed.

I think that's why we've seen less compliance or less conviction, I guess, on these things. It's because it's simply not practical, given the way the process works. This AMPs process will certainly see increased compliance, I think.

In terms of the compliance agreements, you were talking about admission of guilt possibly resulting in a reduction of the penalty amount, either in whole or in part. We might have a gas station with 16 pumps, for example, and maybe something is wrong within the system. They get an inspection done, and there's a problem. Something within the system identifies a problem that is affecting all of the pumps at the same time. Rather than fining that retailer for every single one of those pumps—whatever the penalty is, times 16—there might be a discussion around how the fine might be adjusted to affect the practical reality of that situation.

Does that seem like a reasonable approach? It would not be if there was a fraudulent, intentional manipulation of the pumps to the benefit of the retailer or to the detriment of the consumer, but it would be if a systematic problem was identified after a couple of years through a regular inspection process and the retailer immediately fixed that problem.

Does that seem to make sense?

Ms. Joan Huzar: There are several things going on here.

Let me first address the issue of the retailer with two pumps and the retailer with 16 pumps or 25 pumps. My reaction is that if you have 16 pumps, you have 16 times the obligation to make sure it's right—

Mr. Mike Lake: Right.

Ms. Joan Huzar: —so I don't buy that. My reading of the legislation may not be as knowledgeable as it might be, but are you applying it per pump? Is that what it is? Is it per retailer...? You seem to be saying that—

Mr. Mike Lake: It's the measurement inaccuracy, right, so—

Ms. Joan Huzar: If measurement is inaccurate on every pump at my gas station, do I then have a maximum \$2,000 fine for every pump? Is that what it says?

Mr. Mike Lake: Well, yes; in an AMPs situation, yes.

Ms. Joan Huzar: It would be a fine for every pump as opposed to just a fine for the retailer who's running that operation.

•(1045)

Mr. Mike Lake: Right.

Ms. Joan Huzar: Again, if you're running 16 pumps or 25 pumps, then you just have a greater obligation to make sure they're accurate. Again, I'm talking about consumer expectations.

Mr. Mike Lake: Then you and I would agree.

You and I would agree on that. I think that we would—

Ms. Joan Huzar: As to the amount, again, if the act is set out to deter fraud and to encourage compliance, then I'm sorry, but I don't think a \$2,000 fine does it.

Although this is totally unscientific, at the other meeting I was at today, I went around the table with the people there, who happened to be a bunch of builders, and they all agreed that if it was \$2,000, they didn't think so, that it didn't sound reasonable.

Mr. Mike Lake: Again, though, just to clarify the difference, we're not necessarily talking about the \$2,000 fine situation, the AMPs situation, in relation to fraud. Let's just clarify that. If we're talking about fraud, then we're talking about those bigger penalties.

Ms. Joan Huzar: If I could just clarify, then, when I read the act, the big fine was around stealing the mark—

Mr. Mike Lake: Right. That's fraud.

Ms. Joan Huzar: Okay. So that's one thing, but that's a separate thing from having your equipment not operate properly.

Mr. Mike Lake: Right. What I'm referring to here is a—

Ms. Joan Huzar: I'm overstating, but why is it okay in terms of fines—it's just a little bit—to have your equipment not be up to snuff? You don't catch it because you know you only have to inspect every two years, so it's only every two years that you inspect. This is not the normal... I mean, All legislation is out to catch the bad guys. We're not out to catch the good guys.

If we were all good, we wouldn't need any laws at all. We're talking about the bad guys and \$2,000 doesn't do it.

Mr. Mike Lake: But I think we're trying to find some balance here. We all drive vehicles and we all want to be able to get gas at a local gas station. We don't want to have requirements that are so onerous that people stop opening up gas stations. I think there has to be a balance in there somewhere.

Ms. Joan Huzar: The cost, if I heard it, was between \$50 and \$200 to have the pumps calibrated.

Mr. Mike Lake: So are you suggesting—

Ms. Joan Huzar: I'm just saying that I don't think that is going to jack the price of my gas up sufficiently that I'm not going to get gas.

Mr. Mike Lake: Right, but that's in two years. It sounds as though you're suggesting that every two years isn't enough, that maybe it should be every year—

Ms. Joan Huzar: I don't know.

Mr. Mike Lake: —or every six months.

Ms. Joan Huzar: I don't know enough about the mechanics of it. I don't know how often equipment fails. If it fails every six months, then we probably need an inspection every six months. If equipment normally runs efficiently for 10 years...

I mean, I take it from Measurement Canada that two years is enough; I have no reason not to. I don't know.

Mr. Mike Lake: I know my time is probably coming close to an end, but Mr. Boag, if you could, maybe you could clarify this for me.

Failure might be the wrong word, because I don't know that we're talking about a sudden failure of equipment. I think we're talking about over the course of two years. Gradually the measurement system gets a little bit further and further off, the calibration...

Mr. Peter Boag: Yes. Over the course of time and just with routine wear and tear, the accuracy of a device could deteriorate to the point that it could come outside of the tolerances and standards that currently exist as promulgated by Measurement Canada.

The other point I want to add here is we've been talking about a two-year inspection cycle. That was certainly the recommendation that came out of the 2004 retail petroleum trade sector review. It's what the voluntary standard is now that has been promulgated by Measurement Canada. But actually, Bill C-14 does not specify what that mandatory inspection period will be. That ultimately will be the function of regulations that are made under this act.

Very much, this is enabling legislation, and we look forward to working with Industry Canada staff as they begin the regulation-making process after passage of Bill C-14 to determine what makes sense in terms of the mandatory inspection cycle. Clearly, in our view, that should be on the basis of a solid cost-benefit analysis in examining the magnitude of the problem and what is a balanced approach that makes sense on the basis of that cost-benefit analysis.

The Chair: Thank you, Mr. Boag. Thank you, Mr. Lake.

Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thanks very much, Mr. Chair.

Thanks to our witnesses for coming today.

I'd like to start by asking for some of the published figures that have been around, both in regard to the impact on consumers of shortchanging pumps and in regard to the potential short-changing of consumers even within the legal tolerance, that sort of 30¢ a fill-up.

Do either of your organizations have figures that either confirm or dispute the potential tens of millions of dollars that consumers have been shortchanged or would be shortchanged?

•(1050)

Mr. Peter Boag: Certainly, CPPI does not have that information.

Ms. Joan Huzar: Neither do we.

Mr. Peter Julian: Okay, but I think we all understand that there is a significant impact on consumers.

The Chair: Mr. Julian, just so you know, in the last meeting we had on this, Measurement Canada indicated that households in Canada were being shortchanged to an amount of \$20 million a year in gasoline, which works out to about \$1.50 per household, as there are about 13 million households in the country.

It's about \$20 million a year. That was on the record in the last meeting we had about this.

Mr. Peter Julian: Thank you, Chair.

I hope that doesn't come out of my time.

The Chair: Of course not.

Mr. Peter Julian: I appreciate that.

I'd like to come back to you, Ms. Huzar, and the concerns you have around the bill as it is. You've raised the issue about the size of the actual fine that could potentially be levied. You've also raised concerns, as I understand it, around the potential of appeals to the minister, and you raised concerns around the resources that might be allocated to ensure that this protection is put into place for consumers.

So would it be fair to say that your concern is that the government may not be really stepping forward? There's the bill itself, but there are all of the other necessary resources and the provision of a neutral third party to adjudicate appeals, as well as the size of the potential fine.

Ms. Joan Huzar: Absolutely. Our concern here is that the way the legislation reads, you appeal to the minister. As an organization that knows a little bit about dispute resolution and advising consumers, we always tell consumers to go to the top, but going to the minister for everything is unworkable, frankly, and probably not the way to go. There are tribunals that could be set up to deal with disputes, and then if there's something wrong, you could take it further and appeal to the minister as a final step.

But there are numerous examples where the government sets up tribunals to hear complaints, such as someone saying, "The inspector is after me and he's not doing his job properly, so who do I go to?" Measurement Canada could set up an appeals process, and then if there's dissatisfaction, you can go to the minister. We're just saying that there needs to be an appropriate intermediate step, which we think would be appropriate.

Mr. Peter Julian: Yes.

Now, you mentioned this in your brief to the committee: "It is our experience that government often makes consumer protection laws and regulations but fails to provide the resources to ensure that protection".

Is it possible for you to give us another example of where the resources weren't put into place, so that what might have been good intentions on the surface were undermined by the lack of resources allocated?

Ms. Joan Huzar: Off the top of my head, no, I can't; my mind has gone totally blank. But in principle, consumer protection works when the laws are enforced, and the laws are only enforced when inspections are made and complaints... We're pleased that this isn't a complaints-driven system; this is an inspection-driven system. That's a plus, in our estimation. But there are how many gajillion gas pumps across Canada...? How many gajillion, I don't know, but it's a lot.

The Chair: Ten thousand.

A voice: Ten thousand gajillion is a lot.

Ms. Joan Huzar: The chances of their all being inspected in a two-year cycle are probably slim to none.

So you're looking at, I hope, targeted inspections, and I hope that Measurement Canada is going to devise this technique. The regulations, as you say, will speak to this. We have some concerns about how this is going to happen, and we would like to participate in the regulatory development as well. By definition, it will be a systematic inspection system, but you're not even going to hit every retailer—forget about every pump.

We're talking numbers, and numbers mean dollars. The question is, does Measurement Canada have the dollars to do this? We don't know the answer to that.

The Chair: I think Mr. Boag—

Mr. Peter Julian: Mr. Boag, did you want to respond that, too?

Mr. Peter Boag: I just want to clarify that the legislation actually puts the onus on the retailer to conduct the mandatory inspections, and the legislation does provide for the delegation of responsibility onto an alternative service delivery type of model, where private sector inspectors are accredited by Measurement Canada to carry out these inspections.

So it's not Measurement Canada, in my understanding, that will be carrying out the mandatory inspections, but the onus is placed by this legislation on the retailer to conduct that inspection in accordance with an inspection cycle that will be developed by regulation.

• (1055)

Mr. Peter Julian: Thank you for that.

Now, I wanted to follow up on the issue of authorized inspectors and ask both of your organizations about the following. As the Consumers Council has raised, there's some confusion or ambiguity around who would be an authorized inspector. I'd like to come back to that issue, perhaps first with the Petroleum Products Institute, and ask if you share that concern about some confusion or ambiguity around authorized inspectors.

Mr. Peter Boag: In my initial and subsequent readings of the act, I didn't come away with that kind of ambiguity.

Clearly there's a system that's going to be put in place by regulation that will allow for the accreditation of private sector inspectors by Measurement Canada. Measurement Canada will clearly have its own employees who are still inspectors. There is some differentiation within the act in terms of the powers that delegated inspectors have versus those who work for, or are actually employees of, Measurement Canada.

So to me, I think there was relative clarity on that.

Mr. Peter Julian: Ms. Huzar.

Ms. Joan Huzar: I think that's what we picked up from the act: that it just isn't clear. It could be clearer about what powers these inspectors have. We have no problem with assuming—and it's a big assumption—that Measurement Canada sets out the standards for the accreditation of inspectors, sets out what their reporting responsibilities are, and sets out what their record-keeping responsibilities are, and then monitors how good a job they're doing. But we would say that the act just isn't very clear about what those responsibilities are.

The Chair: Okay.

Do you have another brief question, Mr. Julian?

Mr. Peter Julian: Do I have a few more minutes, Mr. Chair, or a few more seconds?

The Chair: Just a brief question.

[*Translation*]

Mr. Peter Julian: Thank you, Mr. Chair.

My final question has to do with compensation. Consider what happened in the past and the fact that consumers lost money. Do you feel that it is appropriate to contemplate some form of compensation to make up for past mistakes?

My question is for both organizations.

[*English*]

Mr. Peter Boag: It's not a question that I'm really in a position to answer, Mr. Julian, unfortunately.

Ms. Joan Huzar: I'm sorry, I'm mystified as to what compensation you—

Mr. Peter Julian: Compensation for consumers being short-changed in the past.

Ms. Joan Huzar: Offhand, sure, it's a great idea, but how am I going to do that? Yes, of course you want to be compensated. Having said that, logistically I don't know how you'd do it.

The Chair: Thank you very much.

One could always initiate and certify a class action lawsuit.

Mr. McTeague, we have just two minutes left, so you get the last question.

Hon. Dan McTeague: I understand Mr. Julian's point. Administrative monetary penalties are great for the government, but those who are aggrieved obviously don't get compensated if they're ripped off. The mechanism would be very difficult.

Chair, I noticed your intervention on what Measurement Canada had said about the \$20 million. I'm a little baffled, because my reading of the 70 billion to 75 billion litres of fuel dispensed in Canada every year with a tolerance level of 100 millilitres on every 20 litres means there is a potential rip-off to the Canadian consumer annually of over \$250 million a year, assuming a \$1 per litre purchase price.

Mr. Boag, I want to ask a final question about your organization as to whether you're satisfied that Measurement Canada is in a position such that the inspectors who are calibrating are sufficient in number to be able to meet the demands of the legislation. We've spoken to Measurement Canada, and a briefing provided by Mr. Lake said this would be a two- or three-year process.

With a tolerance level of 100 millilitres of gasoline on every 20 litres, do you find that there is an acceptable prospect of your having inspectors who may not necessarily meet the test but who give a quick inspection, a quick okay to the pump, only to see the pump break down three months later so you're now subject to the full weight of the law...?

• (1100)

Mr. Peter Boag: Mr. McTeague, could you rephrase that question? I'm not sure, actually, what you were asking.

The Chair: He was asking how we are going to have enough inspectors out there and who's inspecting the inspectors.

Mr. Peter Boag: Well, in some measure, that will ultimately depend on the regulations. To answer that question right now, I'd have to make too many assumptions to make that answer meaningful. Really, it's going to require much more clarity on what the actual regulations will say.

The Chair: Thank you very much, Mr. McTeague and Mr. Boag, and to our other witnesses for appearing. I apologize for the delay in starting this part of the meeting. I appreciate your testimony and submissions. It will help us in our review of this bill.

This meeting is adjourned.

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