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# Standing Committee on Industry, Science and Technology

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EVIDENCE

**Tuesday, November 2, 2010**

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**Chair**

**Mr. David Sweet**



## Standing Committee on Industry, Science and Technology

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• (1105)

[English]

**The Chair (Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC)):** I call the meeting to order.

Good morning, ladies and gentlemen. *Bonjour à tous*. Welcome to the 43rd meeting of the Standing Committee on Industry, Science, and Technology.

Today we have before us Department of Industry officials. Janet DiFrancesco is the director general of the electronic commerce branch, and she'll be giving some opening remarks. With her are André Leduc, a policy analyst with electronic commerce policy, and Philip Palmer, senior general counsel for legal services.

Without any further ado, Madam DiFrancesco, you can go ahead, but before you start, you will notice that we've given you some complimentary binders. These are to assist you in following the clause-by-clause consideration of this bill. You can see that they're going to be a great help to you in the very near future.

Madam DiFrancesco, please begin at your convenience.

**Mrs. Janet DiFrancesco (Director General, Electronic Commerce Branch, Department of Industry):** Thanks, Mr. Chairman.

I appreciate this opportunity to be here today to discuss Bill C-28, the proposed Fighting Internet and Wireless Spam Act, or FISA.

The bill before you today closely resembles the former Bill C-27, the Electronic Commerce Protection Act, or ECPA, which this committee studied during the last parliamentary session. Bill C-28 builds upon the recommendations of this committee and stakeholders in response to Bill C-27.

FISA, like ECPA, provides a comprehensive regulatory regime that uses economic disincentives instead of criminal sanctions to protect electronic commerce. The measures introduced in Bill C-28 are based on international best practices.

[Translation]

This regime creates new violations to address the threats posed by spam, malware, deceptive online marketing practices, phishing and spyware.

It also allows for private right of action and introduces administrative monetary penalties in order to hold those who violate the Fighting Internet and Wireless Spam Act—FISA—accountable for their actions.

It also promotes international cooperation by providing authority for the three enforcement agencies, the Canadian Radio-television and Telecommunications Commission—the CRTC—, the Competition Bureau and the Office of the Privacy Commissioner of Canada, to share information with their counterparts around the globe.

[English]

We have provided the committee with a redline version of the bill to make it easier for you to compare FISA with its predecessor, ECPA. The redline version can be found at tab three in the blue binders that you have in front of you this morning.

I can take you through that document, if you like, but I would briefly like to summarize two substantive changes that have been made to the bill.

The first change concerns a new clause in clause 3, which can be found on page 4. The Personal Information Protection and Electronic Documents Act, or PIPEDA, contains a primacy clause in subsection 4(3) that, among other things, ensures that the consent provisions in PIPEDA take precedence over other acts. However, since the scope of the consent regime in FISA is more precise than in PIPEDA, it is necessary to include this coordinating amendment, which clarifies that FISA takes precedence over PIPEDA should there be any conflict.

The second change that I would point to can be found on page 59 of the bill, in clause 83. It concerns an amendment to PIPEDA designed to address the collection of personal information when a person accesses a computer system without consent. In Bill C-27, this provision applied when access to the computer system was without authorization. Stakeholders expressed concern that the term “without authorization” was too broad, and to address these concerns the provision now applies when access to a computer system to collect personal information is “in contravention of an act of Parliament”. For example, there was concern that hackers might be able to claim that information obtained about their practices from a website could be considered to be collected without authorization simply through the use of the terms and conditions on the site.

Mr. Chairman, it is our hope that the adoption of this bill will provide an opportunity, through a concerted and cooperative approach involving the public sector and the private sector, to reduce spam and related online threats. At the same time, the bill will permit us to work more effectively with our domestic and international partners to address threats to online commerce.

I would be pleased to take the committee through a more detailed examination of the changes highlighted in the redline version of the bill that has been provided to you, or, if you prefer, we can simply be prepared to respond to questions.

Thank you.

**The Chair:** Thank you, Madam DiFrancesco.

Unless there's a large consent otherwise, I'll think we'll go with questions. That way, the members can direct questions to their areas of concern, because I'm certain that some of them have done some independent study on their own.

Mr. McTeague, did you have a comment?

• (1110)

**Hon. Dan McTeague (Pickering—Scarborough East, Lib.):** Yes, I do, and perhaps a brief one. Thank you, Mr. Chair and colleagues.

Obviously we're satisfied with this bill in its form. I do have one concern with respect to the first change you made. I think you've cited it here on page 4, "in the event of a conflict between PIPEDA and this Act".

Has this been vetted, agreed to, and understood by the Privacy Commissioner? Have there been any discussions? Have we her authorization? I'd hate to see a situation where we pass something, and six months after, regulations are gazetted, and suddenly we have a conflict.

**Mrs. Janet DiFrancesco:** Absolutely. Thank you.

Yes, we have consulted with the Office of the Privacy Commissioner, and they are completely supportive of the change to FISA to ensure that in specific situations covered by this act, the consent provisions do take priority and precedence.

**Hon. Dan McTeague:** You appreciate that in 2002, when I wrote the first bill dealing with spam, it wasn't as involved. How flexible and adaptable is this legislation to new and rising and different unanticipated or unknown challenges, in circumvention, for instance?

**Mrs. Janet DiFrancesco:** We think that the bill is very adaptable. We've taken a very careful approach to ensure that the legislation is technology neutral, in that it doesn't specify any specific type of technology. It uses broad language to capture electronic commercial messages, for example. We have also incorporated into the bill, though, where appropriate, regulation-making authority.

To the extent that we are aware of a challenge or a concern on the Internet today, we've enumerated that into the bill, but we've also allowed for regulation-making authority to permit us to accommodate new things or new threats that might come up that are consistent with the intent of the legislation as you see it before you today.

**Hon. Dan McTeague:** Finally, before I pass this on to Mr. Rota, if I could, Mr. Chair, many of these problems originate territorially outside of Canada. What is the scope of the legislation as it deals only with domestic threats, dealing with partnerships with other nations? Are we working with other countries? Will we be using this as a model, in your assessment, to work with other nations to ensure

that we're able to provide an international network to rid consumers and Canadians of this problem?

**Mrs. Janet DiFrancesco:** Yes, absolutely. The bill has specific measures to allow the CRTC, the Office of the Privacy Commissioner, and the Competition Bureau to collaborate internationally with their counterparts in other countries. It is a very important element of the bill. That is something that's been considered and something we look forward to seeing an improvement in once the legislation is in place.

**The Chair:** Thank you.

Just for the members, I think we're just going to continue with the regular rounds. If I see that there are no questions, then we'll go in a more casual manner. For now we'll do the regular rotation, so that means, Mr. Rota, you have about four and a bit minutes left, then we'll go to the Bloc, the NDP, and the Conservative Party.

Mr. Rota.

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

Thank you for being here this morning.

Some businesses and non-profits have commented and suggested that some provision was made for commercial e-mail. It just seems to have tied.... I guess one of the groups I've heard from the most are real estate agents and sales people, who base their business on referrals. One of the areas they are worried about is, okay, say they're referred to a certain person by a family member or by a friend, and they were impeded from actually going through with an e-mail to that person.

What response do you have to that criticism, or what can I tell them we've done that would actually solve that problem?

**Mrs. Janet DiFrancesco:** I think the bill recognizes that third-party referrals are a difficult area and certainly are something that could be used by those who want to spam individuals. We recognize that the legislation does require, perhaps, a change in business models for the kind of situation you described, but would suggest that kind of situation could be handled by having the family member contact the real estate agent, as opposed to the real estate agent contacting the family member.

Clearly, what the legislation is trying to do is not allow a third party to give express or implied consent on behalf of another person. In the situation you described, someone might say that's a very legitimate marketing practice, but you can imagine that if the bill allowed someone else to give consent on my behalf, it is wide-open, from a spam perspective, to allow that to be widely used.

We do recognize that in some instances business models will have to change to accommodate the new legislation, but we think it's practical, reasonable, and necessary to obtain the objectives of the bill.

• (1115)

**Mr. Anthony Rota:** Again, I want to clarify, because I do have quite a number of people who have approached me on this.

If they ask, then they cannot directly approach someone. Even if it's a one-off and it's a personalized e-mail to that individual, they cannot approach them without breaking the law.

**Mr. André Leduc (Policy Analyst, Electronic Commerce Policy, Department of Industry):** That's accurate. In the first instance, the bill clearly notes that the sending of the first commercial electronic message, even if it's just seeking consent, counts as an unsolicited commercial electronic message.

This is one of the clauses that differentiates us from the American model, which is an opt-out type of regime. Everybody gets that one-off. Every spammer, as much as every legitimate business, is permitted to send that first commercial electronic message.

We're saying that's not acceptable; that's just another form of spam.

The business model for the real estate agent, in this case, is that if the real estate agent would like to contact me through a friend, the friend can provide me with the real estate agent's card and I can contact the real estate agent, rather than the other way around.

**Mr. Anthony Rota:** How does the American model work?

The real estate agent, for example, in this case, would have the right to send one personalized e-mail to that person upon a referral.

**Mr. André Leduc:** One commercial electronic message.

**Mr. Anthony Rota:** Why did we not go with something like that?

**Mr. André Leduc:** I know we've said it at committee before, but the Americans are the last remnants of the opt-out regime; everybody else in the world has gone opt-in. Basically it's a "you can spam" act. It permits spamming, ultimately.

The marketing lobby in the United States was successful. That was not their original intent, but they were very successful in lobbying our American counterparts to put that in the legislation. Over the next few years, I'm sure we'll see the American folks having a look at moving to an opt-in regime.

A couple of countries have already started with an opt-out regime and transitioned to an opt-in regime on a similar model, like Japan.

**Mr. Anthony Rota:** Okay. So that was Japan, and who else? You said a couple of different....

**Mr. André Leduc:** Jurisdictions have moved, yes.

On first look, it seemed that the opt-out might work. It created too large of a loophole, so countries then migrated to an opt-in regime.

**Mr. Anthony Rota:** Okay, very good.

**The Chair:** Are there any questions from the Bloc?

[*Translation*]

Mr. Cardin, go ahead.

**Mr. Serge Cardin (Sherbrooke, BQ):** Thank you, Mr. Chair. I will be sharing my time with Mr. Bouchard.

Ladies and Gentlemen, good morning and welcome. I have a question.

On page 15, at line 30, clause 12(3) talks about the delay in these terms:

(3)The person who sent the commercial electronic message and the person —if different — on whose behalf the message was sent must ensure that effect is given to an indication sent in accordance with paragraph (1)(b) without delay, and in any event no later than 10 business days after the indication has been sent...

I will not bother reading clause 12(1).

Do you think 10 business days is a reasonable deadline? There may be a whole host of reasons why people might feel that this 10-day deadline is a bit tight. We have already discussed the possibility of changing this deadline to 30 days. The same goes for clause 12(4) (b), which also sets a 10-day deadline. That was my question for you. What was your reasoning behind setting this 10-day deadline, instead of a possible 30-day deadline?

**Mr. André Leduc:** The 10-day deadline was set for withdrawing a person's consent with regard to an activity mentioned in clauses 7, 8 or 9. The process by which a person's consent is withdrawn is often automated. It could be someone requesting that their name be removed from a marketing list, which is normally done through an automated process.

A deadline of 10 business days gives enough time to small and medium sized businesses that traditionally do all this manually. For example, the business might make the change to their list manually and finish the work later. Ten business days equals a minimum of two weeks—maybe longer if we consider the Christmas holidays. That is enough time.

The text clearly says without delay and no later than 10 business days.

● (1120)

**Mr. Serge Cardin:** Pardon me, but when this was being studied, I was not a member of the Standing Committee on Industry, Science and Technology. Is it mandatory to strike a person's name from a list electronically under the legislation?

**Mr. André Leduc:** No, it is not mandatory.

**Mr. Serge Cardin:** I think it might be better to make it mandatory. With electronic means, it is relatively easy to make sure that people no longer wanting to receive messages can just click on a button at the bottom of the text to say so. In this case, a 10-day deadline seems like more than enough.

However, since this is not mandatory, it is not done that way. In that case, the delay might be prolonged for all sorts of reasons. Not all businesses have the same capacity to manage these situations.

What do you do then? Give them 30 days or make the electronic mode mandatory?

**Mr. André Leduc:** It is not mandatory because, as I said, there will be small and medium sized businesses that will not have the capacity to take on the automated method. For example, some minor sports organizations might send out a message twice a year. They just have to check their list before their next send out. In any event, they have 10 days to remove from the list the names of people who do not consent to receiving these messages. This seems perfectly reasonable to us. What is more, 10 business days was the number the committee arrived at when it was studying the bill the last time.

**Mr. Serge Cardin:** Not for profit sports or community organizations often do not have the resources for this, especially since they are increasingly being denied subsidies under this Conservative government.

If we extended the deadline to 30 days, how would that affect you?

**Mr. André Leduc:** Big businesses could abuse such a deadline by not respecting the requests to opt out, by not providing an email address or a link to their web site to make a request to opt out. They could abuse the situation until the 29th day.

That is why we thought 10 business days was reasonable. In the case of a minor sports team, it simply has to make sure the next time it sends out solicitation emails that it checks its list again to avoid sending unwanted emails.

**Mr. Serge Cardin:** When you talk about abusing the deadline, what do you mean?

**Mr. André Leduc:** For example, when someone asks that their name be removed from the list, the business waits until the 29th day to respond to the request. The business disregards the request and continues to send email the entire time.

It therefore needs to be done without delay.

**Mr. Serge Cardin:** You are therefore suggesting that the business that receives such a request takes full advantage of this 30-day deadline and waits until the last minute to make the change and in the meantime sends even more email because it is mad that someone would refuse to receive them.

**Mr. André Leduc:** Hence the reason for the phrase “without delay”. It also means that as soon as the business receives notice of a request to opt out, the business has to respond to it without delay. The 10-day deadline is really for businesses that do not have an automated system, which is quite rare.

[English]

**The Chair:** Monsieur Cardin, thank you very much.

I understand there have been conversations among all the members here that we'll proceed to clause-by-clause.

Mr. McTeague.

**Hon. Dan McTeague:** Mr. Chair, I realize that there may still be questions that we'll want to address. I discussed this with our critic. We have no objections and we certainly welcome the opportunity of going to clause-by-clause as soon as possible. I think a lot of the hard work has been done, a lot of the heavy lifting has been done.

• (1125)

**The Chair:** Okay. That being said, we'll stop the clock then. Since everybody is in agreement, we'll let members exhaust whatever questions they may have and then we'll move to clause-by-clause.

Monsieur Bouchard, the clock is not running any more. You can ask your questions.

Mr. Masse, do you have some questions afterwards? Okay, then I'll go to the Conservative Party and we'll consider that exhausted then.

Monsieur Bouchard.

[Translation]

**Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ):** Thank you Mr. Chair.

Thank you ladies and gentlemen for being here today.

My first question is for Ms. DiFrancesco.

First, we know that Bill C-28 was Bill C-27, which was studied in committee and made it all the way to the Senate. However, when the election was called, the bill died on the order paper. You said that Bill C-28 is quite similar to Bill C-27, which suggests that there are some changes. Could you share some of those changes?

I have another question about that. Do these changes come from officials or other entities?

[English]

**Mrs. Janet DiFrancesco:** Thank you for the question.

The bill before you does very much reflect the previous Bill C-27, ECPA. The changes that were made, other than the two that I mentioned in my opening remarks, were made as the result of a careful review of the bill after the House was dissolved. For example, it was noticed in a number of areas that the French version of the bill was missing concepts that existed in English. There are maybe three or four of those types of amendments that correct the French-language version to reflect the English.

There was also, for example, an amendment that was made at committee to clause 8, which deals with.... Let me just look at the bill. Sorry. We added the provision for someone who is receiving the electronic message to consent to a change of the alteration of the transmission data, but that change should have been mirrored in clause 12, which allows someone to withdraw their consent, and that was missed. So the drafters noticed that in order for the parallel amendments to make sense under clause 8, we needed to make an amendment under clause 12 as well.

Similarly, a number of the amendments dealing with the changes to the Competition Act needed to be modified to make sure they were consistent with other provisions in the Competition Act—for example, reference to reviewable conduct, as opposed to just a contravention under the act.

So we took the opportunity when the House was dissolved to make sure that there were no other changes to the bill that were required. You will recall that there were a number of changes made the last time, and it was important that we took the time to make sure that the parallel changes were reflected all the way through.

[Translation]

**Mr. Robert Bouchard:** As far as I know, the changes are minor and stem from your analysis. You said you had the opportunity to review a number of minor aspects and that is what you did. No other agencies contacted you. This truly comes from the group of officials.

**Mr. Philip Palmer (Senior General Counsel, Legal Services, Department of Industry):** Precisely. Some of our considerations were prompted by the Canadian Bar Association, which suggested some small changes. After due consideration, we made these changes, but they are very minor and very technical.

**Mr. Robert Bouchard:** I have one last question.

We have been talking about the CRTC and other agencies such as the Competition Bureau and the Office of the Privacy Commissioner of Canada. Do you think these agencies will need supplementary resources when Bill C-28 comes into force, or will they continue to work with their existing staff? I would like your opinion on that. What should be added in terms of budget, resources, staffing?

• (1130)

[English]

**Mrs. Janet DiFrancesco:** Additional resources will be added to all three of the regulatory agencies involved to enforce the legislation. We do think that the additional responsibilities under the legislation require additional resources.

In addition, there are resources that will be dedicated to public awareness and education, because we do feel that a big element of implementing this act is making sure that people understand what the act can do for them and what they can do to protect themselves from spam.

[Translation]

**Mr. Robert Bouchard:** Have you estimated the number of additional employees and the supplementary budgets and funding? Have these numbers been communicated to these agencies, the CRTC, the Competition Bureau and the Office of the Privacy Commissioner of Canada? Have you communicated with them, are they aware, have they already made estimates? A budget is being prepared. Are things already being included in it?

[English]

**Mrs. Janet DiFrancesco:** Yes, all three agencies were consulted and have identified new budgetary requirements. In fact, the government has allocated about \$12.5 million a year in increased funding. That's a combined total for all three agencies to implement the legislation once it has received royal assent.

[Translation]

**Mr. Robert Bouchard:** Per agency or all together?

[English]

**Mrs. Janet DiFrancesco:** That's all three together. It also includes a small portion of money for Industry Canada to implement a spam-reporting centre, which will assist the three enforcement agencies and to put in place a public awareness campaign working with the Office of Consumer Affairs as well.

[Translation]

**Mr. Robert Bouchard:** Did you say \$2.5 million annually?

**Mrs. Janet DiFrancesco:** It is \$12.5 million.

**Mr. Robert Bouchard:** It is \$12.5 million annually for the application of Bill C-28, once it is passed and becomes law.

Thank you.

**The Chair:** Thank you Mr. Bouchard.

[English]

Now to Mr. Masse.

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

The \$12.5 million is less than half for the new census that's being rolled out.

Is that annual funding that has been established? Could you provide us with details as to what types of positions are going to be created out of that to make this job successful?

**Mrs. Janet DiFrancesco:** Yes, that is annual funding, and the vast majority of that funding is going to the three enforcement agencies so they can hire additional staff to pursue investigations under FISA.

**Mr. Brian Masse:** How many investigators will we have? One of the things, for example, that we're seeing, say for the Investment Canada Act, is actually only nine people to review hundreds of files that come in annually. How many investigators do we get, and what type of expertise will they have?

I'm supportive of the bill. We got some of the changes, as you know, from the last round, but what I'm worried about is that we have a bill that can't delve into some of the repercussions if somebody violates the bill.

**Mr. André Leduc:** For the CRTC, it's estimated they'll have over 20 new personnel on board. Almost the same goes for the Competition Bureau. The OPC will hire six new investigators, and contract out their cyber-forensics side of the equation to academia, etc. They're only planning on hiring six full-time people, then using expertise that exists out there to hire specific investigators for specific investigations, as they did with Facebook.

**Mr. Brian Masse:** Have there been any guesstimates, in terms of our studies related to compliance levels? I'd be interested to know what we're expecting to see from the community as this rolls out.

**Mr. André Leduc:** There are a few things there. This was based on best practices from our partners internationally. We've spoken to our counterparts in places like Australia. They said in order to be able to do this much, you'll need this much money. We bumped that up a little bit. So we've looked at it from their regimes.

In terms of compliance, there are a number of vehicles that the three enforcement agencies will be able to take. By having a spam reporting centre, when we receive 25 to 30 complaints about the same spam e-mail, the same individual, we shoot them off a notice of warning to say we've had a number of complaints about them. It says "Cease and desist this type of activity. Should you continue on, you may be pointed in an investigation and you may be served notice of a violation", etc. That's the type of practice they have in Japan, Australia, New Zealand, and they do it in the United States. They've seen a great reduction in home-born spam. Because of that, the Japanese recently at an international event stated that they see a 70% compliance rate, simply with the notices of warning. So they shoot them off a notice and they see that this functions quite well.

A 70% response rate to a notice of warning is an excellent vehicle for us to take, and it doesn't use up a lot of resources in terms of actually completing an investigation. Notably, we've heard from some of the private sector experts in terms of data that Canadian-born spamming has been volatile over the last few months. I think they're starting to notice that this legislation is coming down the pipe. They're moving offshore, they're going further underground. So we've already seen the effect of this legislation.

• (1135)

**Mr. Brian Masse:** You people have done a really good job on the bill and also of describing what's happening in North America. It's funny; I was going to lead to that.

Do we expect some of the Canadian spammers to then go to the United States? If that's the case, are we working with the United States or other countries to identify them or to share information? What has been taking place?

**Mr. André Leduc:** I guess that was part of the rationale for using the three enforcement agencies: it's an extension of what they're already doing, in most cases. Folks such as the Competition Bureau already have agreements and arrangements set up with folks such as the FTC, so we're plugged in almost by default. The FTC and other countries are very anxious to see this legislation brought to fruition so that they can work with us on international cases.

What sets this spam legislation apart from everybody else's is clauses 8 and 9, which are new pretty much to the world. Whereas we've learned from the rest of the world, in this particular case the rest of the world will be learning from us over the next few years.

**Mr. Brian Masse:** I'm trying to recall the fine penalty. I think it's \$10 million a day, or is it per...?

**Mr. André Leduc:** It's a maximum penalty of \$1 million per violation for individuals, \$10 million for all other entities of all other persons, which are enterprises.

**Mr. Brian Masse:** Now, for the public record can you explain the process in terms of penalties and fining? Will there be warnings first?

I'm on the side of not putting up with some of this stuff and moving more harshly, but at the same time, there are probably going to be some grace dates for those who are spamming; I don't know. What's the goal for enforcement?

**Mr. André Leduc:** There's no obligation under the legislation that we provide a letter of warning. If we see something that is fairly malicious, we can enter right into an investigation and investigate that individual.

**Mr. Brian Masse:** There's nothing in the regulations for it either, then?

**Mr. André Leduc:** No. It's a best practice to ensure compliance. It's a regulatory regime built upon compliance; however, if we see a more egregious spammer, we don't have to serve him a notice of warning. We can go straight into the investigation, go in with a notice of violation, provide him with a significant monetary penalty, and see where the courts take us thereafter.

**Mr. Brian Masse:** It could also be a her—

**Mr. André Leduc:** Yes.

**Mr. Brian Masse:** —given the Internet world these days.

**Some hon. members:** Oh, oh!

**Mr. Brian Masse:** I have just one last quick question. I noticed that the short title of the bill has been amended. We've had some things around that. Who suggested that the short title be changed?

**Mrs. Janet DiFrancesco:** The short title of the bill was provided to us.

I also can't tell you why they dropped a letter out of it. I don't what happened to the "W" to go with the initials FISA, but that was the acronym they also gave us when it was tabled.

**Mr. Brian Masse:** I suspected as much.

Thank you very much for your answers. I appreciate them.

Thank you, Mr. Chair. I'm all done.

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

Now we go on to the Conservative Party for your questions.

Mr. Lake.

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

I don't have any questions, actually. We had 12 meetings on this, so we got most of the questions answered that we needed during those meetings.

I just want to commend you for the work that you've done, for very clearly communicating what it is that we're doing here. I think I can speak for all the members when I say that as a committee we really appreciate the clarity with which you've communicated, not only in this meeting but in the other 12 meetings that we had.

**Hon. Dan McTeague:** On a point of order, Mr. Chair, I think he's looking for a free lunch from our officials.

**Some hon. members:** Oh, oh!

**The Chair:** Now that this has been settled....

I assume there are no more questions, then.

[*Translation*]

Mr. Cardin, it is your turn.

• (1140)

**Mr. Serge Cardin:** You mentioned there were major fines for people who send spam.

I have a quick practical question. I do not own a business so I do not have any solicitation email to send out. However, as a member of Parliament, we have soliciting to do at least once every four years, if we had fixed election dates. In the case of a minority government, elections can occur more frequently. We might have a data base of email addresses and solicit people by email. Do members of Parliament also fall under this legislation?

**Mr. André Leduc:** Yes, but only if you are engaging in commercial activity. For example, if you try to sell tickets to a fundraising event or t-shirts with a logo on them, the legislation will apply to your party. If you are just taking a poll of the members in your region, the legislation will not apply because it is not a commercial activity.

**Mr. Serge Cardin:** But it might be more than just members. It might be people from—

**Mr. Philip Palmer:** I would like to add that solicitation or communication with people in your riding is totally legal. This does not affect political activities, fundraising, in other words, asking for money. It only affects the sale of products or the offer of services, which is part of the commercial domain.



Politically speaking, as is the case for charities, the legislation does not apply to these activities.

**Mr. Serge Cardin:** So, selling oneself for 36 days is not considered a commercial activity.

**Some hon. members:** Ha, ha.

**Mr. Serge Cardin:** Okay, thank you.

**The Chair:** Mr. Bouchard, it is your turn.

**Mr. Robert Bouchard:** I have a quick question about the application of this legislation for a business that offers services, sells products or does soliciting. Currently, there are no regulations on email. Has a deadline been set? It seems a deadline of 24 months was requested. Bill C-27 spoke of 12 months and I believe we agreed on 18 months. Is that still the case?

**Mr. André Leduc:** There is a deadline for existing relationships between people and businesses or non-businesses, charities for example. Based on that principle, a business has the right to send email to its customers if there has been a transaction between them within 24 months. It has in fact been set at 24 months. That is one of the changes we made in committee the last time. There is a 24-month deadline to seek consent.

[English]

**The Chair:** Are there any other questions, members?

I want to clarify one thing I just heard. You're saying that the act does not apply for political activity—sending out broadcast e-mails regarding how you're going to vote, etc., or regarding fundraising. If, however, a politician sends out a solicitation for someone to purchase that will raise funds, does that change the parameters? Does that now mean that they're subject to the act?

**Mrs. Janet DiFrancesco:** That's correct. You would need to seek consent in that particular instance to forward that kind of message to your constituency, or whoever it is you're seeking to forward it to.

**The Chair:** So asking for straight funds without any reciprocation is fine, but once you get into the action of selling a ticket to an event or selling an item to raise funds, then you're going to be subject to the act.

• (1145)

**Mrs. Janet DiFrancesco:** That's right.

**Mr. Mike Wallace (Burlington, CPC):** When does this become law?

**Some hon. members:** Oh, oh!

**Mrs. Janet DiFrancesco:** Very soon, we hope.

**Mr. Brian Masse:** You're going to prorogue again and prevent it.

**Some hon. members:** Oh, oh!

**The Chair:** Members, I understand that there are no amendments to the bill. Is that correct from all parties, that there are no amendments being submitted?

**Hon. Dan McTeague:** There are no amendments, Chair, from my party.

**The Chair:** There are 92 clauses, so we'll postpone the short title, as is the practice per Standing Order 75(1).

(Clauses 2 to 92 inclusive agreed to)

(On clause 1—*Short title*)

**The Chair:** Shall the short title carry?

Mr. Masse.

**Mr. Brian Masse:** No, I'm not going to agree to the short title. First of all, it wasn't from the department. We got into these silly games of naming bills with these little titles here and there. I'm not going to give them this; it's just ridiculous to do this type of stuff. I haven't seen this in the years I've been here, so I'm not supporting this nonsense.

**The Chair:** Okay.

Mr. Rota.

**Mr. Anthony Rota:** Mr. Chair, just for clarification, if we vote in favour of the title, then it has a title. If we vote against the short title, then it has no title. Am I correct?

**The Chair:** That's right. We'll report it back that way. We'll still have the long title.

**Mr. Anthony Rota:** I just wanted to clarify that. Thank you.

**The Chair:** Shall the short title carry? Can I see a show of hands?

(Clause 1 negated)

**The Chair:** It's defeated.

Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill as amended carry?

**Some hon. members:** Agreed.

**The Chair:** Shall I report the bill, as amended to the House?

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

**The Chair:** Gentlemen, that's very good work. We have no meeting on Thursday.

The meeting's adjourned.





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