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# **Standing Committee on Access to Information, Privacy and Ethics**

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**EVIDENCE**

**Thursday, October 27, 2011**

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**Chair**

**Ms. Jean Crowder**



## Standing Committee on Access to Information, Privacy and Ethics

Thursday, October 27, 2011

•(0845)

[English]

**The Chair (Ms. Jean Crowder (Nanaimo—Cowichan, NDP)):** Good morning, and welcome to meeting number 11.

Before we go to our witnesses, I want to remind the committee that we have committee business to deal with. At some point, we'll thank the witnesses and proceed to committee business. We have a couple of items of committee business.

I want to welcome our guests.

I understand Mr. Laurin is on his way. There were more traffic delays today.

We're going to start with Mr. Morrison.

Before we start, I'll remind people that you have 10 minutes to present. I will be very strict on the time because we want to give the maximum time to members to ask questions. When we get to the question and answer round, the initial round will be seven minutes. The seven minutes include the member's time to pose a question and your time to respond.

Mr. Morrison, for ten minutes, please.

**Mr. Ian Morrison (Spokesperson, Friends of Canadian Broadcasting):** Thanks, Madam Chair.

[Translation]

Good morning, ladies and gentlemen. Thank you for inviting me to appear before you today.

[English]

Friends of Canadian Broadcasting is an independent watchdog for Canadian programming on radio, television, and new media. We are supported by 150,000 Canadians, and we are not affiliated with any broadcaster or political party.

Your committee is studying a matter that is close to our hearts: the transparency and accountability of our national public broadcaster. Canadians share with citizens in other western democracies profound respect for public broadcasting. A recent Pollara poll commissioned by Friends indicates that 83% of Canadians use CBC each week; 83% believe that CBC is important in protecting Canadian identity and culture; 76% rate CBC's performance as excellent, very good, or good; and 78% would advise their member of Parliament to maintain or increase CBC's funding.

Before commenting on the CBC's performance under the Access to Information Act, I thought you might welcome an external

reference. On Tuesday, the Information Commissioner provided you with an outline of the access regimes in several countries, including the United Kingdom. Through the clerk I have provided you with some links to document the British Broadcasting Corporation's performance under the United Kingdom's Freedom of Information Act.

The main BBC freedom of information website, to which the clerk has the link, indicates that "As a publicly funded organisation, the BBC is fully committed to meeting both the spirit and the letter of the Act." It contains a series of helpful links, such as disclosure logs. The link includes files on bonuses paid in 2010-11 and tenders awarded in 2010. Members of the committee might consider surfing through the various links to gain an insight into the compliance policies and practices of another national public broadcaster—information that we find both instructive and impressive.

I would like to share with you a few examples of our own experience with access to information and the CBC. In November 2009, Friends submitted a series of questions to the CBC under the Access to Information Act. These included a request for all correspondence among the CBC's senior management mentioning "Friends of Canadian Broadcasting" or "Ian Morrison", and the dollar value of all contracts in recent years between the CBC and a United States company known as Frank R. Magid Associates.

Eleven weeks later we received a response refusing to disclose the financial information, claiming exemption under section 68.1. After six months and the transfer of a few hundred dollars in payments, in response to our other request—that's the Friends and the Ian Morrison part—we received a series of blanked out files containing almost no useful information.

We would like to provide your committee with our take on the root problem and offer a policy suggestion to address it.

Unlike the BBC and other national public broadcasters in most other western democracies, the CBC's governance and senior management structure suffer from an accountability deficit that is built into section 36 of the Broadcasting Act. The Governor in Council appoints CBC's president, chair, and 10 other members of the corporation's board of directors. As a result—unlike the standard practice in the private sector or that of most national public broadcasters in democratic countries—the CBC's chief executive officer is effectively accountable to no one.

Section 52 of the act correctly requires the corporation to program independently from government interference, which means that the government cannot intervene in the president's decisions. The CBC's board lacks the authority that almost all other boards have to hire and fire the CEO.

● (0850)

In common with his immediate predecessors, the current CBC president was appointed without previous management or broadcast management experience, including production or scheduling experience. He is a mergers and acquisitions lawyer, a very talented one, whose previous broadcasting governance experience was confined to the board of Télémedia as its legal adviser, at a time when that family controlled corporation was actively seeking to sell its broadcasting assets. As a practising lawyer, however, the current president entered his present job with a sophisticated understanding of legislation and therefore could be presumed to be able to comprehend the requirements of the Access to Information Act and also evaluate the advice to his subordinates thereon.

We therefore find it shocking that he has endorsed and has continued the disclosure avoidance practice inherited from his predecessor, presumably with the approval of CBC's board of directors.

The CBC access to information issue is subsidiary to a larger CBC accountability issue. The solution is to be found in a suggestion of the House of Commons Standing Committee on Canadian Heritage made eight years ago. I'm quoting from page 567 of the report called "Our Cultural Sovereignty", chaired by Clifford Lincoln, one of your former colleagues.

[In the interests of fuller accountability and arm's-length from government, nominations to the CBC board should be made by a number of sources, and the CBC President should be hired by and be responsible to the Board.

A CBC board of directors, chosen at arm's length from patronage and mandated to represent the public interest, with the power to recruit, evaluate, and if necessary terminate its president, would introduce accountability on the part of the national public broadcaster's most senior management. One of the board's duties, on behalf of its 34 million shareholders, would be to ensure compliance with relevant statutes, including the Access to Information Act. This would bring the standard of governance of Canada's national public broadcaster up to par with the standard of governance of public broadcasters in other democratic countries while addressing the issue of compliance with the Access to Information Act.

Such a reform proposal is popular with Canadians. Pollara found that 86% of Canadians favour a non-political appointment process for CBC's board of directors, and 87% favour a non-political appointment of CBC's president.

I would like to conclude, Madam Chair, with the following brief comment. On the morning following the recent general election, Canada's Heritage Minister, James Moore said: "We believe in the national public broadcaster. We have said that we will maintain or increase support for the CBC. That is our platform and we have said that before and we will commit to that."

Yet, just ten weeks later, in conversation with Jian Ghomeshi on CBC Radio One's talk show, *Q*, Moore changed his tune: "The CBC

has to do its part. The idea that the CBC can't find five per cent efficiencies within the CBC to give back to the broader economic framework is silly.... Of course the CBC will be part of this overall process."

I want to draw the committee's attention to the following fact. In 1996, CBC's annual appropriation from the Government of Canada represented 92¢ out of every \$100 of federal program spending, net of debt servicing. This year, the federal government's investment in our national public broadcaster is 51¢ out of every \$100 of federal program spending. It is clear that CBC has more than prepaid its contribution to deficit reduction.

● (0855)

As a watchdog for Canadian programming, Friends is often critical of broadcasters, certainly including CBC's senior management. We also critique the performance of cable monopolies and satellite television distributors, the CRTC, and sometimes the federal government. But in keeping with the vast majority of Canadians, including a substantial majority of supporters of each federal political party, Friends strongly supports CBC's talented employees who actually make the programming Canadians watch daily.

[Translation]

We wish you well in your deliberations.

Did I stay within my 10 minutes, Madam Chair?

**The Chair:** You talked for 10 minutes and 20 seconds.

[English]

Thank you, Mr. Morrison.

I believe, Mr. Laurin, you're presenting. Because you missed the introduction and I understand you were delayed in traffic, I will tell you that you have 10 minutes to present, and I will hold you to the 10 minutes.

**Mr. Marc-Philippe Laurin (President, CBC Branch, Canadian Media Guild):** Thank you. I don't think I'll take 10 minutes. I apologize for blasting in late like that. Bridges closed between Gatineau and Ottawa are never helpful.

Good morning.

[Translation]

My name is Marc-Philippe Laurin. I am the President of the Canadian Media Guild's CBC Branch.

The guild represents 5,000 members working for public broadcasters across Canada, except Quebec.

Joining me today is my colleague Karen Wirsig, the guild's Communications Coordinator.

The guild members work in the area of information.

[English]

Our members are among the most experienced users of access to information in the country and have broken important stories in the public interest.

[Translation]

Therefore, we are in favour of a strong and clear piece of legislation on access to information that ensures that information from government departments, agencies and institutions is accessible to Canadians.

[English]

In her recent annual report, Information Commissioner Suzanne Legault writes that there has been a steady decline over the last two decades in two important measures of access to government information: timeliness and disclosure. Only a little more than half of all information requests are answered within 30 days, and worse, fewer than one-fifth of all requests are fully answered.

The report makes it clear that it is not a single federal institution that is at the root of the problem of access to information. The Information Commissioner has expressed concern about the amount of information that gets caught up in exemptions within the variety of federal departments, agencies, and institutions. We also note that according to CBC, government departments and ministers have gone to court with the Information Commissioner some 46 times to clarify issues.

We would respectfully submit that the strength and clarity of the act must be improved if Parliament is indeed interested in ensuring Canadians have meaningful access to government information.

Karen.

● (0900)

**Ms. Karen Wirsig (Communications Coordinator, Canadian Media Guild):** In our view, this should be a pressing priority for Parliament and indeed this committee. We are therefore both surprised and dismayed that so much committee time has been taken up to examine a single institution, CBC/Radio-Canada.

It is not that we believe CBC is above the law—far from it—but we do question the singular focus of the current study and can only conclude that the committee has been drawn into a dirty war against the public broadcaster. It is a war being waged by Quebecor, a private media company that has what we believe should be obvious to everyone: a private commercial interest in diminishing the role and presence of its main competitor, CBC/Radio-Canada, especially in the province of Quebec.

Quebecor has been running stories about the CBC and ATI for years in its newspapers and on TV. One series runs under the bombastic title of “CBC Money Drain”, implying public funds are wasted on public broadcasting.

A search on the Toronto *Sun* website found 60 posts connected to the series since 2008. More than one-third of the pieces have run since September of this year. They have titles such as “CBC refuses to reveal its secrets”, “CBC’s loopholes and bonuses”, “CBC singled out for bad behaviour”.

University of Ottawa journalism ethics professor Marc-François Bernier has called Quebecor’s approach to reporting on CBC a “propaganda campaign”. It is troubling to find that the very same narrow focus of Quebecor’s concern about access to information, which seems to relate only to CBC/Radio-Canada, is being reproduced in this hearing.

**Mr. Marc-Philippe Laurin:** ATIP is without a doubt important to Canada and Canadians. It is part of the checks and balances of a strong and vibrant democratic system. As Churchill once said, “Democracy is the worst form of government, except all those other forms that have been tried ....”

ATIP is not perfect, we know that, but it is the best we have so far. But—and this is our point today—ATIP should always remain a tool that serves the best interests of the public. It must not ever be allowed to be used as a weapon to serve the interests of a competitor, one that is not subject to ATIP itself.

We submit that the thousand-plus requests filed by Quebecor must be scrutinized under that very lens.

**Ms. Karen Wirsig:** For anyone truly interested in real and meaningful access to information, attempts to undermine and diminish the public broadcaster must be seen as both dangerous and counterproductive. A diversity of media voices is essential to ensuring Canadians have a variety of news information sources and is also a factor in promoting higher-quality news gathering among all broadcasters and news organizations.

In Canada the public broadcaster is recognized within the Broadcasting Act as a key pillar of a system that provides “a public service essential to the maintenance—”

**The Chair:** The interpreters are having a tough time keeping up. Could you slow down a little?

**Ms. Karen Wirsig:** Sorry. This is right from the Broadcasting Act: “...a public service essential to the maintenance and enhancement of national identity and cultural sovereignty”.

**Mr. Marc-Philippe Laurin:** We will close with a few words about how our own relationship with CBC has evolved since 2008 because we believe it relates to the broader issue of access to information.

You may recall there was a time when we were barely speaking with senior management. In fact, for some time too, many conversations happened across locked doors. We obviously had a role to play in that. As the old saying says, it takes two to tango. But suffice to say that getting information at that time from CBC in order to better serve our members was difficult, if not impossible.

I can tell you today that this has changed tremendously. It has been our experience over the past three years that the current senior management is committed to working with employees, and the public, to strengthen public broadcasting in these challenging times.

There has been a sea change in how we communicate with each other. That has given rise to an open and honest exchange of information and ideas. We firmly believe that CBC management is making similar efforts with its other stakeholders, including Parliament and, more importantly, the public it serves, by being more transparent than ever before.

We urge you to consider Canada's public broadcaster as a partner in improving Canadians' access to information. Our members are on the front lines, and they are proud of the work they do to inform and enlighten Canadians.

We will close by saying thank you for the attention. We will be pleased to take your questions.

• (0905)

[Translation]

Thank you. We are now ready to answer your questions.

[English]

**The Chair:** Thank you, Mr. Laurin and Ms. Wirsig.

Before I go to the round of speakers, I want to point out that the document Mr. Morrison referred to about the BBC has been submitted, but it's only in English. We will have it translated and distributed to the committee.

We will begin the round of questioning. It's a seven-minute round.

We will begin with Mr. Angus, for seven minutes, please.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Thank you, Madam Chair, and thank you both for coming today.

It seems that some of the issues we are dealing with are old issues that never seem to be resolved, and others seem to be regarding the new issue of this dirty war between Quebecor and its number one competitor.

Mr. Morrison, the issue of governance of the CBC has long been a problem. We've had patronage appointments for years. We're the only public broadcaster in the western world that doesn't have arm's-length accountable processes for the board of directors.

How many members are on the board of directors right now? What is the makeup of the board of directors?

**Mr. Ian Morrison:** As I understand it, there are twelve members of the board—and this is under the statute—of which two are the president and CEO, and the chair.

**Mr. Charlie Angus:** How many were appointed by this present government?

**Mr. Ian Morrison:** They are all Harper government appointees because of the longevity of the government, of course. None of the appointments exceed five years.

**Mr. Charlie Angus:** The issue of changing the board of directors' governance structure was raised back in the Liberal era, the need to follow the arm's-length processes with the public broadcasters. This government hasn't followed through on that same standard.

The other key recommendation from the Lincoln report, and from follow-up reports that our committee did when Mr. Del Mastro and I were on Heritage, was the need to have a new covenant between the

Government of Canada and the CBC so that we would ensure stable funding for a five- or seven-year period. We would have a new, clear agreement.

What happens year to year right now, as you know, is we are never sure of the funding and it is hard to make decisions. To have a truly independent public broadcaster committed to doing its job, we need to have a clear set of rules.

Why do you think the government has never moved on any of those recommendations?

**Mr. Ian Morrison:** In fairness to the current government, its predecessors—going back to the beginning when I was following this subject, which would be about the beginning of the Mulroney years—have all appeared to be persuaded by the Department of Finance's view that it's very important to maintain fiscal responsibility.

As I get older and become more skeptical, I also think there's an element of subtle control that governments—well, your party has never been in government—such as the Liberal and Conservative governments successively have done. For example, almost at the beginning of this century, a practice began of giving the CBC \$60 million in the 11th or 12th month of the fiscal year, through supplementary estimates.

It doesn't take too long to figure out that if you wanted the money, you would behave. That is a bit less of an arm's-length relationship than NHK enjoys in Japan, or Deutsche Welle, or the British Broadcasting Corporation, Mr. Angus.

**Mr. Charlie Angus:** Yes. It definitely seems like a long-term policy of destabilization and creating continual uncertainty.

Mr. Laurin, I was very pleased to hear about the changes in the relationship. We go back on this issue; the New Democratic Party was the only party to oppose the reappointment of Mr. Rabinovitch because of the fact that he had locked out workers when Canadian taxpayers were paying for programming. It seemed to be a very toxic relationship then.

Are you saying that the relationship with CBC has improved and you're moving ahead?

**Mr. Marc-Philippe Laurin:** Tremendously so, actually.

When we entered the round of bargaining in 2008—I arrived as national president about a year before, and Monsieur Lacroix arrived a year later—we had an opportunity to sit down and talk about the relationship. We talked about stopping being enemies within the corporation. We actually had a goal, and we all had the same love for the public broadcaster. We shared that, and we decided we wanted to be partners in public broadcasting and to start cleaning up our own mess. If we were constantly saying we were the best-placed people to fix our own problems, instead of going out to law firms and arbitrators, etc., then we would clean up our own mess.

I can tell you today that we sit at more tables and have more conversations with CBC management folks, senior management, than ever before. If I make a phone call, I actually get a phone call back. Before that, it was good luck even getting an e-mail recognizing that you had tried to contact them.

So it's changed unbelievably, and a lot for the better—for the better of our members and for the better of the public broadcaster as a whole.

● (0910)

**Mr. Charlie Angus:** That's very good to hear, because there was a period when I think we were all very frustrated. I mean, we pay for programming, we want good programming, and we value the importance. For example, I live in a region larger than Great Britain. CBC/Radio-Canada is the only link, especially in our francophone communities. So the fact that now we have a good working relationship is something that I think Canadians want to hear.

Now, you've been tracking the Quebecor dirty war against CBC and the increase. Mr. Del Mastro and I were on the heritage committee together, and I remember when, on November 23, 2010, he asked a private broadcaster, "...do you think it's time that the Canadian government...says...we [should] get out of the broadcasting business and get into investing more money into content?" He said, as well, that the private sector would not only make use of it but has done so already.

It seemed to me that a message was sent to private broadcasters—namely, if we increase the pressure on CBC, maybe we could divert some of the public appropriations that are going to CBC into their private competitors.

Is it just me, or do you think that in the period after Mr. Del Mastro's comments the war on CBC by Quebecor started to reach higher and higher, with more extreme language?

**Mr. Marc-Philippe Laurin:** I would say I'm not sure why Quebecor started this war or went after the CBC. As we said in our presentation this morning, it's clear that Quebecor is not subject to ATIP. It's clear that Quebecor is a competitor of CBC/Radio-Canada. It's clear that, in our view, they are using ATIP as a tool to get access to information that normally, with any other private broadcaster or any other broadcaster in the industry, they would not be able to have access to.

They're looking for information of a competitive nature, they're looking for information of a journalistic nature, which we don't believe the CBC is obligated to provide. I understand that the case—

**The Chair:** I'm sorry, Mr. Laurin, we're well over the time.

**Mr. Marc-Philippe Laurin:** I'm sorry.

**The Chair:** That's okay.

Thank you, Mr. Angus.

Mr. Del Mastro, for seven minutes.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, and my thanks to our witnesses.

Mr. Laurin, there's an important distinction that you're not making in your comments. First of all, according to the Access to Information Act, CBC is required to provide access to information. I don't think they're measuring up to the spirit of that act, and that's why we're here today.

You mention that private broadcasters don't have to provide access to information. True, but they're not receiving \$1.1 billion from taxpayers. They're not subject to the Access to Information Act.

They're not the largest crown corporation. They are not telling Friends of Canadian Broadcasting, the Canadian Taxpayers Federation, and virtually anyone else that sends in access to information requests that they don't have to answer the questions. They're not in court with the Information Commissioner. They are not dismissing requests before even pulling documentation to see whether the section 68.1 exemptions apply.

You said you've broken stories based on access to information, and that it's important. But I would argue that when the CBC breaks stories based on access to information, it's doing so from an awfully high hill of hypocrisy. It's not actually providing any access or transparency on its own actions, yet it is prepared to criticize. We can think of many stories in the last couple of years where CBC has broken stories based on access, has gone after the government or others on access, while they have been sending letters out with substantial redactions or simply dismissing requests out of hand, as though they should not even have to respond to requests for access to information.

Don't you see a problem with that?

● (0915)

**Mr. Marc-Philippe Laurin:** I think it's a fair statement. The issue centres on what kind of information is being requested. When that information falls under the scope of what the CBC calls and what we describe as "journalistic information", looking for access to information of a journalistic nature, which, in its essence, is competitive, then the CBC has an issue.

The CBC is in a competitive world. It's been put there by successive governments and CRTC rulings. For the last 20 years, it has increasingly had to generate its own revenue. All this puts the CBC in a precarious situation. As a public broadcaster and as an entity, the CBC needs to put circles around the information that competitors may ask of it. It's a crown corporation, it's arm's length, and it's also operating in a competitive world. It's a bit of a mishmash. It's not there of its own choosing. It's there because of the rulings and decisions that have been made by past governments. It's there because of downsizing in budgets. Mr. Morrison was talking about funding issues. It ties into that also. In the last 11 to 15 years, government budgets have increased by 80%, departmental budgets have increased by 83%, but the CBC's allocation has increased by only 8%.

We're not in the same boat. We operate in an industry that is very competitive. When a competitor comes after you looking for information about all sorts of stuff, and drowns you in over 1,000 requests, it's trying to get at stuff that, as a competitor, it shouldn't have access to.

Maybe Karen has something she would like to add.

**Mr. Dean Del Mastro:** Sure, I'll give her an opportunity.

As somebody who's been watching what has unfolded over the last couple of years, especially since the application and the launch of Sun News, it seemed to me that there was a pretty serious effort to define who they were and what they stood for before they actually broadcast anything. One could argue that they also worked to define those on the other side. I think there's a war. I'm not convinced it's a dirty war. It's an ideological fight that's going on in the media and among broadcasters. I think that's fair to say.

**Mr. Marc-Philippe Laurin:** Do you know what? You're right. And we don't have a problem with that. We need a diversity of voices. We've always been for a diversity of voices in the broadcast industry and the news industry. That's not the problem. The issue today, in front of this committee, is the fact that CBC is being challenged on this, and it's based on a push by a competitor. It's puzzling to us, quite frankly.

I think Karen has something she'd like to add.

**Mr. Dean Del Mastro:** Perhaps I could come back to you, Karen. I have one last question for Ian, and I don't want to be cut off. I promise I'll give you any time I have left.

Mr. Morrison, you indicated that this CBC president has continued a transparency avoidance that you've seen in the past. You submitted some access to information requests and got some redacted responses. You think there are better examples—the way the BBC is operating, for instance—than what we've seen.

You also talked about how the CEO isn't accountable to anyone. The board doesn't have the power to hire and fire the CEO.

I just have one more question. The CBC ombudsman reports back to the president of the CBC. Doesn't that kind of mean it's a loop back to the exact same position? Like, if you want to find some kind of...

If you're trying to follow this through, it just seems like it's an end loop back around to the exact same point—that is, you're going to be frustrated on your access to information requests and that's just the way it is.

• (0920)

**The Chair:** You can give a brief response, Mr. Morrison.

**Mr. Ian Morrison:** President Lacroix recently dismissed, or constructively dismissed, SRC's ombudsman. President Lacroix has a lot of power, and without the accountability.

**Mr. Dean Del Mastro:** Thank you.

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

Ms. Wirsig, we'll have to see if your response can fit into another member's question.

Mr. Andrews, seven minutes.

**Mr. Scott Andrews (Avalon, Lib.):** Thank you very much, Madam Chair.

Finally, this morning, Mr. Del Mastro has admitted that this is an ideological war between the CBC and Quebecor. It's interesting, because that's exactly what's going on in here today, in this committee study—an ideological war between the Conservative Party and their beef against the CBC.

My first question will go to you, Mr. Morrison, because you suggested in your statement, about Mr. Moore's comments regarding funding of the CBC, that they've changed tune, that they now have a majority government and they seem to do what they wish.

Where do you see this going, with this ideological war that's going on with the Conservative Party and the CBC?

**Mr. Ian Morrison:** I see it as more complicated than that. When the political party that you are part of was in government, there was, within that party, pro- and anti-public broadcasting debate and discussion behind closed doors.

The issue of public broadcasting is a difficult issue for the Conservative Party. They know from research, as we do, that the strong majority of people who support them also support public broadcasting. It's an issue that divides their core base of support—divides the 10% from the other 30% that means they're in government. So you tend to get things from the Conservative government—and I think to a degree it's what you got from the Liberal government before it—that come from both sides of its mouth. It's a Hydra-headed kind of creature.

We log comments that Conservative candidates make to our supporters across the country. I have a huge file containing all kinds of comments. I could show you thousands of comments that are very laudatory towards public broadcasting. And then you get some comments.... Mr. Del Mastro and I had a little kerfuffle some months ago about the comment that Mr. Angus mentioned.

So you get all kinds of comments coming out of this government. They have a majority and they want to examine the access to information policies of the CBC. We're not opposed to that. We don't really take Quebecor all that seriously, ourselves.

**Mr. Scott Andrews:** Let me just give one comment as well.

I think improvement can be made. There's no doubt that there are some issues here with CBC and section 68.1. Improvements can be made.

I want to talk to the folks from the Media Guild about how our study is too narrow, but I have one more question for Mr. Morrison.

You obviously, being with Friends of CBC, are quite familiar with the CBC website, and I assume with everything on the website. They do have a pretty good proactive disclosure, where any request that has come before them they have posted on the website. They are one of two government agencies that do so.

Have you had an opportunity to look through some of those disclosures? You mentioned earlier that a lot of that stuff is redacted—and some of the stuff that's disclosed on the website.

Can you just give us your analysis of that?

**Mr. Ian Morrison:** First, there's no such organization as "Friends of CBC". That would be a good cause. Somebody should take it up. Our group is called Friends of Canadian Broadcasting.

**Mr. Scott Andrews:** I'm sorry.



**Mr. Ian Morrison:** Just for the record, because you said that, we are a watchdog for Canadian programming on radio, TV, and new media. So we watch the CBC and CTV. Sometimes, even if I don't want to, I have to admit I watch Sun TV news. Our job is like the radar dish in an airport. We're watching a whole audiovisual horizon. We could get stuck in the CBC's website on access to information for far too long. But as I said in my presentation, our impression is that they hide behind section 68.1 for issues that have nothing to do with it.

• (0925)

**Mr. Scott Andrews:** Have you seen that through their proactive disclosure on some of the ones they've disclosed on their website?

**Mr. Ian Morrison:** Let me just talk about the one I know best. My colleagues and I are not saying the same things, but we have great respect for each other.

The name Magid Associates is not new to you.

**Mr. Marc-Philippe Laurin:** Magid.

**Mr. Ian Morrison:** We just wanted to know how much money—we think it was \$10 million—had actually gone to New York. That's all. They said no, for journalistic reasons. We've heard too many anecdotes to not recognize that there's a problem. The problem comes from the president and the board of directors, not the 5,000 or so members of the Canadian Media Guild who work hard and do their jobs. That's the CBC that we like to support.

**Mr. Scott Andrews:** To our friends with the Media Guild, you talked about how the scope of our study is too narrow, and that we probably need to do this across many government departments. I agree with you.

Could you just explain where some of the problems are? If we're going to try to make this better for everybody after this study is over, how do we do that?

**Mr. Marc-Philippe Laurin:** Do you want to take that, Karen?

**Ms. Karen Wirsig:** Sure. Having talked to a few of our members who do a lot of access to information, they mentioned a few things. Some of the questions were in our brief.

There are no penalties for non-compliance with the act. So perhaps there could be actual penalties for non-compliance. There are many exemptions and exclusions in the act, and I think you've even heard here that they're not particularly well worded, especially in the case of section 68.1. I think that is part of the reason why the CBC is in court with the Information Commissioner. So perhaps the wording of the legislation could be examined.

The Information Commissioner has said she would like to have access to the ministerial documents and records. There are ways to improve access to information in this country. We're not experts; we're sort of second-hand experts through our members. It's not the main job of our union. But these are some of the things we've heard. I think having a very serious hearing on how to improve the legislation and look at what other countries have been doing to improve access to information would be a good thing.

I talked to a recently retired member the other day, who said he often goes through U.S. access to information to get information about the Canadian government that he can't get in Canada. There is

a culture in the U.S., tied right to the Constitution, about accessibility of information being part of the lifeblood of democracy. That culture doesn't exist to the same extent in Canada, and I think that is a problem. It's not something you can change at this committee. It's not something you can change with a study.

**The Chair:** Please conclude.

**Ms. Karen Wirsig:** There are things you can do to start to change that culture.

**The Chair:** Thank you, Ms. Wirsig and Mr. Andrews.

We'll now go to Mr. Carmichael for seven minutes.

**Mr. John Carmichael (Don Valley West, CPC):** Thank you, Madam Chair.

And good morning to our witnesses.

As I've listened to the weeks of testimony from the various witnesses, it strikes me that on the face of the access requests, the true picture of this really revolves around transparency on financial disclosure. We had one witness, for example, who said there are multiple fiefdoms and empires within CBC and that no good manager at the top of the ladder would be able to really get control or an understanding of what goes on within those areas and manage their dollars.

So when I look at the \$1.16 billion and the increases in funding that have come forward in the last five years annually, to Mr. Morrison's comments earlier about five-year stable funding, it strikes me that this government has been very solid in providing stable, consistent financing: however it's come, it's been there.

So for our taxpayers, as we're elected officials, I feel my job is to ensure that the people I'm working with and have access to should be prepared to disclose the transparency on the financial management and accountability of what they are doing. So this issue, to me, would be settled very quickly if we could get to that point and specifically if we refer to section 68.1.

Section 68.1 talks about journalistic programming and creative activities. Mr. Morrison, you mentioned you don't take Quebecor and, I presume, Mr. Péladeau seriously, but he was here the other day and he said he fully endorses the support of those particular values.

This is about other issues, and, specifically, my question to each of you would be about internal documents on travel, meals, and hospitality. How do those affect those three core values, and if those were released—as Mr. Péladeau said, that's all he's requested—would this issue not be resolved and begin to unload the hidden content that we're all so concerned about?

Mr. Morrison.

• (0930)

**Mr. Ian Morrison:** I can't get into something of which I have no knowledge, like whether some journalist's travel expenses are something that should or should not be on the public record. You'd have to check it. I liked the approach of the Information Commissioner in suggesting to you that.... Help me with the phrase. That test, does it cause harm?

**Mr. John Carmichael:** Understood.

**Mr. Ian Morrison:** Yes. I think that general approach is correct. At a policy level, I rather liked and sympathized with the position of the commissioner. At an anecdotal level, I think there's no doubt that Quebecor is not a disinterested party here, and as I said, we often dismiss something they say.

However, you personally have been quite attentive and have demonstrated to some of our volunteers in your riding that you care about public broadcasting. I think it was Karen Kitchen who went to see you sometime during the recent election campaign, so we know at the grassroots level that you are a person of integrity who is trying to balance his role as a public servant. That's why I disassociated myself from the comment that there's anything inappropriate in this public hearing.

But I will save time for my colleagues.

**Mr. John Carmichael:** Are there any comments from other guests?

**Mr. Marc-Philippe Laurin:** I don't know what I can add to that. That pretty well covers it, except to say that—how shall I put this?—when you're in the business of meeting people to cover a story and you're meeting with folks related to that story, you may not want to disclose that information. It's fine for somebody to say, hey, so-and-so went out and I saw them, or I'd like to get their receipts for the last month. I don't see the purpose of Quebecor asking for that, quite frankly, except to find out maybe where the best noodle soup is in Montreal. I don't know.

But if I or one of my colleagues are meeting as journalists, members, with people and working on a story, we may not want that to be known. It may be a private conversation; it may be a confidential informant.

I agree that the commissioner has a pretty clear picture in that area of what may and may not constitute journalistic under—

**Mr. John Carmichael:** What's my time?

**The Chair:** You have roughly just under two minutes.

**Mr. John Carmichael:** Let me then—

**Mr. Marc-Philippe Laurin:** If I may just wrap up, I think the issue comes down to how we streamline the process so that Canadians have the information about the public broadcaster that should be accessible to them. How do we identify that information and then make it more clear-cut? The CBC has been involved in and open to access to information for, what, two and a half years now?

**Ms. Karen Wirsig:** It has been four.

**Mr. Marc-Philippe Laurin:** It's been four years, sorry. They created a whole department to answer requests because of the influx. Information on executive expenses is posted on the CBC website.

The breakdown of how the CBC spends its \$1 billion is broken down on the CBC websites—14 services, two official languages—

**Mr. John Carmichael:** Sorry to cut you off, but I'm running out of time, and I don't want to lose here.

I'm from a business background, so I understand that when you put statements together, you consolidate them, you try to break them down, and you put what information you can out there. I'm not sure that the information disclosed is as complete as you might think.

I'll go back to the access to information issue. Mr. Morrison, you suggested that there were a number of requests from your office that went into CBC and came back redacted and blank, etc., and were unfulfilled, as far as your request. Would it be possible for you to supply this committee with those requests?

• (0935)

**Mr. Ian Morrison:** I'll supply you with the requests, and I'll supply you with the answers, if you want to just see them.

**Mr. John Carmichael:** I think we need—

**Mr. Ian Morrison:** I can give you an executive summary. It was not 1% satisfactory.

**Mr. John Carmichael:** I think it would be good for us to see them. We had another witness—

**The Chair:** Mr. Carmichael, your time is up.

**Mr. John Carmichael:** Thank you very much.

**The Chair:** If you are going to send additional information, please send it to the clerk. Thank you very much.

Mr. Dusseault for five minutes.

[*Translation*]

**Mr. Pierre-Luc Dusseault (Sherbrooke, NDP):** Thank you, Madam Chair.

I also want to thank the witnesses for being with us today.

My first question is for Mr. Morrison.

You talked about other countries and their public broadcasters. You also mentioned something that startled me a little bit: the 12 members of the CBC's Board of Directors were appointed by the current government.

Could you provide us with more details on what is done in other countries? Are boards of directors also appointed by the government? Are they accountable to someone or to the government?

[*English*]

**Mr. Ian Morrison:** Thank you.

Forgive me if I speak in my preferred official language.

First, you're talking about the board of directors of the respective organizations. Of course, every country is different, but one thing that most of them have in common is that the board of directors selects the CEO on a competitive merit basis, and can terminate him.

Some of you may remember that in British public affairs, the governors of the BBC did fire their director general five or six years ago. His name was Greg Dyke, and he was terminated. I know that's the case in Denmark.

Rather than my occupying the time of the committee about it anecdotally, it is something you could get the Library of Parliament—and I would cooperate with them—to pull a little report together for you. They would be looking at the northern European countries: the Danes, the Swedes, the Finns, the Norwegians, the French, the Dutch, and the Germans. They'd look at Australia, and they would look at Japan, and that would be a good sample.

I think some work was done on this, by the way, by the committee that Mr. Angus referred to when he and Mr. Del Mastro were studying.... Certainly, the Lincoln report had some information on it, but it's all 10 years old at this point.

I just give you my overview. We are the outlier. We are the exception among democratic countries.

[*Translation*]

**Mr. Pierre-Luc Dusseault:** My second question is for Mr. Laurin or Ms. Wirsig.

You think that Quebecor's access to information requests were often related to matters that could provide it with an advantage over its main competitor. For his part, Mr. Péladeau told us that his company submitted those ATI requests with the public interest in mind. I would like to know what you think about that.

Do you think that it was done in the public interest, so that people would be better informed, or that it was done to give Quebecor an advantage over its main competitor?

**Ms. Karen Wirsig:** In our brief, we quoted Brian Lilley, who, in an article published on November 20, 2010, lists four requests out of the thousands his news agency has submitted to the government and to the CBC.

Allow me to check this in our brief.

**Mr. Pierre-Luc Dusseault:** It's on pages 3 and 4.

**Ms. Karen Wirsig:** I will read the quote in English:

[*English*]

"has filed thousands of ATI requests, trying to find out how and why CBC spends taxpayer money on board meetings in Iqaluit...."

[*Translation*]

In that case, it may be normal: they want to know how much those people spend on a meeting in Iqaluit.

[*English*]

"...executive expenses, anchor salaries and bidding for commercial or sports properties."

[*Translation*]

We feel that the last two elements, the salaries of TV anchors and bidding for sports properties, are obviously completely competitive, in that area. I was also told—and this is anecdotal—that reporters' notebooks or tapes with their interviews were also being requested. That obviously has to do with journalistic activities. I believe that the

number of requests involving journalistic activities is much higher than you may think.

● (0940)

**Mr. Pierre-Luc Dusseault:** So you think that, for those people, this is a tactic to give them an advantage over their competitors. They say they are doing this for the public, but the fact of the matter is that it is just another way to circumvent true commercial competition.

[*English*]

**The Chair:** Sir, your time is up, but I will allow a brief response.

[*Translation*]

**Ms. Karen Wirsig:** There are two components involved in this. First, those people can actually find useful information immediately. Second, requests for information provide material for news reports. If 1,000 requests are submitted to a single organization, the responses to those requests may be covered in reports over two or three years. I believe that there are two reasons for that approach: the information itself, but also the event.

[*English*]

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

Mrs. Davidson, you have five minutes.

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thanks very much, Madam Chair.

And thanks to each of our presenters here this morning. Certainly it's appreciated that you've taken the time to come out and share your thoughts with the committee.

My first question is going to be to Mr. Laurin, please. I want to be really clear that we're here today to talk about the access of information and the responsibility of the CBC to share that with the Information Commissioner. That's what this study is all about. It's not about Quebecor. I understand that's coming into the conversation on and off, but that's really not what this study is about at all.

We know that we've got section 68.1 in place within the Access to Information Act. We know that CBC only came under this act in 2007. So it hasn't been under it for a long time, but I feel it should be abiding by it, like all crown corporations. We also know that there was an initial court ruling that the Information Commissioner, not the CBC, should decide what falls under section 68.1.

I would like you to comment on that. Do you think that more information would be released if the CBC were not left policing itself, if it were left up to the Information Commissioner?

Another thing I want you to comment on is one of the statements you made in your presentation. You indicated that private companies are asking for information under ATIP that is harmful to CBC. We've heard that statement from other presenters. My question to you is this. Have you seen those requests, and how do you know they're harmful to CBC? How do you know what those requests are? And should it be up to you or CBC to make that determination, or should it be up to the Information Commissioner, who is the person appointed by Parliament to be responsible for this?

Could you comment on those two things, please?

**Mr. Marc-Philippe Laurin:** Actually, I'm going to let Karen take this one.

**Ms. Karen Wirsig:** On the first question, as we said, perhaps the wording of the legislation could be clearer. But I think the very important question that's probably being decided at court relates to the arm's-length relationship between CBC and Parliament, the government. That is something that makes the CBC different from virtually any other department, agency, or institution of the federal government. It's that arm's-length relationship, which is why I think the section 68.1 exclusion exists, right? It is the same thing that is written in the Broadcasting Act—it's the same language, even—to preserve the independence of the public broadcaster precisely so that it can't simply be a state broadcaster.

I guess the question is whether the Information Commissioner is seen as an arm of the state who would be checking up after CBC's private information. I think that is the question for the court. That, I think, is the arm's-length relationship we always have to keep in mind, and it's a specific question for CBC.

On whether the ATI requests are harmful to the CBC, we have not seen them. I don't think anybody has seen those requests, except for the CBC and perhaps the Information Commissioner. We only know what we read in the press reports and what we've heard in the testimony. And as I just read from Brian Lilley, we know that at least two of the four examples he gives in his report from November 24, 2010—the one on sports bidding and the one on anchors' salaries—are things that suggest to us that they're asking for competitive information. Those are their own words. Those have clear competitive implications for both CBC and Quebecor.

• (0945)

**Mrs. Patricia Davidson:** If you could change the act so that section 68.1 would be written differently, how would you do that?

**Ms. Karen Wirsig:** I can't answer that question. I'm not an expert on ATI. I'm not an expert on drafting legislation. You've had better witnesses than me here to help you with that. Sorry.

I don't know if anybody else has anything.

**Mrs. Patricia Davidson:** Mr. Morrison, do you have any comments on that?

**Mr. Ian Morrison:** Well, we gave you our policy advice in the presentation. Jean-Jacques Rousseau once said, "I'm here to discuss principles. I will not dispute the facts."

I'm not an expert. I believe that Parliament—it doesn't matter if I believe it or not—is sovereign, and if an act of Parliament is crafted, with whatever flaws are in it, it still has to be obeyed. Of course, there's a role for the courts in interpreting that, but our default is to trust the servant of Parliament, the Information Commissioner, that the CBC should be required to allow the Information Commissioner to look at material in confidence. Then the dispute should happen based on the decision of the Information Commissioner.

**The Chair:** Thank you, Mrs. Davidson. Your time is up.

We'll go to Madame Brosseau, for five minutes.

[*Translation*]

**Ms. Ruth Ellen Brosseau (Berthier—Maskinongé, NDP):** Thank you very much.

I also want to thank the three witnesses who are with us today.

[*English*]

I just really want to clarify everything.

The CBC is funded by the Canadian taxpayers, so it is subject to the Access to Information Act. When the CBC was subject to the Access to Information Act, they were bombarded by, you would say, mostly one source, another business, which we seem to believe is Quebecor. They're having a lot of trouble with Quebecor in the media. There have been so many slurs and campaigns against the CBC.

Would you think, ethically, that this is an issue, a problem, because the CBC is a publicly funded company and Quebecor is private? Could you comment on that, Mr. Morrison?

**Mr. Ian Morrison:** First, it's true that CBC receives money from this Parliament, a substantial amount of money, but it receives another 30% of its money from commercial sources.

**Ms. Ruth Ellen Brosseau:** It is from advertising.

**Mr. Ian Morrison:** As you know, CBC is a series of institutions held together as a corporation. The most commercial of its activities would be that of the English television network. Somewhere between 40% and 45% of the money comes from the parliamentary grant, and the balance is from commercial activity. Then you have the radio services, which are 100% public.

It would seem to me that this is a subject for research. It would be interesting to see whether the questions coming from one or two business sources are directed at the distinctly public broadcasting part of the public broadcaster or the somewhat private broadcasting business of the broadcaster.

**Mr. Marc-Philippe Laurin:** Just to add to Ian's comment, 65% of our funding comes from federal allocations, 35% comes from the commercial market. A crown corporation, the CBC is a journalistic organization, and you have to talk about the arm's-length relationship it's supposed to have with Parliament.

To answer your question—and your question I think at the same time, if I may—I guess it's not about what gets released; it's about who's asking for it. It's about who has access to that sensitive information. You spoke about the commissioner. The commissioner is asking for certain information and the CBC is taking the position—I can't speak for them, I'll let them defend themselves—that they would rather a judge do it, so we'll see what happens there.

The CBC is not the only government department currently in front of the courts, fighting the commissioner. I believe the Department of Justice is and one more that escapes me right now. It comes back to the debate that Karen was talking about and the discussion that needs to happen about ATIP and what is relative to the CBC. I think the CBC has to be “bubbled out” in a certain way and handled differently because of its operations, because it operates 35% in the commercial market, and because it's a journalistic organization and has to protect itself against its competitors at the same time. It certainly is confusing for me, and I can sure see why it's confusing a lot of folks and why we're asking the questions. But the CBC isn't the only one right now fighting the commissioner on these access to information requests.

● (0950)

[Translation]

**Ms. Ruth Ellen Brosseau:** That's true, as four institutions are currently before the court in cases against the Information Commissioner.

Karen, you talked about two things relating to information and events that affect Quebecor Media. Could you provide us with more details on that?

**Ms. Karen Wirsig:** Are you talking about the two pieces of information that were requested?

**Ms. Ruth Ellen Brosseau:** Yes.

**Ms. Karen Wirsig:** I would simply quote an article by Quebecor Media's Brian Lilley regarding the fact that information on bidding for sporting events was requested.

Was that your question?

**Ms. Ruth Ellen Brosseau:** Yes, in part. In addition, if Quebecor Media submits access to information requests involving journalistic activities, do you think that is done in the interest of Canadians or rather for the company's benefit?

**Ms. Karen Wirsig:** I think that it is probably a combination of the two. If those people receive useful information for their company, they can use it to strengthen the interests of that company. Even if they do not receive the information they requested, they can do a report on it. I think that there have been 60 reports on this topic over the last 3 years, including 22 since September.

[English]

They've spilled a lot of ink on this question. They've filled a lot of newspapers and television time.

[Translation]

**Ms. Ruth Ellen Brosseau:** Thank you.

[English]

**The Chair:** Madame Brosseau, your time is up. Thank you.

We'll now go to Mr. Butt for five minutes.

**Mr. Brad Butt (Mississauga—Streetsville, CPC):** Thank you very much, Madam Chair.

Thank you all for being here this morning.

I want to get this back on track, because I think we're skating around a whole bunch of stuff. This is about the CBC, in its infinite

wisdom, deciding that it doesn't trust, I suppose, the Information Commissioner to appropriately vet whether section 68.1 applies in the case of a number of access to information requests. That's going to be my line of questioning. I want to keep us on that because that is why we are here.

I was quite shocked, Monsieur Laurin, when you said that we should be considering who is making these requests. Any Canadian can make a request for access to information. I don't think it matters whether it's Quebecor or Mr. Andrews or anybody else. We all have the right to these kinds of things. CBC is a crown corporation that gets \$1 billion of taxpayers' money every year; it has a responsibility to disclose.

Of all the crown corporations we have, the Information Commissioner red-flagged two—CBC and Canada Post—as having very poor track records of compliance with the act. Many others she praised. AECL and VIA Rail got very high marks from the Information Commissioner when she was here.

So we know we have a problem with the CBC. I want to ask you again, both Mr. Morrison and our friends from the Canadian Media Guild that want to answer: do you not believe that the Information Commissioner, as an independent officer of Parliament, is the right person to determine whether section 68.1 applies or not?

**Mr. Ian Morrison:** I've already answered that for your colleague. Yes, ultimately it's the commissioner who ought to decide.

**Mr. Marc-Philippe Laurin:** I'll clarify my answer. Currently, the question in front of the courts is that the CBC is asking...and they've made that decision. It's up to the CBC to explain why they want to go there. When it comes to sensitive information, because of the nature of the public broadcaster and the competitive market it finds itself in, the question is who should have access to it.

I understand your question. You're saying that the commissioner should have access to it. Right now, it's in front of the courts. I'll leave it there. I'll let the courts decide whether or not that's accurate.

● (0955)

**Mr. Brad Butt:** There was a court decision. Mr. Justice Boivin made it clear. He ruled on it, and he made it clear that the Information Commissioner is the appropriate person to vet 68.1. CBC decided, using a whole bunch of taxpayers' money, the court's money, and the money we use to fund the Information Commissioner and her legal staff, to appeal it to another court level.

I'm offended by that. I read the decision of Mr. Justice Boivin. It's clear. The Information Commissioner was here on Tuesday. I think she's an absolutely phenomenal public servant of this country. I trust her judgment to make a decision on whether 68.1 applies or not. I don't the CBC ought to continue to appeal court decisions ad nauseum just because they don't agree with the ruling.

Your members are filing access to information requests all the time in the job they are doing. Being good journalists, they try to get to the root of stories that the public needs to hear. But I don't see why the CBC should be above the law. They seem to think they are. I would think that as watchdogs and unionized members working for the CBC you would be concerned about how the corporation is spending its money, and that you'd be taking a much stronger position on the actions the CBC is taking in this regard.

Quite frankly, they're flouting the law and deciding they're going to make all the rules about what applies and what doesn't.

**Mr. Ian Morrison:** You've stimulated me to say something strong.

**Mr. Brad Butt:** Sure. Good. That's why I'm here.

**Mr. Ian Morrison:** Page 104 of the most recent annual report, which I cannot distribute because I only have a copy in English, says:

CBC/Radio-Canada's Board of Directors is responsible for oversight of the management of the Corporation. In conjunction with the Corporation's senior executive team, the Board also ensures regulatory requirements, policies related to public accountability and access to information....

Mr. Butt, your government appointed every one of those directors. Should we not trust the Information Commissioner? Should we not also trust the 12 individuals appointed by Mr. Harper?

**The Chair:** Mr. Morrison, I'm going to have to interrupt.

Your time is up, Mr. Butt.

Mr. Angus.

**Mr. Charlie Angus:** Thank you, Madam Chair.

I was entertained by the last round of questioning from my good friend, Mr. Butt, who said that he was offended by the fact that taxpayers' money is being wasted, challenging the Information Commissioner. Yet I believe it was the Conservative government that took the Information Commissioner all the way up to the Supreme Court to protect the political rear ends of ministers so that they didn't have to release any documents. They were certainly willing to waste money then.

The Conservative government, and I find it particularly offensive, didn't get the court rulings they wanted on the in and out scandal, and they're going to go all the way, spending as much money as they can to cover themselves off. There's certainly a political war being waged here.

I want to follow up on the mistaken impressions Mr. Butt has had about what is actually going on in the court case. We had Mr. von Finckenstein here just recently, former Federal Court judge, head of the CRTC, who said that he thought it seemed fairly straightforward that you would go to court to clarify what 68.1 meant. We see that the Conservatives jumped all over this before we had a court hearing, so we're wasting taxpayers' money right here. It would seem that once we have clarification, we will know whether CBC is in the right or in the wrong, and we can take steps from there.

Mr. Laurin, do you think it's a reasonable thing to go to court to get clarification?

•(1000)

**Mr. Marc-Philippe Laurin:** It's the system we have in this country. If you want to challenge a decision, you challenge a decision and you go to court.

Other departments are availing themselves of that right, the government availed itself of that right, and the CBC is availing itself of that right. I'll let the CBC management and board of directors speak to the specific issue of debating this battle in court, but it's the system we have. It's the system that is available to all Canadians, and that's what they're using.

That's the best answer I can give you without—

**Mr. Charlie Angus:** It is fairly straightforward.

Again, I was impressed with Mr. von Finckenstein's interpretation that you would look at the act and say this needs to be clarified, because we're hearing many different opinions, and if we get a court opinion, we'll certainly know.

Mr. Morrison, I wanted to ask you...again, there seems to be this mistaken impression from some of my new colleagues on the Conservative side that there's this money being spent on public broadcasters while the plucky privates are having to go out and struggle to raise their own money. Yet we know there are hundreds of millions of dollars pumped into private broadcasting. These aren't independent entities. They're actually constructions of the state because we give them special tax benefits, we give them access to media funds, and we set up all manner of funding in order to get them to meet their base requirements. In exchange for a broadcast licence, they're supposed to have a little bit of Canadian content and a little bit of local content. And yet, when we go to the CRTC to find out if any of these private broadcasters are meeting any of their obligations under any of their licences, they routinely tell the CRTC that they're not giving out any of that information, and the CRTC rejects every single access to information request on whether any of these broadcasters are meeting their obligations, which they owe the taxpayer because we support them.

Do you think, Mr. Morrison, that we need a better system of accountability to ensure, with these private entities who are receiving public funds and public subsidies, that the taxpayer should be able to know whether they're actually meeting their obligations for Canadian content and for local television?

**Mr. Ian Morrison:** Sure.

By the way, you left out a very important protection for private broadcasters in this country, which is Parliament's protecting them from direct competition from American broadcasters.

**Mr. Charlie Angus:** Yes, it's section 19.1 of the tax act. These guys don't even have to compete. They've got their own private market.

**Mr. Ian Morrison:** I doubt that a change to the Broadcasting Act would be required for the CRTC to be more forthcoming. Because these industries are regulated, it's important that the CRTC not release information about one company vis-à-vis another—

**Mr. Charlie Angus:** Exactly.

**Mr. Ian Morrison:** —but given that it is industrial information of a regulated nature, the CRTC has the power, in my opinion, if it had the courage, to release more of that information.

So to that extent, I don't agree with Konrad von Finckenstein.

**Mr. Charlie Angus:** Well I—

**The Chair:** You've got eight seconds, Mr. Angus.

**Mr. Charlie Angus:** Certainly we have an issue. If a broadcaster just doesn't want the information to go out, the CRTC just rips up the request. Is that right?

**Mr. Ian Morrison:** No.

**Mr. Charlie Angus:** Thank you.

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

Mr. Dreeshen, you have five minutes.

**Mr. Earl Dreeshen (Red Deer, CPC):** Thank you very much, Madam Chair.

Welcome to our guests.

If we take a look at the romantic idea of reporters who are on the beat and the types of things they would do, we have to make the distinction between the type of activity we believe reporters do and being able then to go out and put on the Ritz and be in the penthouses and bring people in. What people are starting to say is "How much money do they spend on the way in which they go out to gather the news?"

I'll just give an anecdotal situation that occurred in Alberta, where I'm from. There was a news report that something was happening in Fort McMurray, and it had something to do with the provincial government; there was a speech taking place. So two competitors came up with a van. They were up there in the day and they went back, and yet CBC came in and brought all of whatever it takes to get their reporters there to get all of these things done, and they stayed for days. People look at the magnitude of it and say, these are our dollars being spent that way, and yet the reports, the information that came out, was exactly the same. So you get this feeling that the public is saying there is too much of that type of waste.

Then people—even people like you—say, "Well, what about this \$10 million for dealing with this company down in the States? Where is that money being spent? If we knew where that \$10 million was being spent, we could make some decisions on that, or maybe that \$10 million won't be spent next time and it can go into some other types of operational funding."

A lot of the people we have heard from in this last little while have been saying exactly the same thing. We know money is being spent there. If you want to improve the situation, you have to get rid of that and spend that money in the proper areas. We've had discussions before about the different silos that were being put up such that dollars were being spent and no one part of the department knew what was happening in the others. I think that is really one of the major concerns.

To go beyond that to what you mentioned when you talked about journalistic ability to work under section 68.1 of the Access to Information Act and their creativity, I think there are opportunities here to change legislation.

Mr. Morrison, when you came, you mentioned that we should be looking at policy suggestions, and I know you presented some of them in your discussion.

When it comes to the Information Commissioner, do you have any suggestions for being able to have her view some of these access to information requests through a competitive lens? That's my first question.

There were also some comments having to do with the board and sanctions if they don't deal with the access to information, so if you're looking, are you looking at penalties for crown corporations that don't respond? Is there something that could be done to the board? Taking money away from a group you've already given funding to seems sort of counterproductive.

Could you comment on those?

Not knowing how my time might be, Mr. Morrison, you had also indicated that CBC's management suffers from an accountability crisis. I wonder if you could perhaps comment on that as well.

•(1005)

**The Chair:** You have one minute for a response.

**Mr. Ian Morrison:** That is 12 seconds per issue.

On the waste issue, your comment to me was like a time warp. In the 1980s I used to hear that kind of story. Now I hear more stories about "I wish we could afford paper clips. I wish I didn't have to spend time emptying my own garbage can. I wish I were allowed to have a taxi to get across town." It's that kind of thing. There is a cutting to the bone that relates back to.... That's more than 12 seconds.

On the competitive lens, that would take too long.

On sanctions, we need clear rules that everybody has to obey. Maybe we'd go to a court to order the CBC to obey something if necessary, but with respect to the accountability issue, I would stick with my introductory comments. The president and CEO of the CBC is effectively not accountable to anyone.

By the way, I read a Canadian Press report this morning in the *Winnipeg Free Press* about this very issue, which had the CBC spokesman saying that the board was consulted about this access to information matter, but, he thought, they hadn't made any decision about it.

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

The final question will go to Mr. Andrews for five minutes, and then we will suspend for two minutes so we can go on to committee business.

Mr. Andrews.

**Mr. Scott Andrews:** Thank you very much, Ms. Chair.

Mr. Laurin, you gave a very good analysis of court proceedings in this country. It is imperative that we keep reminding the Conservatives how they like to talk about how this is a waste of money. Mr. Butt refers to it several times, about why they are appealing this decision. That's our court case, that's our system of government, those are the fundamentals: that an individual or group has a right to exhaust its levels of appeal, and I thought you did a very good job on that as well.

Also, I think Mr. Butt needs to be educated about the competitive nature of some of the requests. We had the head of Quebecor come in here, and he gave us two examples of some of the requests they require from the CBC, wondering about their outdoor advertising and information around a magazine production they were involved in. So there are two exact examples of how Quebecor is trying to get a competitive advantage—that's really the crux of this—and how we use section 68.1 to protect the competitive advantage. I don't think you mentioned it, and if you said it, I'll apologize, but I'm reading it here in your brief that you sent. It's the same as Fedex or UPS using ATIP requests to find the competitor information about Canada Post. That's exactly why we are here, and this is why this Quebecor media campaign is based...they may be looking for 20% legitimate freedom of information types of requests, but it is modelled on this competitive advantage.

Mr. Laurin, I know, mentioned it a little earlier. Let's just talk about section 68.1 and the competitive advantage and how we can protect the CBC, Canada Post, and other crown corporations from being attacked over competitive information so that we can educate those members across the way.

• (1010)

**Mr. Marc-Philippe Laurin:** This is something we've discussed among ourselves, and Karen spoke earlier about having more debate, having a group of folks look into how this could happen. I don't have an answer for you; I wish I did. I think it's part of the problem. It's why we're here today. The confusion around section 68.1 and the clarity, or lack of clarity, is bringing up all these questions.

It behooves us as a country to have a discussion about it and try to put some parameters, put some fences around some of the questions that will be deliberated at that time. The crown corporation I work for is a journalistic enterprise; it works in a very competitive industry. It requires, I believe, some kind of...I don't want to say protections, but it needs to be able to defend its competitive edge. I guess that's the best answer I can give you. It needs to be able to keep its arm's-length relationship with government, and at the same time keep the competitors at bay when it is making decisions, whether it's a decision about programming or whether it's a decision about how many people you send to a certain location.

I can't answer the question because I don't have the details of that specific case. Programming decisions are made on a daily basis, based on a whole set of criteria that are particular to that specific event, so it's impossible for us to speak to any singular event here today.

The question has to be asked and the debate has to be had. As Mr. Morrison talked about, who's responsible? Who do they answer to? The CBC has on its website a whole list of government agencies that it answers to, that it's accountable to. Is that accountability enough? I

guess that's for Parliament and the Canadian public to decide. It is a question that has been hanging out there for.... I've been at CBC now for 36 years, and we've been talking about this for at least 25.

**Mr. Scott Andrews:** Every government department is the same, because if government enters into a business arrangement with an outside business and you do a freedom of information request, you can't get that information because it talks about the competitive advantage of that particular business. CBC is no different. However, it's a crown corporation, and there is a need for some transparency there, when it comes to the financials and that kind of stuff—

**The Chair:** Mr. Andrews, your time is up, but I'll allow a brief response.

**Mr. Scott Andrews:** I didn't really have a question.

**The Chair:** It was just a statement.

**Mr. Scott Andrews:** I was getting around to it, but that's fine.

**The Chair:** Well, thank you very much.

Mr. Del Mastro.

**Mr. Dean Del Mastro:** Madam Chair, before we move into committee business, related to today's and other testimony, I would like to move the following motion before the committee:

That, in order for the Committee to determine access exclusions, the Committee order the production of the following documents pursuant to Standing Order 108 (1):

1. From the CBC: The un-redacted documents provided by the CBC for the access to information requests made by the Canadian Taxpayers Federation;
2. From Québecor: The access to information request referred to by Pierre Karl Péladeau....

That would be the one related to vehicle fleets. And I'd also like the redacted response they received.

3. From the CBC: The un-redacted response provided by the CBC to the request referred to...by Québecor;
4. From Friends of Canadian Broadcasting: The access to information requests that have been sent to CBC and the responses received;
5. From the CBC: The un-redacted responses for the questions put forward by the Friends of Canadian Broadcasting.

And that the information be provided to the Committee without delay.

• (1015)

**The Chair:** Before we go to debate on that, I'm going to free the witnesses and thank them very much for their participation and attendance today.

May we suspend for two minutes?

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\_\_\_\_\_ (Pause) \_\_\_\_\_

•

• (1020)

**The Chair:** Okay, we can now resume.



Mr. Del Mastro has proposed a motion. I will go to Mr. Del Mastro for an explanation of his motion, and then we'll take any speakers on the motion.

Mr. Del Mastro.

**Mr. Dean Del Mastro:** Thank you, Madam Chair.

It seems to me it's going to be incumbent on this committee to make specific recommendations to, in this case, the President of the Treasury Board regarding the Access to Information Act, and section 68.1 specifically, and whether the Information Commissioner, for example, has made specific recommendations in that regard, as have others before this committee. In order for the committee to determine how section 68.1 is being applied and what changes should be made, we should be reviewing the decisions that have been made, specifically with respect to these access to information requests.

I am obviously cognizant of the protections provided to the CBC, so I would recommend that these documents be viewed in camera to respect the protections that have been afforded to the CBC. But I do think it's necessary that the parliamentarians on this committee be provided access so that we can make specific recommendations that I believe would be in the public interest.

**The Chair:** Thanks, Mr. Del Mastro.

Mr. Angus.

**Mr. Charlie Angus:** Thank you, Chair.

Would Mr. Del Mastro read the motion?

We were given no notice of this, so we're playing catch-up. He read it through quickly. I'd like to at least hear what he's proposing.

**The Chair:** Thank you. I'll have the clerk read the motion again.

**The Clerk of the Committee (Mr. Chad Mariage):** Thank you, Madam Chair.

The motion reads:

That, in order for the Committee to determine access exclusions, the Committee order the production of the following documents pursuant to Standing Order 108 (1):

1. From the CBC: The un-redacted documents provided by the CBC for the access to information requests made by the Canadian Taxpayers Federation;
2. From Québecor: The access to information request referred to by Pierre Karl Péladeau at the meeting on Thursday, October 20, 2011;
3. From the CBC: The redacted and un-redacted response provided by the CBC to the request referred to in the previous request #2 made by Québecor Media Inc.;
4. From Friends of Canadian Broadcasting: The requests made and the responses given, and the un-redacted responses from the CBC in this regard.

**The Chair:** Just on a point of information, this motion is admissible without notice of motion because it's on the study at hand.

Mr. Angus, did you have further comment?

**Mr. Charlie Angus:** Yes.

I find this once again is turning our committee into somewhat of a circus at the request of Mr. Del Mastro. I think the issue of this Conservative Party looking to get its hands on unredacted documents so it can make the decision as to what documents should be looked at and which should not is not within its purview, and is usurping the work of the Information Commissioner.

I'd also suggest that given the antics I've seen at this committee over the last two weeks, it would be definitely not in the public interest to allow that party over there to put itself in the position of arbiter. If it wants to be an arbiter, it can take in legislation and it can change the act.

Last week, we had Mr. Andrews, my colleague down at the other end—correct me if I didn't hear it right—make a reference to that party looking to dismantle the CBC, and I saw Mr. Del Mastro and Mr. Butt having lots of good laughs about the fact that they resembled that remark about dismantling the CBC.

**Mr. Brad Butt:** I never said that.

**Mr. Charlie Angus:** Well, that's the way I remember it, and I think I would have enough—

**Mr. Dean Del Mastro:** A point of order.

**Mr. Charlie Angus:** There were lots of good jokes last week.

**The Chair:** Gentlemen, I have Mr. Del Mastro on a point of order.

**Mr. Dean Del Mastro:** Madam Chairman, Mr. Angus is implying motive from some response or reaction that may be completely unrelated to the comments that he's attributing alleging to Mr. Andrews. This is highly inappropriate and it has nothing to do with the motion.

**The Chair:** I ask members to deal with the motion at hand, and if other members wish to get on the speakers' list, please signify to the clerk that you want to be on the list.

Mr. Angus.

• (1025)

**Mr. Charlie Angus:** Thank you, Madam Chair.

I certainly would never imply motive. I said it pretty much straight up and I meant it. I have watched some of these members over here day after day on a crusade against CBC.

The issue of accountability is important for our committee. This is fundamental to our work. The fact of access to information is fundamental to our work. When I see people sitting around making jokes about resembling the remarks about dismantling the CBC, and then expecting to use this committee as a forum for them to examine documents, unredacted documents, so that they can then decide... or—and I think this would be more interesting—put themselves in a position where CBC would probably say, “We're not going to make that request because of the issues of journalistic integrity and because of the issues of the exclusion”, which would then allow the Conservatives to do what they would really like, which is to come in and call CBC in contempt of Parliament.

I think this is part of a definitive strategy to undermine the CBC. We've seen it again and again and again. We have enough evidence here for Mr. Del Mastro's kangaroo court to continue. He was unable to bring a judge before this committee; he thought he had the right to bring a judge before this committee, and yet we had to see the Ottawa *Citizen* have a big headline to remind Mr. Del Mastro that he was completely usurping the rules, the distinction between state, court, and parliamentary committee.

So now we see that Mr. Del Mastro gets to be the decider of what documents should be released and what shouldn't be released. This is a kangaroo court. The rest of us are dragged along for the ride because this government's idea of a majority is to break whatever rules it wants. But I think it is extremely inappropriate. It's showing the level of farce that this government is willing to descend to in its attack on the CBC.

I would respectfully say that we could have a situation where we review the testimony. We know what the conclusions of this government, as we know it, are going to be. But given the fact that the members have sat there and made jokes and continual attacks on the public broadcaster, for them to be given the documents to examine, to make political hay with, is completely out of line.

**The Chair:** Mr. Del Mastro.

**Mr. Dean Del Mastro:** Thank you.

You know, it's not unlike my colleague to grandstand, allege motive, and impugn the actions of other members. I think it's highly inappropriate and incredibly unproductive. It's unfortunate that he descends to that level of debate consistently at this committee and in Parliament.

It's incredibly important, given the testimony we've heard from many, including opposition witnesses before this committee. I'd point out that both witnesses today were not on our witness list, but we agreed to hear all witnesses. We wanted to hear from all sides on this matter. We heard concerns raised by witnesses today in this regard.

Mr. Angus is talking about witnessing people smiling or perhaps laughing on this side of the committee. He has no idea what we were talking about and what was going on at that time. I've seen Mr. Angus smile and nod and laugh at points in committee before.

**The Chair:** Excuse me, Mr. Del Mastro.

**Mr. Charlie Angus:** A point of order.

**Mr. Dean Del Mastro:** I have no idea what his emotional response was on—

**The Chair:** Mr. Del Mastro, I have a point of order.

Mr. Angus.

**Mr. Charlie Angus:** Just to clarify the record, I never said they were smiling at each other; I said they were making deliberate jokes about dismantling the CBC. I said it. I watched it. It's on the record.

Thank you.

**Mr. Dean Del Mastro:** That's not on the record.

**The Chair:** Gentlemen, hold it.

To Mr. Del Mastro and both sides, focus your debate on the motion before us. I believe we don't have a record of whatever that side conversation may or may not have been, so please only refer to testimony that the committee has access to.

Mr. Del Mastro, please continue.

**Mr. Dean Del Mastro:** Thank you.

As I was saying, I think the motion is important and appropriate. If this committee is going to make any recommendations, it must have the facts. It can't make recommendations without the facts.

On the balance of Mr. Angus's buffoonery, I think it's highly—

**Mr. Charlie Angus:** I have a point of order.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Mr. Del Mastro, that is very unparliamentary. If you want to make ignorant comments, it's not within the...“buffoonery” is not parliamentary. I'd ask you to—

**The Chair:** I'm going to interrupt here just for one moment.

You need to address your remarks through the chair. I suggest that both parties engaged in this conversation limit your comments to the motion before us, rather than the personal descriptions that are currently being used on both sides.

Mr. Del Mastro, please continue.

• (1030)

**Mr. Dean Del Mastro:** Thank you, Madam Chairman.

As I said, the motion is highly appropriate. I think some of the conversation aside from the motion has been regrettable. I'd like to move to vote on the motion.

**The Chair:** I don't believe you can actually do that. Let me confer with the clerk.

**Mr. Dean Del Mastro:** I'm just requesting that we vote.

**The Chair:** Thank you.

I'll test the will of the committee. Are you ready to move to a vote? I still have a speakers' list. I've got Mr. Butt and Mr. Andrews.

Do people want to continue to speak?

**An hon. member:** Yes.

**The Chair:** Mr. Butt.

**Mr. Brad Butt:** I'll be supporting the motion.

As a member of this committee, I would find it very helpful to be able to see the requests for information—what was filed, what was supplied back, what was withheld, etc.—so I can get a better idea of section 68.1, the provisions in that aspect of the act, and so on. When we make recommendations as a committee when our study is complete, as one member of this committee I will then have a full appreciation of the important work we've done in the study.

Just for the record, I have never publicly or privately mused about the funding the CBC gets from the federal government—never once. I've never campaigned on defunding the CBC. In fact, I campaigned on maintaining support for the CBC.

So those are the facts. Mr. Angus can twist his facts any way he wants and make any statement he wants here—

**The Chair:** Mr. Butt, I've asked—

**Mr. Brad Butt:** —but it is absolutely incorrect.

**The Chair:** Mr. Butt, I have asked people to stay on the motion, so I will ask the rest of the speakers to stay on the motion.

Are you finished?

**Mr. Brad Butt:** I will be supporting the motion. It's a very good motion, Madam Chair.

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

Mr. Andrews.

**Mr. Scott Andrews:** Thank you, Madam Chair.

Mr. Del Mastro, you should practise what you preach when you lecture a member of this committee—

**The Chair:** Please, Mr. Andrews.

**Mr. Scott Andrews:** —and then turn around and make those remarks.

**The Chair:** Order, please.

Mr. Andrews, please direct your comments through the chair.

**Mr. Scott Andrews:** Regarding this asinine motion before us, you want to be the judge, jury, and executioner of freedom of information requests, yet you don't even have knowledge of our justice system—or the right to appeal things through our justice system. But now you want to be the information commissioner of Parliament. Putting this information before a committee, unredacted, is totally bizarre. I don't know where this is coming from. I suspect, again, they know the answer to this question; this type of information is before the courts. They're looking for a request on section 68.1 regarding both redacted and unredacted information, and now they want to act as judges of these issues.

Where to go from here? How much longer is this charade going to continue? This is totally unproductive.

I'd like the clerk to read the second part of the motion, where it details the information they want from Quebecor, because it was thrown on the table and we weren't given any notice or research. Could you read the second part, where it talks of Quebecor?

**The Clerk:** It reads, "From Québecor: The access to information requests...."

**Mr. Scott Andrews:** Okay. So this motion is "From Québecor, the access to information requests...." When the president of Quebecor was asked about their 800 freedom of information requests, he didn't deny or confirm them. He said, "Yes, we have a number of requests before the CBC." So if this motion is passed I expect to see—from Quebecor and every reporter and person employed by Quebecor who requested information—their actual requests to the CBC over the time period we are talking about.

If we're going to go down this road and pass this motion...it specifically says the freedom of information requests from Quebecor. So Quebecor has to provide all the information requests they have put forward to CBC, and then we'll get some idea of what information they're actually looking for. So we'll see where this motion goes.

**The Chair:** I'll ask the clerk to read the whole phrase, because there was a clarifying point in that phrase.

Mr. Mariage, could you read that particular reference to Quebecor, please?

•(1035)

**The Clerk:** That whole section reads:

From Québecor: The access to information request referred to by Pierre Karl Péladeau, at the meeting of Thursday, October 20, 2011.

**The Chair:** Mr. Andrews.

**Mr. Scott Andrews:** I would suggest that was everything the man spoke about at committee that day. At that meeting he was asked point-blank how many requests they had put in, so that will be the information I will expect to see from Quebecor, from this particular motion.

**The Chair:** I have Madam Brosseau, and then I have Mr. Del Mastro.

**Mr. Dean Del Mastro:** I just want to know if that has been amended.

Specifically, Madam—

**The Chair:** Is that a point of order to clarify if that's an amendment?

**Mr. Dean Del Mastro:** Yes. Is that an amendment? In his testimony there was only one access to information request that was specifically referred to, which dealt, I believe, with vehicle fleets.

**The Chair:** Okay, thank you, Mr. Del Mastro.

**Mr. Scott Andrews:** If I can actually go back to Mr. Del Mastro... if he wants to review the testimony—and I've brought it up here several times since—he also referred to outdoor advertising and information about a magazine, and he listed a few others. Then when questioned in testimony he acknowledged that, yes, Quebecor has had several hundred requests before CBC.

So if this motion is going to pass as it is, I expect to see that information from Quebecor. If you want to provide information from CBC to discuss this, then let's see all the requests that Quebecor has put in and we'll see where this is going.

**The Chair:** Mr. Andrews, if I could interject here, Mr. Del Mastro has asked if you're proposing an amendment. The clerk has pointed out that there were a number of references in the testimony. We'd have to go back and review the actual testimony to determine how many references there were.

What I hear Mr. Del Mastro asking is, are you proposing an amendment to his motion?

**Mr. Scott Andrews:** If Mr. Del Mastro would like to amend his own motion, he's more than welcome to. We know the outcome if we do an amendment on this side, so I won't be amending it, but we'll be closely watching the request put forward in this motion.

**The Chair:** I'm going to go back to the speakers' list. Mr. Del Mastro, when he comes to his turn, can clarify or specify as he chooses.

Madame Brosseau.

**Ms. Ruth Ellen Brosseau:** I'm going to ask to adjourn and ask for legal advice in camera.

**The Chair:** Is that a motion?

What we have before us is a motion to suspend to seek legal advice in camera.

**Mr. Dean Del Mastro:** Madam Chairman, I actually thought that Speaker Milliken's ruling in this regard was emphatically clear. Parliament does have the right to documents and can ask that those be tabled.

I would encourage members of the NDP who sought that ruling, along with other members of the opposition at that time, to review that ruling. I think it's very clear.

I see no point in adjourning. I want a vote on the motion that's before committee. If members opposite would like to oppose it, that's fine. I have, in fact, suggested that all the documentation being requested be kept in camera. I trust that colleagues on this side of the table will keep it in the strictest confidence. I would suggest that members opposite do the same.

**The Chair:** I will just remind committee members that we're dealing with a motion to suspend, go in camera, and seek legal advice.

Go ahead, Mr. Angus.

**Mr. Charlie Angus:** Madam Chair, this committee is being seen widely as a kangaroo court, as one that respects zero obligation to the parliamentary system. And it is my colleague across who is the subject of a big Ottawa *Citizen* front-page headline.

We have important work to do here. Part of that work is to be respectful of the legal obligations. We are asking to suspend, and we expect that to happen so that we can then take the time, get the legal advice, and do our work. If it is within the purview of this committee, then it will continue. We have asked to suspend, end of story. It is not really a matter of debate.

• (1040)

**The Chair:** Just to clarify, my understanding is that a motion to suspend is debatable. A motion to adjourn is not. Because the motion was to suspend, the committee has the right to debate it.

I was going to clarify about requests for documents. It's on page 978 in chapter 20 on committees. It says, and this is about committees requesting papers:

[I]t can use its power to order the production of papers by passing a motion to that effect. The motion usually orders the person to whom it is directed to provide the committee with the papers in question by a particular date or deadline.

The Standing Orders do not delimit the power to order the production of papers and records. The result is a broad, absolute power that on the surface appears to be without restriction.

This is on page 979:

No statute or practice diminishes the fullness of that power rooted in House privileges unless there is an explicit legal provision to that effect, or unless the House adopts a specific resolution limiting the power. The House has never set a limit on its power to order the production of papers and records. However, it may not be appropriate to insist on the production of papers and records in all cases.

Mr. Angus, because I interrupted your comments, I'll go back to you before I go to Mr. Del Mastro.

**Mr. Charlie Angus:** Thank you, Madam Chair.

Certainly these rulings of parliamentary procedure are what we rely on in the western parliamentary system to judge, because we are a quasi-judicial body here. The decisions made here have enormous implications.

It would be fair to say that the vast majority of people who sit around this table on any given day are absolute laymen and laywomen brought forward to represent their communities. Some have a background and some don't, and that's no slight on anybody around this table. Everyone comes hoping to do the right thing. But sometimes people step forward and put their feet into legal quagmires because they're earnest. Maybe they want to eat their way up the political food chain. Maybe they want to make a name for themselves. Maybe they're just really excited. But if they haven't done their homework, if things are allowed to stand and the rest of the gang jumps on board and runs down that road, then you're—

**The Chair:** On a point of order, Mr. Del Mastro.

**Mr. Dean Del Mastro:** Are we not debating whether or not to suspend the meeting? What is the relevance of this? It's nothing but a filibuster.

**The Chair:** Mr. Del Mastro, Mr. Angus has the floor, and I believe he's making some points related to the motion to suspend.

**Mr. Charlie Angus:** I'm trying to help my colleagues understand the larger implications of what we're dealing with here.

Madame Chair, they are hot under the collar to get at this stuff. The boys are off the chain.

I'm saying, in terms of our ask to suspend, that this is about taking the step back that's needed to seek legal advice, so that my honourable colleague Mr. Del Mastro, who's now suddenly seized with the obligation that he's going to be the new Information Commissioner of Canada.... I have not seen that sort of legalist, step-back, think-it-through attitude by Mr. Del Mastro yet.

I'm actually looking out for his best interest, and that of my good friend Mr. Butt there. I wouldn't want them stepping over the line on this.

This issue of suspending is important. We need to suspend so we can step back for a few minutes and talk to people who know about the legal obligations. What are the legal protections? This has been raised. Again, it was section 68.1. This is now before the courts. This issue is before the courts right now to get an interpretation.

What we've seen is an effort by the Conservative Party to undermine the independence of the judiciary. We know that. That's been a long-standing warhorse of theirs.

At this point in this committee it would be absolutely irresponsible for us to continue for one more minute or two more minutes or three more minutes without recognizing the importance of suspending. Once we suspend, we will then get the legal counsel necessary so we can understand the implications of demanding unredacted documents that may be kept under a section 68.1 exclusion, while—

**The Chair:** If I could interrupt, and I will return the floor to you, we're almost at our normal adjournment time. I understand there may be bells as well.

I need some clarification from the committee. On Tuesday, when we resume, we are to have witnesses from the CBC before us.

Because we now have two motions on the floor, I need to know the will of the committee.

Do we want to continue the discussion on the motions on Tuesday and reschedule our witnesses? Or do we want to go on with our witnesses as scheduled on Tuesday and defer the discussion on these motions until the following Thursday? I need guidance from the committee.

I'm going to go to Mr. Andrews and then Mr. Del Mastro.

• (1045)

**Mr. Scott Andrews:** I think that's a great suggestion.

Out of courtesy, in this committee you give 48 hours' notice of motions, so you can prepare. The Conservatives don't play by these rules.

I think that's a great submission. We have Mr. Angus's motion to debate, and we can add this one. This one needs a lot more discussion. It will give us time to do some research and come back with some arguments.

I think that's a great suggestion, Madam Chair.

**The Chair:** Just a reminder to committee, we actually have two motions before us. We have the motion to suspend and Mr. Del Mastro's original motion.

Mr. Del Mastro.

**Mr. Dean Del Mastro:** Thanks, Madam Chairman.

Madam Chairman, we'll gladly reconvene the committee prior to Tuesday. We will sit all day Tuesday. We will stay on motions until we have answered this question.

It is quite evident that the opposition has determined they would rather filibuster this than do their job and review this matter so we can actually come to an informed position on this matter.

We will stay on motions until the opposition allows a vote on motions.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** We're seeing now where this government wants to go. They've derailed this committee.

I'd like to say just three words to my honourable colleague: *sub judice* convention. I think we need to get a bit of legal advice about the interference of Parliament on a matter before the courts. He might not like that. He might think it's filibustering. But we are part of a legal convention in a legal system here.

I think we are at the time to suspend. If he's not going to allow the CBC to defend themselves on Tuesday because he wants to continue down the road as the hanging judge of the CBC, well then we will continue with that.

**The Chair:** Mr. Angus, if I could interrupt, I'm going to ask the committee for a vote.

The question is, do we continue with the debate on the motion to suspend on Tuesday? Once the debate is finished on that one, then the second motion, Mr. Del Mastro's motion, will be on the table. Then we will have Mr. Angus's motion.

The question I have for the committee is the order of business on Tuesday when we convene at 8:45 a.m. I'm asking if business will be the debate on the motion to suspend as the first order of business of the committee.

All in favour?

**Some hon. members:** Agreed.

**Mr. Charlie Angus:** We would like to do our witness list.

**The Chair:** So the order of business at 8:45 a.m. on Tuesday morning will be on Madame Brosseau's motion to suspend, go in camera, and seek legal advice. That will be the first order of business at 8:45 a.m. on Tuesday, followed by Mr. Del Mastro's motion.

I am going to suggest that we reschedule the witness until after Tuesday's meeting.

The meeting is adjourned.

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