



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

44th PARLIAMENT, 1st SESSION

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# Standing Committee on Canadian Heritage

EVIDENCE

**NUMBER 034**

Tuesday, June 14, 2022

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Chair: The Honourable Hedy Fry





## Standing Committee on Canadian Heritage

Tuesday, June 14, 2022

• (1100)

[*Translation*]

**The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)):** I call this meeting to order.

Good morning, everyone. I would like to acknowledge that this meeting is taking place on the unceded traditional territory of the Algonquin Anishinabe people.

Welcome to meeting No. 34 of the House of Commons Standing Committee on Canadian Heritage.

[*English*]

Pursuant to the orders of reference of Thursday, May 12, 2022, the committee is resuming consideration of Bill C-11, an act to amend the Broadcasting Act and to make related and consequential amendments to other acts.

Pursuant to government motion 16, adopted by the House of Commons on Monday, June 13, 2022, the committee is commencing clause-by-clause consideration of the bill.

Today's meeting is taking place in a hybrid format, and although most of you are familiar, I would like to suggest, pursuant to the House order of November 25, 2021, that members attending in person must wear a mask at all times, except when eating. Per the directive of the Board of Internal Economy on March 10, we will also remember that members who are working virtually from home must mute themselves unless they are going to speak. I'd like to also ask you to make sure that you address everything through the chair.

I will recognize you by name when you put your hand up. The clerk and I will be working in tandem. She tells me what's going on on the floor. Even though I can see it, I cannot really distinguish whose hand is up, so she lets me know whose hand is up. If there's anybody joining virtually—and I notice that Mr. Uppal is virtual—use your “raise hand” signal at the bottom of the screen, so that I can know when you want to say something.

Remember again to plug in your mikes on the floor for interpretation, and for those who are virtual, the interpretation is in the globe icon at the bottom of the screen. That's about it.

Now I want to provide members of the committee with some instructions and a few comments on how the committee will proceed with the clause-by-clause consideration of Bill C-11.

As the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I will call each clause in

succession, and each clause is subject to debate and a vote. If there is an amendment to the clause in question, I will recognize the member proposing it, who may explain it. The amendment will then be open for debate. When no further members wish to intervene, the amendment will be voted on.

Amendments will be considered in the order in which they appear in the bill or in the package each member received from the clerk. Members should note that amendments must be submitted in writing to the clerk of the committee. The chair will go slowly to allow members to follow the proceedings properly. Amendments have been given an alphanumeric number to indicate which party submitted them. There is no need for a seconder to move an amendment. Once an amendment is moved, you will need unanimous consent to withdraw it.

During debate on an amendment, members are permitted to move subamendments. These subamendments must be submitted in writing. They do not require the approval of the mover of the amendment. Only one subamendment may be considered at a time. When a subamendment is moved to an amendment, it is voted on first. Then another subamendment may be moved, or the committee may consider the main amendment and vote on it.

Once every clause has been voted on, the committee will vote on the title and the bill itself, and an order to reprint the bill may be required if amendments are adopted, so that the House has a proper copy for use at report stage.

Finally, the committee will have to order the chair to report the bill to the House, and that report contains only the text of any adopted amendments, as well as an indication of any deleted clauses.

• (1105)

**Mr. John Nater (Perth—Wellington, CPC):** Chair, on a point of order, you mentioned that you would be reporting the bill back to the House.

**The Chair:** Absolutely.

**Mr. John Nater:** Is that your intention? Will you be doing so during Routine Proceedings?

**The Chair:** Yes, this has always been the intention. The reason, Mr. Nater, that it was stated that any MP would be in case, during my reporting of the bill to the House—because, of course, I'm virtual—something electronic occurs and I'm unable to do so.

**Mr. John Nater:** Okay. You'll be doing this during Routine Proceedings on Wednesday, then.

**The Chair:** It will depend on when we finish with the clause-by-clause, Mr. Nater. I don't know when that will be. Let's hope that it's going to be in time for Wednesday.

Now, if the committee has not completed its clause-by-clause consideration of the bill by 9 p.m. on June 14—and I want to repeat this, “by 9 p.m. on June 14, 2022”—all remaining amendments submitted to the committee shall be deemed moved and the chair shall put the question forthwith and successively without any further debate on all remaining clauses and amendments submitted to the committee, as well as each and every question necessary to dispose of the clause-by-clause consideration of the bill.

That's all very procedural, but I just wanted to make sure that everybody understood it. At 9 p.m. tonight, there's a hard stop for debate on any clauses.

With that having been said, if everyone is ready, I think we should begin clause-by-clause, again, pursuant to the order of reference of Thursday, May 12, 2022, on Bill C-11, an act to amend the Broadcasting Act and to make related and consequential amendments to other acts.

Now, pursuant to Standing Order 75(1), consideration of clause 1, which is the short title, will be postponed, so we begin with clause 2.

(On clause 2)

**The Chair:** Before me, I have clause 2. There is an amendment from the Conservatives, the first amendment. If that Conservative amendment is adopted, then we will move on to NDP-1, BQ-1, etc.

**Mr. Anthony Housefather (Mount Royal, Lib.):** On a point of order, Madam Chair, I think you meant to say there would be a conflict in the lines and we would not then deal with NDP-1, NDP-2 or Bloc-1 because there is a conflict in the line with CPC-1. If CPC-1 were adopted, we wouldn't move to—

**The Chair:** I think that's what I said, Mr. Housefather.

**Mr. Anthony Housefather:** No. That's why I wanted to mention it, Madam Chair. You said we would then move to.... I think what you were saying was actually that there would be a conflict.

• (1110)

**The Chair:** Well, yes, because I thought that was inherent in what I said, but all right, I will explain: There will be a conflict.

**Mr. Anthony Housefather:** Thank you.

**The Chair:** Now I think we are ready to begin. We will start, as I said, with clause 2. That would be the Conservative Party amendment, CPC-1.

Would the clerk read that amendment? Thank you.

I think you have it in front of you, but I have not found it yet. I don't have the actual wording of the amendments. Perhaps the clerk will read the wording of the amendments. I think I'm getting them now.

**Mr. Philippe Méla (Legislative Clerk):** Madam Chair, it's not required to read the amendments. Usually the person reading the amendments is the mover.

**The Chair:** All right.

I don't know who the mover is. I gather that it might be Mr. Nater.

John, will you read it?

**Mr. John Nater:** Yes, Madam Chair.

CPC-1 deals with the definition of “community element”. This was brought to us in testimony as well as in briefs. I think it's fairly self-explanatory. I know that we have a number of amendments that deal with a similar situation. I don't think it's necessary for me to read the entire amendment, but if the committee wishes—

**The Chair:** I just want to check that everyone has a copy of your amendment. That's all.

Does everyone have copies of the amendments? I see hands going up.

Go ahead, Peter.

**Mr. Peter Julian (New Westminster—Burnaby, NDP):** Thank you, Madam Chair.

I wanted to say that I am a big fan of Mr. Nater, as he knows. I've said this publicly in the House, but I will be voting against his amendment because I think NDP-1 is more reflective of what needs to happen to the bill.

**The Chair:** Thank you very much, Mr. Julian. I know of the deep and fond relationship between you and Mr. Nater.

We will begin. We will consider the amendment as being read. I will open the floor for debate on the bill.

Is there anyone else wishing to speak? No?

There is obviously opposition from the NDP.

Clerk, will you please go to the vote?

(Amendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** We will proceed now to Mr. Julian's amendment to Bill C-11, clause 2.

I presume you all have that amendment in front of you.

Peter, did you wish to speak to it, read it or whatever?

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

I believe you'll find it in order that I modified this amendment. If you don't feel it's appropriate that I do that, I believe Mr. Bittle will.

I would modify NDP-1 to say, “community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community, including a not-for-profit broadcasting undertaking that is managed by a board of directors elected by the community”.

• (1115)

**The Chair:** I was not able to write down quickly what you just said, Peter.

I don't know if Mr. Méla got all that or if you sent him a piece of paper with that.

Did everyone get it? Does anyone want this read again?

Are there any hands up, Clerk? Everybody seems to have gotten it.

Thank you.

**The Clerk of the Committee (Ms. Stephanie Bond):** Mr. Champoux has his hand up.

**The Chair:** Martin.

[*Translation*]

**Mr. Martin Champoux (Drummond, BQ):** Madam Chair, I'd like to have the amendment to the amendment in writing before I decide.

[*English*]

**The Chair:** Thank you.

We will suspend until Mr. Champoux receives that in written format.

I would hope Peter and Martin can work together on that with the clerk.

**Mr. Peter Julian:** Absolutely, Madam Chair.

It will be forthwith.

**The Chair:** Thank you, Peter.

Clerk, let me know when you've received all that and we're ready to call for debate on the amendment.

• (1115) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1135)

**The Chair:** Mr. Champoux, are you satisfied that you have received what you wanted?

[*Translation*]

**Mr. Martin Champoux:** Absolutely, Madam Chair. Everything is fine here.

[*English*]

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

Peter, did you want to take the floor again?

**Mr. Peter Julian:** I always like to take the floor, Madam Chair, but I think in this circumstance I appreciate the committee's patience, so on this I think the wording is a good consensus and hopefully we can move forward with adoption of NDP-1, as amended.

**The Chair:** I need to entertain the subamendment if there are amendments other than the one you just read out.

You know, Mr. Julian, you cannot amend your own motion, so it's going to have to be someone else who will move any subamendments.

**Mr. Peter Julian:** I'm looking for the distinguished Mr. Bittle, perhaps, to intervene. I think his hand's up, too.

**The Chair:** The distinguished Mr. Bittle's hand is up.

Mr. Bittle, please.

**Mr. Chris Bittle (St. Catharines, Lib.):** Distinguished. I'm glad that's in Hansard.

I so move the subamendment, and we support the amendment.

**The Chair:** That's the amendment as read by Mr. Julian earlier on.

**Mr. Chris Bittle:** That's correct.

**The Chair:** Is everyone clear on what that amendment is? Shall I read it?

**Mr. Chris Bittle:** I'm absolutely clear. We got an email specifying it.

**Mrs. Rachael Thomas (Lethbridge, CPC):** No. It should be read into the record, please.

**The Chair:** All right, I will read it into the record. The subamendment coming from Mr. Bittle is as follows:

community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community, including a not-for-profit broadcasting undertaking that is managed by a board of directors elected by the community

Is that it, Mr. Bittle? Did you want to speak to the subamendment or shall I call the vote?

**Mr. Chris Bittle:** I have nothing further, Madam Chair.

**The Chair:** Yes, Mr. Nater.

**Mr. John Nater:** Thank you, Madam Chair.

I just have a small technical question. I might just be grammatically incorrect here, but in the email version, it says, "including not-for-profit broadcasting undertakings". Should that be "undertakings" or "undertaking"?

**Mr. Peter Julian:** It's "undertaking". I'm sorry. The "s" would be a typo.

**Mr. John Nater:** I just wanted to clarify that.

Thank you, Madam Chair.

**The Chair:** Thank you very much, Mr. Nater.

We will call the question, please, Clerk.

(Subamendment agreed to: yeas 10; nays 1 [*See Minutes of Proceedings*])

**The Chair:** Thank you. It would seem, then, that this subamendment is carried.

Now we can vote on the amended motion.

Thank you very much.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Madam Chair, on a point of order, just to clarify, an amendment amending the same clause is in the package, and we haven't gotten to the Green Party's PV-1 yet.

• (1140)

**The Chair:** If this amendment carries, there would be no PV-0.1; all of the other amendments will be negated if Mr. Julian's motion carries.

**Ms. Elizabeth May:** Could that be explained to me, please? It makes a point that's different. I understand that anything that was in conflict or negated by my amendment would not come forward, but my amendment is compatible, not duplicative.

**The Chair:** I will ask Mr. Méla to tell me if that is so.

**Mr. Philippe Méla:** Thank you, Madam Chair.

Ms. May, an amendment can modify only one line of the bill, so once a line has been amended, it cannot be amended a second time. In this case, the amendment of Mr. Julian would amend lines 21 to 26 and yours would amend line 25, which is right in the middle. In a sense, the line that you wanted to amend does not exist anymore, and that's why it cannot be proceeded with.

**Ms. Elizabeth May:** Procedurally, someone should have given me the floor before that took place.

Thank you.

**Mr. John Nater:** I have a point of order, Madam Chair. My understanding was that we voted on the amendment to the amendment at this point, so we haven't passed the actual—

**The Chair:** Yes. I'm going to the amended motion next.

**Mr. John Nater:** Yes, Madam Chair. I'm seeking clarity with respect to Ms. May's further amendment. She could still move an amendment to Mr. Julian's amendment, incorporating what she proposed. Is that correct?

I see our distinguished legislative clerk nodding at me, so it would still be appropriate for—

**The Chair:** Yes. She can do that. The big question is... If she wishes to speak, it's my understanding that I would have to have unanimous consent from the floor to allow it.

**Ms. Elizabeth May:** No. You passed a motion in this place, Madam Chair. I would like to speak to the motion you passed, because people have short memories. I'm cursed with a good memory.

It's a violation of my rights that I'm here at all. I would point that out, so that people understand. If not for a motion that this committee proactively decided to pass that gives me the right to speak to each motion.... I'm here under duress. I'd rather not be here.

I would have had the right, if this committee hadn't passed the motion, to present this amendment at report stage. That's a right I would have had. Every member of a party with fewer than 12 people is already deprived of many rights, such as sitting as a permanent member on committees. It's astonishing—and I would love it if you all reflected on it—that people in my position as members of Parliament start with fewer rights than people in parties with more than 12 members. The larger parties still find the number of residual rights that I may still have to be uncomfortable and, therefore, my rights should be continually reduced.

In this case, every committee—absolutely exposing the fiction that we claim committees are masters of their own process—magically passes an identical motion. Every word is the same. They have done this since around 2017. They did it after the 2019 election—actually, it was done in 2014, so after 2015, the same motion was passed in every committee. After 2019, the same motion was passed in every committee. After the 2021 election, the same motion was passed in every committee.

Those are the terms under which I am here under duress. I would rather not have had this committee pass that motion. I would present this amendment at report stage. I can't do that. I'm here now and I have the right to speak briefly to each amendment. I like to get it on the record every time I come before committee that this was not my idea of a good, fair and inclusive process to participate in the passage of legislation, which is the right and duty of every member of Parliament.

That said, Madam Chair, I would still like to pursue the point that's raised in PV-0.1 in your package, which was submitted under the terms of the motion passed by this committee. If I may, Madam Chair, I would like to speak to the point of difference between an excellent improvement that is about to be made in Bill C-11 in clause 2, but which could be improved if the committee decided it liked my amendment.

Can I proceed with that?

• (1145)

**The Chair:** Yes. Go ahead.

**Ms. Elizabeth May:** Okay. I'll speak briefly to this.

The community groups across Canada, whom I think we've all heard from, are very concerned that we actually protect community broadcasting. This comes from the Canadian Association of Community Television Users and Stations, the National Campus and Community Radio Association,

[*Translation*]

the Fédération des télévisions communautaires autonomes du Québec, the Alliance des radios communautaires du Canada and the Association des radiodiffuseurs communautaires du Québec.

[*English*]

They are very concerned that we specify that what we're talking about in this section is community broadcasting that is fully community-run.

While Mr. Julian's amendment, as further improved with Mr. Bittle's amendment, speaks to “including” not-for-profit organizations, my amendment, more in keeping with what the community broadcasters want, says that the broadcasting undertaking must be “predominantly” not-for-profit or community-owned.

It's trying to carve out very specifically that when we speak, as we do in Bill C-11, of a “community element”, we are very specifically focused on predominantly the not-for-profit sector and community-owned broadcasting.

Thank you, Madam Chair. My motion, as you know, has been... All the things you said about how motions proceed don't apply in my case. I am not allowed to table my own motion. It has been deemed to have been tabled. I am not allowed to withdraw my amendment, should it turn out that we'd rather not have it there. I can't do that. All I can do now is speak to it. I can't vote on it. I have to ask others to please consider whether we want to listen to the voices of community broadcasting and bring this motion in as part of the current package that's about to go to a vote.

Thank you very much, everyone.

**The Chair:** Thank you very much, Ms. May.

I was just about to call on Mr. Méla to ask if he sees any conflict in Ms. May's amendment to the amendment.

**Mr. Philippe Méla:** No, Madam Chair, but I would need Ms. May to tell me where it fits and where the subamendment would be incorporated.

**Ms. Elizabeth May:** No one provided me with a copy of the subamendment that was just before the committee, so I have a hard time visualizing where I'd put it.

**Mr. Philippe Méla:** You have not received the package?

**Ms. Elizabeth May:** No. I'm not a member of the committee. I'm here under duress, because of the motion.

**The Chair:** Could Ms. May be given the amendment so that she can see where it fits, please, just for the sake of clarity?

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

I would oppose the inclusion of the subamendment, because "day-to-day", from the interpretation that we've had, would exclude the volunteer operations.

Regardless of whether or not there is a way of putting it on the table, I'll be voting against. I think volunteer operations should be included, and they are currently. Including this subamendment presumably would threaten the volunteer operations.

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

Has Ms. May been able to tell us where this fits?

**Ms. Elizabeth May:** I'm sorry, Madam Chair. I've not been provided a copy of the subamendment from Mr. Bittle.

**The Clerk of the Committee (Mr. Andrew Wilson):** Ms. May, it has been sent to you by email.

• (1150)

**Ms. Elizabeth May:** Yes, I have it now by email. For some reason, I thought there would be a paper copy available, but I have it by email.

I understand Mr. Julian's point. I would propose that it read, "community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community, including a predominantly not-for-profit or community-owned broadcasting undertaking that is managed by a board of directors elected by the community".

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

Mr. Méla, have you received that?

**Mr. Philippe Méla:** No, actually, I was dealing with something else.

I need to call you, if we could suspend for a few minutes.

**The Chair:** I will suspend, then.

• (1150)

(Pause)

• (1150)

**The Chair:** Ms. May, according to the routine motions, you can move an amendment, but you cannot move a subamendment. Also, someone on the committee will have to move this on your behalf.

Is there anyone on the committee who wishes to move the subamendment?

**Mr. John Nater:** I will, Madam Chair.

**The Chair:** Mr. Nater is moving Ms. May's subamendment.

Ms. May and Mr. Julian have spoken.

Is there anyone else who wishes to speak to the subamendment?

Yes, Mr. Méla.

**Mr. Philippe Méla:** Would it be possible for Ms. May, or Mr. Nater, since he's the one moving it, to repeat exactly where it goes?

**Ms. Elizabeth May:** I can do that again.

Madam Chair, I regard many of the things we've done to allow virtual sessions to improve process, but being unable to have a paper copy of something I'm trying to amend is rather challenging.

Here is where I would put it, as we now have the definition of community element, "community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community, including a predominantly not-for-profit or community-owned broadcasting undertaking that is managed by a board of directors elected by the community".

• (1155)

**The Chair:** Mr. Nater, is that your subamendment? Is that where it goes?

**Mr. John Nater:** Yes, Madam Chair.

**The Chair:** All right.

I'm going to call the question on the subamendment, unless anyone wishes to speak to it.

Yes, Mr. Méla.

**Mr. Philippe Méla:** If I may, I'm going to repeat the amendment, so I'm sure I have a proper version. The amendment with the subamendment would read, "community element includes the element of the Canadian broadcasting system as part of which members of a community participate in the production of programs that are in a language used in the community, including a predominantly not-for-profit or community-owned broadcasting undertaking that is managed by a board of directors elected by the community". Is that it?

**The Chair:** Is everyone clear on that?

The question is on the subamendment. Those in favour?

(Subamendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

**The Chair:** Now we will vote on the amended motion of Mr. Julian.

Go ahead, Clerk.

**Mr. Philippe Méla:** Madam Chair, the motion was not amended.

**The Chair:** It was a brand new motion.

**Mr. Philippe Méla:** The motion from Mr. Julian was not amended, since the amendment was defeated.

[*Translation*]

**Mr. Peter Julian:** The amendment has already been adopted, Madam Chair.

[*English*]

**The Chair:** No, it was adopted.

**Mr. Philippe Méla:** The subamendment was defeated.

**The Chair:** The second subamendment was defeated, yes.

Now we're going to move to the amended motion.

Please, Clerk, will you call the vote?

[*Translation*]

**Mr. Peter Julian:** We've already adopted the amendment.

[*English*]

**The Chair:** Mr. Julian, it's a question of whether it was a new amendment or an amendment to your original motion. If it was a new amendment, we don't have to go to the amended motion, because it was inherently amended by the amendment.

Is that it?

[*Translation*]

**Mr. Peter Julian:** The amendment has already been adopted.

[*English*]

**The Chair:** All right. We're now going to move to... Clause 2 we've already...there was a decision. There was an interpretation of a decision.

Mr. Méla, can that...? That's from Mr. Champoux.

Can we entertain that, Mr. Méla?

**Mr. John Nater:** On a point of order, Madam Chair, I'd like to seek guidance from our legislative clerk on whether—

**The Chair:** That's who I'm asking, Mr. Nater. Mr. Méla is the legislative clerk.

**Mr. Philippe Méla:** My understanding is that Mr. Bittle moved the subamendment for Mr. Julian, and we have voted on the subamendment from Ms. May. That was defeated. We should probably vote now on the main motion moved by Mr. Bittle and Mr. Champoux.

• (1200)

**The Chair:** I think Mr. Julian was saying that what was moved by Mr. Bittle has not been amended at all. It's the original—not original, but it is the motion or the amendment and does not need to be voted on. This is what Mr. Julian inferred when I was asking for the vote.

**Mr. Peter Julian:** I completely agree, Madam Chair.

**The Chair:** Yes, all right.

I think we're going to move now to whether clause 2 in Bill C-11 shall be amended.

**Mr. John Nater:** On a point of order, Madam Chair, I'm going to have to challenge the chair's ruling on that one. I think we need a vote on the amendment.

**The Chair:** We have voted on the amendment, Mr. Nater, and the amendment was passed. The subamendment was defeated and the amendment was passed—

**Mr. John Nater:** I have a point of order, Madam Chair. We voted on Mr. Bittle's amendment to Mr. Julian's amendment. We haven't voted on the main amendment to the bill.

**The Chair:** When I asked for that vote, Mr. Julian said that, in fact, what Mr. Bittle moved was not an amendment. It was a completely new piece, because Mr. Julian cannot amend his own motion.

**Mr. Anthony Housefather:** I have a point of order, Madam Chair. It's Anthony.

I would encourage you, Madam Chair, to consider a different issue, which is that we've had a subamendment proposed after the vote. If there was a subamendment proposed after the original vote, the motion wasn't adopted, because there was a subamendment.

Because we allowed a subamendment to be debated and voted on, I think we would have to come back and vote on the original motion, because—

**The Chair:** I'm sorry, Mr. Housefather. I cannot understand what you're saying. There is some sort of glitch in your microphone.

**Mr. Anthony Housefather:** Let me try again, Madam Chair.

What I was saying is I urge you to consider that after the vote we had, there was a subamendment that was proposed and then voted on. If the motion had been adopted, we couldn't have then had a subamendment, because it was still open for debate.

Because we had a subamendment that was then defeated, we have to come back and vote on the original motion, because otherwise there couldn't have been a subamendment.

**The Chair:** I don't understand your line of argument.



Peter, I will allow your point of order and then I will go back to Mr. Méla. I think it was pretty clear.

**Mr. Peter Julian:** I agree with you, Madam Chair, but I will say that both Mr. Nater and Mr. Housefather have made a compelling argument that since we went back to the subamendment, just to clarify everything we should have that final vote and get on with it.

**The Chair:** All right, let's have a final vote.

(Amendment as amended agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

**The Chair:** Thank you very much, committee, for your patience.

Now I will ask Mr. Méla...

We just passed the amendment to lines 24 to 26.

We have Mr. Champoux's motion, in the order in which I have it. I have Mr. Champoux's BQ-2, which amends the definition, I gather, of a decision.

Will you move it please, Martin? Then we can have everyone debate it if they wish.

[*Translation*]

**Mr. Martin Champoux:** With pleasure, Madam Chair.

In fact, it's simply to broaden the scope of the term "decision". The reason is that the commission publishes a large number of documents under the Broadcasting Act, such as licence renewals or amendments, regulatory policies, and so on. However, it is only possible for Canadians and Quebeckers to appeal to the Governor in Council decisions to grant, renew or amend licences.

The Telecommunications Act is broader in scope. All the measures taken by the CRTC can be appealed to the Governor in Council because they contain a definition of the term "decision". That's why we're proposing that the definition of "decision" be included in the Broadcasting Act.

• (1205)

[*English*]

**The Chair:** Thank you.

Is there any debate on this?

Chris.

**Mr. Chris Bittle:** Thank you, Madam Chair.

I would like to ask the team of officials from the department what the effect of this amendment would be.

**The Chair:** Are we allowed to have the team comment?

I don't know who the team is. It's Mr. Ripley.

Please, Mr. Ripley, will you answer if that changes anything at all in the bill?

**Mr. Thomas Owen Ripley (Associate Assistant Deputy Minister, Department of Canadian Heritage):** Thank you, Chair.

Indeed, we are here for the day to provide technical information to the committee as required on the amendments being proposed.

Mr. Bittle, if I understand Monsieur Champoux's reason for bringing this forward, it's to provide a greater latitude to make petitions to cabinet on certain decisions that the CRTC makes. Right now there is no definition of "decision" in the bill or the act as it currently stands. It would be generally understood in the ordinary use of language. Here the definition that is being proposed, as Monsieur Champoux said, is quite broad.

The bill does not currently suggest that stakeholders should have an ability to petition every single decision that the CRTC makes to cabinet. That is limited to the issuance, primarily, of licences. That's to avoid a situation in which cabinet could begin to substitute itself as the decision-maker for the regulator. If there's a situation in which every single decision that the CRTC makes could be petitioned to cabinet, it certainly creates risks, creating a lot more avenues for those decisions to be overturned politically.

**Mr. Chris Bittle:** Thank you so much.

[*Translation*]

**Mr. Martin Champoux:** Madam Chair, I'd like to say something about this.

[*English*]

**The Chair:** I'm sorry. Yes, Mr. Champoux.

[*Translation*]

**Mr. Martin Champoux:** Thank you, Madam Chair.

At some point, we have to be transparent and give groups and citizens the power to question some of the decisions that are made. The world of broadcasting has changed dramatically in the last 30 years, which is why we're here.

I think that a definition of the word "decision" should be added. Other amendments that will be proposed later aim to include that word in our amendments.

Madam Chair, I think that—

[*English*]

**The Chair:** Martin, that is not a point of order, actually. It's debate.

[*Translation*]

**Mr. Martin Champoux:** I didn't raise a point of order; I simply wanted to speak to the proposed amendment in response to the information that Mr. Ripley just gave.

[*English*]

**The Chair:** Thank you. That's fine, but it's still debate.

[*Translation*]

**Mr. Martin Champoux:** Madam Chair, we're debating my amendment at the moment.

[*English*]

**The Chair:** I'm sorry—

[Translation]

**Mr. Martin Champoux:** A point of order, Madam Chair.

[English]

**The Chair:** All right. Go ahead. You have a point of order.

[Translation]

**Mr. Martin Champoux:** We're debating my amendment. So, yes, it's a debate, because I'm defending my amendment, which I think is perfectly legitimate.

[English]

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

I would like to suspend for a few minutes, please, to speak with the legislative clerk. Thank you.

● (1205) \_\_\_\_\_ (Pause) \_\_\_\_\_

● (1210)

**The Chair:** Shall we go back to the proceedings? Thank you.

Now, Mr. Champoux, having listened to what Mr. Ripley had to say, I would like to suggest that your amendment is out of order because it's beyond the scope and principle of the bill, as Mr. Ripley explained.

[Translation]

**Mr. Martin Champoux:** I didn't hear Mr. Ripley say that it was beyond the scope of the bill, Madam Chair. I'd like to hear from the legislative clerk on that.

[English]

**The Chair:** I have just given you the opinion of the legislative clerk on that, but he can give it himself if he wishes.

Go ahead, Mr. Méla.

**Mr. Philippe Méla:** Yes, Madam Chair. Thank you.

[Translation]

Thank you for your question, Mr. Champoux.

When you proposed your amendment, you said that it would broaden the scope of the word “decision”. In the context of the bill, the word “decision” refers to certain decisions. Your amendment would greatly broaden the definition of “decision”, as Mr. Ripley indicated. That's why this amendment is beyond the scope of the bill.

**Mr. Martin Champoux:** What is the current definition of the word “decision” in the Broadcasting Act, to say that my amendment broadens the definition, Mr. Méla?

**Mr. Philippe Méla:** There isn't one.

**Mr. Martin Champoux:** Exactly!

**Mr. Philippe Méla:** There isn't one, but under the bill, the decisions that are made are the ones indicated in the bill. If we say, for example, that the CRTC makes a decision on orders, it's a decision on orders.

Of course, there is no definition of what that decision is. However, by broadening the definition of the word “decision” to include

“any measure of any kind taken by the Commission”, we are saying that it can be anything and everything. It could be that decision, but it could also be a number of other decisions that are not mentioned in the bill. That's why your amendment was ruled out of order.

Since the chair has ruled the amendment out of order, I can't debate it with you, and the committee can't debate it unless we appeal the ruling.

[English]

**The Chair:** Thank you.

Obviously this amendment is not admissible, Mr. Champoux. Do you accept that ruling?

● (1215)

[Translation]

**Mr. Martin Champoux:** Madam Chair, I challenge your ruling.

[English]

**The Chair:** Thank you.

We will go to the vote to contest the chair's decision.

**The Clerk:** I will call the vote, and the question is, shall the decision of the chair be sustained? If you agree with the chair's decision, you vote yes. If you disagree, you vote no.

(Ruling of the chair overturned: nays 6; yeas 5)

**The Chair:** Obviously the chair's ruling has been denied.

We will go to Mr. Champoux's amendment, which will now be debated.

Mr. Champoux has spoken and we've heard from the department. Does anyone else have their hand up?

Mr. Nater.

**Mr. John Nater:** Thank you, Madam Chair. I am seeking some clarity from the staff at Canadian Heritage.

We have three amendments. Two are the same, and then the Green Party one is slightly different.

I would like to hear from you the impact or what the actual difference would be in terms of using the term “measure” versus “determination”.

Obviously the current motion before us has “measure”. One of the amendments has “determination”. I am seeking clarity with respect to what impact, if any, it would have to go with one or the other definition.

**Mr. Thomas Owen Ripley:** The issue at play, as I understand it based on Monsieur Champoux's reasoning, is that the CRTC, as it manages its business, makes a variety of different decisions and determinations in the course of those proceedings.

As Monsieur Champoux highlighted, regardless of whether it's any form of determination or any form of measure, both are suggesting quite a large definition with respect to how that should be understood, which then implicates principles of administrative law in that certain decisions by the CRTC could be challenged under administrative law principles.

There's a risk here that the CRTC, in the course of managing its business, would be subject to a very high degree of potential review by courts. From my perspective, “measure” speaks to a specific tangible instrument, whether that be a regulation or an order, whereas “determination”, from where I sit, appears to be broader in scope.

I think one of the challenges, though, with this amendment is that we haven't done analysis of everywhere in the act where the term “decision” is used, so it's difficult for us to pronounce definitively on it.

As debate was proceeding, we were doing a little bit of analysis, and we think it would have most implication with respect to those provisions that require consultation with certain communities. Therefore, again, depending on whether it's “determination” or “measure”, any determination that the CRTC makes in that respect could engage principles of administrative law and would provide an opportunity for stakeholders then to potentially seek review of those decisions by the courts.

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

[Translation]

**Mr. Martin Champoux:** I would like to speak, Madam Chair.

[English]

**The Chair:** Yes, Martin.

[Translation]

**Mr. Martin Champoux:** As it stands, Madam Chair, people can appeal to the Governor in Council to discuss licencing decisions. Through Bill C-11, we are balancing the broadcasting market to include online businesses in the regulations in the most appropriate way possible. The CRTC could therefore issue orders to online undertakings that have a major impact on the broadcasting system, just as licences have an impact on traditional broadcasting undertakings.

By adding this definition of the word “decision”, we're opening the door to orders that will be issued by the CRTC, in the same way as licences—and that will have, we can imagine, the same effect, the same scope and the same consequences—that can also, be appealed to the Governor in Council. We're not trying to bog the system down with this definition, we're not trying to open the door to all kinds of challenges on the smallest comma of a decision that will be made by the CRTC.

I think we need to give ourselves that opportunity to appeal. This is consistent with what we're trying to do with Bill C-11. I think the presumption that we're going to bog down the system with all kinds of appeals to the Governor in Council with the definition we're proposing to add is a bit of a stretch. If that were the case, I believe there are ways to remedy the situation afterwards. I really believe in the appropriateness of this definition allowing for appeals to be made against orders as well, and not just against licence renewals and licencing decisions.

• (1220)

[English]

**The Chair:** Thank you.

If no one else wishes to speak, I will call the vote.

Go ahead, Mr. Housefather.

**Mr. Anthony Housefather:** Thank you very much, Madam Chair.

I appreciated Mr. Champoux's intervention.

I want to ask Mr. Ripley and the officials whether there is a desire, which there seems to be, among some members of the committee to insert a common sense or clear definition of what a decision is, since it is referenced in the act but is undefined. Obviously, throughout the years of an undefined term, there have been interpretations in administrative law and otherwise that have led us to the status today, which is, again, undefined for the average person, because there's no definition.

What would the status of the law be today, if you were going to compose a definition for today's status? What would it actually be?

My subsidiary question is this: If the thing you're most concerned about is the consultation issue, would amending it to say, “Decision' means any measure of any kind taken by the commission, except with regard to consultations”, or something like that, reduce the scope in a way you see as less of an issue?

I'm just trying to understand.

**The Chair:** Go ahead, Mr. Ripley.

**Mr. Thomas Owen Ripley:** What I might suggest, in that instance, would be something like an inclusive definition, so the decision would include—again, I'm thinking on the spot here, so you'd want to give it some thought—things like a licensing decision, such as, for example, an order made under section 9, an order made under section 9.1, a regulation made under section 10 or a regulation made under section 11.1. You would leave some breadth for courts to be able to assess, in a specific instance, whether the CRTC actually made a decision that engaged administrative law.

I certainly appreciate and understand what Mr. Champoux's objective is in this, and I know Bill C-11, as it is currently drafted, seeks to achieve a balance between the appropriate role of oversight by cabinet and the courts in CRTC decision-making. Perhaps, for the benefit of the committee, part of that puzzle.... I would draw your attention to clause 34.01 of the bill, which is the provision that requires the commission to consult with all interested persons on all orders made under sections 9.1 and 11.1, in order to make sure they continue to be responsive.

Part of the challenge, from where we sit, and based on Mr. Champoux's explanation, is that right now, we have a system in which a licence is typically renewed every five to seven years. Yes, that licence renewal can be petitioned to cabinet. The framework proposed by Bill C-11 would be more of a regulatory-type framework. We envision a framework whereby the CRTC will regularly update its regulations and orders.

If I understand Mr. Champoux correctly, his objective is that every one of those instances could be petitioned to cabinet. Again, that goes to my earlier comment about ensuring there's an appropriate balance between which decisions truly should be reviewed by cabinet versus which ones are best left up to the CRTC, acknowledging that there are other avenues through which its decisions can be appealed on questions of law. Its decisions can also be judicially reviewed if stakeholders truly feel there's something incorrect with a decision the CRTC has made.

• (1225)

**The Chair:** Mr. Housefather, does that satisfy you?

**Mr. Anthony Housefather:** Thank you, Madam Chair. Yes, it was very clear.

I don't think I have the ability to develop such a definition on the fly. That's what I was looking to see if I could do, and I don't think I can.

I understand the concerns and I appreciate them.

Thank you, Madam Chair.

**The Chair:** I shall call the question on BQ-2, Mr. Champoux's amendment.

(Amendment agreed to: yeas 6; nays 5)

**The Chair:** Just for the committee's sake, as this amendment has been carried, PV-0.2 and NDP-1.1 become moot, since they are identical.

We shall move on to LIB-1.

**Ms. Elizabeth May:** Madam Chair, I agree that my amendment can't move forward in light of the previous motion's passing. I just want the record to reflect that it was not identical.

I agree that it can't be moved. Thank you.

**The Chair:** Thank you very much, Ms. May.

Now we're going to move to Liberal motion—

**Mr. John Nater:** On a point of order, Madam Chair, we have an amendment before we move to LIB-1.

**The Chair:** Is it a new off-the-floor amendment?

**Mr. John Nater:** It's kind of off the floor. We submitted it, but it wasn't included in the package, so we have—

**The Chair:** All right.

Maybe the legislative clerk can let me know what it is, because I have not received it, and also let the rest of the committee, who may not have received it, know.

Go ahead, Mr. Méla.

**Mr. Philippe Méla:** We received it after the package was sent this morning, so we made copies for the benefit of everybody around the table. We're going to circulate that immediately.

**The Chair:** Can someone please send it to me?

**Mr. Philippe Méla:** Yes, we will.

**The Chair:** Thank you. I will suspend while that's being done.

• (1225)

(Pause)

• (1230)

**The Chair:** Go ahead, Mr. Nater.

**Mr. John Nater:** Thank you, Madam Chair.

This is an amendment related to the definition section of the bill, and it relates to the term “discoverability”, which, as we know, has been a subject of great discussion here at the committee and in the public. We felt it was important to include at least a basic definition of “discoverability” for the purposes of the act.

What we propose is this: “discoverability means the possibility for Canadians to search for and find Canadian content”.

I think this is an appropriate definition in that it constrains the definition sufficiently so that we don't run into challenges where some content is bumped up while other Canadian content is bumped down. It provides the option for Canadians to easily find Canadian content through the search function. I think this is a reasonable effort to come to a consensus on what the definition of “discoverability” is before moving forward with the rest of the act.

I will leave my comments at that, other than to say that I think it's important we understand what discoverability is before we get into the meat of the legislation.

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

I understand that Mr. Bittle's hand is up.

**Mr. Chris Bittle:** I'd like to ask officials again what the impact of this amendment would be on the legislation.

**The Chair:** That's for Mr. Ripley, I think.

I don't know if you're going to answer it, or if someone else is.

**Mr. Thomas Owen Ripley:** Thank you, Chair.

Mr. Nater is correct in that there is currently no definition of discoverability. The government's position on that is that it includes a number of different measures, including marketing and promotion, things like showcasing on landing pages, and increased visibility of Canadian stories and music.

The definition that is being proposed seems to suggest a focus particularly on one kind. I would look to Mr. Nater to clarify his intention, but it seems to emphasize the element of being able to search for and find Canadian content in online undertakings.

I would note as well that the term “Canadian content” is not one that is actually.... Although we colloquially always talk about “Canadian content”, it's not a term that's actually used in the bill. Typically, we use the terminology “Canadian program”, so I would also point that out.

That would be my initial answer, Mr. Bittle.

• (1235)

**The Chair:** Would Mr. Méla choose to give us an opinion with regard to what he just heard?

**Mr. Philippe Méla:** No, Madam Chair.

**The Chair:** Is there any further debate?

Mrs. Thomas, go ahead.

**Mrs. Rachael Thomas:** I was hoping that Mr. Ripley could clearly help us understand. You mentioned that the term “Canadian program” is used throughout the legislation. Are you able to provide us with a clear understanding as to what is meant by that term?

**Mr. Thomas Owen Ripley:** “Canadian program”, for the purposes of the regulatory regime, would be understood based on how the CRTC defines what we colloquially call “CanCon”. In the case of audiovisual content, that would be the 10-point scale. In the case of music, that would be the MAPL system, where you look at the musician, the lyrics, the etc.

That's how it would be understood currently, and again, I'm not trying to.... I'm highlighting that it's a different term that hasn't been used, and I would defer to Mr. Nater in terms of his intention and whether he's seeking to use the concept of “Canadian content” or “Canadian program” as it's traditionally understood, or perhaps seeking to do something broader.

**The Chair:** Thank you.

Monsieur Champoux, please go ahead.

[*Translation*]

**Mr. Martin Champoux:** Madam Chair, I find it interesting that my friend Mr. Nater is proposing a definition for the word “discoverability”. I know it's a word that bothers him greatly, and it's a concept he's not very keen on.

However, the proposed definition for the word “discoverability”, as we understand it, does not really correspond to the actual meaning of the word. For example, the Office québécois de la langue française's definition is as follows:

The potential for content, available online, to be easily discovered by Internet users in cyberspace, particularly those who were not specifically looking for the content in question.

So the meaning is completely different.

If we want to give a definition of the word “discoverability” in the Broadcasting Act, I am very much in favour of using a definition that already exists and that represents much more the meaning of the concept we want to express.

[*English*]

**The Clerk:** Mr. Julian is next.

[*Translation*]

**Mr. Peter Julian:** Thank you, Madam Chair and Madam Clerk.

I always find what Mr. Nater is proposing interesting. However, the restrictions in his definition are more restrictive than anything else. Although I find the concept and definition interesting, I will vote against this amendment.

[*English*]

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

We have Ms. Thomas.

• (1240)

**Mrs. Rachael Thomas:** Thank you, Chair.

“Discoverability” is referred to in this legislation as wanting to create greater awareness around so-called CanCon or Canadian programs. We've heard testimony at this committee with regard to the CRTC putting in a framework that would create “discoverability” of Canadian content—or generate greater discoverability, I guess—and we know that when it comes to digital platforms and the ability to discover “Canadian content”, algorithms would be used. They would be required.

I think the goal here is to put a bit of a framework around what the CRTC will and will not do. Rather than giving the CRTC wide-reaching or broad scope in terms of what it gets to do with regard to determining how a company such as Spotify or YouTube makes content discoverable, instead we are wanting to provide at least a base definition of what this concept might look like.

I believe it is the responsibility of legislators to do that, rather than to just hand it off to the CRTC and allow it to make broad, sweeping changes or impose its definition or desire around this. This is a very simple definition with regard to the word “discoverability” that we are proposing to the committee here today.

It should also be noted for the committee that we are currently having this discussion around clause-by-clause and this specific discussion around the definition of discoverability without actually having heard from an adequate number of witnesses. I recognize that some of my colleagues in this committee would have preferred not to hear from any witnesses at all. They would have liked to ram this legislation through, but it is important to note and to have it on the record that there were many, many witnesses who expressed an interest in coming here and having their voices heard with regard to this legislation as a whole, but in particular with regard to discoverability.

If this isn't clearly defined and is left in the hands of the CRTC and it takes a broad, sweeping approach and dictates to what extent something should be able to be found on the Internet, it will indeed change the ability of users to be able to find the content they wish to find, and it will hinder the success of any Canadian new media creators or digital-first creators, because they are used to functioning within an ecosystem that allows for freedom. Within that freedom, they have worked incredibly hard. They have taken risks. They have been strategic, and they have garnered an audience for themselves. Now, with the threat of discoverability, we are looking at the government, through the CRTC, dictating what can be found and what cannot be found, whether something is bumped up in the queue or bumped down in the queue, and to what extent it can be located.

Instead of viewers finding content that they wish to find based on their personal preferences, what will likely happen instead is that CanCon, or Canadian programs, will be put in front of their eyeballs whether they want to see that or not. If they don't like that content, then it will hurt those artists, because this will downgrade it. That's very unfortunate, because this will actually hurt those individuals, then, that the government is claiming to help.

At the same time, there are other artists who will be forced to page 553 of the search engine. Theirs might be the exact content that a particular viewer is looking for, but they will not be discovered because the government doesn't think that content is worth promoting and so it's been pushed back into some black hole.

• (1245)

The concept of discoverability is one that is incredibly dictatorial in nature, and it is one that likens Canada to places like North Korea or China where, there too, content is forced in front of the eyeballs of citizens who use the Internet. It's unfortunate.

**The Chair:** Thank you.

Mr. Nater.

**Mr. John Nater:** Thank you, Madam Chair.

I just want to make one final comment on this definition. It's something that I've brought up throughout this process on Bill C-11, and that's the policy directive. I've brought it up in the House of Commons. I've brought it up during closure motions.

Frankly, this definition wouldn't be needed had we seen the policy directive. At some point in the next months or years after this bill receives royal assent, the minister will issue a policy directive to the CRTC that will include discoverability, but we have yet to know how discoverability will be interpreted by either the CRTC or the directions that the government will provide to it.

We are operating here in a black box. We don't know how the minister will define it, so that is why we've gone to the step of having a clear approach to it through this definition. I think it's important that we do that. Canadians expect us to have that, and anyone who operates online regularly, whether on search engines or whether on a foreign or domestic streaming platform, would understand how the search functions work and be able to access the content they're interested in having.

I'm going to leave my comments there. Thank you, Madam Chair.

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

I will call the vote on Mr. Nater's amendment.

(Amendment negated: nays 7; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** Thank you very much. Now I shall move to LIB-1, from Mr. Housefather.

**Mr. Anthony Housefather:** Thank you so much, Madam Chair.

This is just a bit of a cleanup exercise. In Bill C-10 we consistently used the phrase "official language minority communities".

[*Translation*]

In French, Bill C-10 used the expression "communautés de langue officielle en situation minoritaire".

Unfortunately, Bill C-11 has different terminology, and it uses various formulations. I would like us to revisit the terminology in Bill C-10.

[*English*]

It was a demand of the French-speaking communities from outside Quebec and the English-speaking community in Quebec to use the terminology they would normally use to refer to themselves, which is "official language minority community". That is one cleanup. I've done it throughout the bill, and I wanted to define it.

The second thing I will just raise, because you'll see it also, is "original French-language programs". Also, in the bill, there is no clarity, so I've brought in amendments to clarify that it means programs that are originally in French, not original programs dubbed into French.

Those are the two things I wanted to raise, and this is just one clarifying thing, what an "official language minority community" is, and to use it consistently in the bill.

Thanks.

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

Is there any further discussion on this amendment?

Martin.

[*Translation*]

**Mr. Martin Champoux:** Thank you, Madam Chair.

I wanted to ask Mr. Housefather if he would like to repeat the same discussions as last year on this point.

I fully agree with the amendment. However, I would like to hear a firm commitment from my Liberal Party colleagues, who are proposing this amendment, to ensure that francophone communities outside Quebec have access to as much variety in radio, television or content in their language that the anglophone minority has in Quebec. We know that there is no shortage of English-language radio and television stations, and sources of information in Quebec. It may be a little more deficient in French in the rest of Canada for francophone communities.

I would like to hear a firm commitment to ensure that access to French-language content for francophone communities outside Quebec is also an objective to be achieved by this definition.

• (1250)

[*English*]

**The Chair:** Thank you.

Are there any further comments?

Go ahead, Mr. Julian.

[*Translation*]

**Mr. Peter Julian:** Thank you very much, Madam Chair.

I will be supporting this amendment. I think it's important that linguistic communities outside Quebec—I am thinking here of Franco-Columbians in particular—be able to express themselves, and talk about their history and their communities. This is extremely important. That's why I support Mr. Housefather's amendment.

[*English*]

**The Chair:** Thank you.

Mr. Housefather is next.

[*Translation*]

**Mr. Anthony Housefather:** Madam Chair, I really appreciated Mr. Champoux's comments.

I simply want to point out the following. There is no doubt that a market of 1.2 million English-speaking people is concentrated on the Island of Montreal and that the size of that market is larger than that of the francophone communities in the various regions of Canada. Because of that, access available to that market is greater.

That doesn't mean I'm insensitive to the needs, which vary by province. I'm very sensitive to that. I want to be very clear. Francophones in British Columbia face very significant challenges that are different from those of francophones in northern New Brunswick, a region where they are in the majority. We have to treat all these communities as unique cases and find ways to support them.

I will stand by my friend, and I'm sure he'll do the same thing when it comes to supporting anglophones in Quebec.

[*English*]

**The Chair:** Thank you.

Go ahead, John.

**Mr. John Nater:** Thank you, Madam Chair. I've appreciated the conversation that's been happening thus far.

As former vice-chair of the official languages committee, I have some interest in this matter. As an Anglo who has tried to learn French later in life or throughout my life, I think it's important.

I would just say that we will support this amendment. I think it is important that this be a common definition. It is important that we have that on the record in the definition part. I know, looking through the amendments, that it comes up again, and I'm sure it will be debated again at that point, but, from a definition standpoint, this does seem to be the commonly accepted definition of an official language minority community throughout Canada, so I think we will support it from that perspective.

Thank you, Madam Chair.

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

Is there any further discussion?

(Amendment agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

**The Chair:** Thank you very much, Mr. Clerk.

LIB-1 will carry. As a result, Liberal amendments 3, 6, 7 and 8, being consequential amendments, will also be adopted.

Thank you very much.

We now move on to—

**Mr. John Nater:** On a point of order, Madam Chair, could you just explain the consequential amendments very briefly? What did we just agree to in terms of consequential amendments?

**The Chair:** Mr. Méla, could you please explain that for us?

• (1255)

**Mr. Philippe Méla:** Amendment LIB-1 provides a definition for certain words to be understood within the bill. Right now, those words are brought to the bill by other amendments, which are LIB-3, LIB-6, LIB-7 and LIB-8. That's what they do, they just bring the concept all together. The note should have been read before the vote, but the end result is the same.

**Mr. John Nater:** Thank you.

[*Translation*]

**Mr. Peter Julian:** A point of order, Madam Chair.

Can the clerk repeat that slowly?

At the moment, we have a lot to manage all at once.

**Mr. Philippe Méla:** Certainly.

Would you like me to read it in French or in English?

**Mr. Peter Julian:** Can you read it in French, please?

**Mr. Philippe Méla:** In LIB-1, Mr. Housefather proposes a definition that provides a new understanding of the term “communauté de langue officielle en situation minoritaire”. He proposes to make these changes elsewhere in the bill—

**Mr. Peter Julian:** I'm sorry to interrupt you, but I didn't ask for an explanation because I understood the purpose of the amendment. Rather, I wanted you to slowly read the proposed amendments that were not accepted.

**Mr. Philippe Méla:** In fact, no amendments were defeated because of the adoption of amendment LIB-1. However, some amendments are adopted because they are consequential to LIB-1.

**Mr. Peter Julian:** What are these amendments?

**Mr. Philippe Méla:** This is amendment LIB-3, which is on page 24 of the package of amendments. We also have LIB-6, which is on page 89; LIB-7, which is on page 92; LIB-8, which is on page 98.

**Mr. Peter Julian:** Thank you.

**The Clerk:** Mr. Champoux, did you want to ask a question?

**Mr. Martin Champoux:** I would like clarification again.

Could you explain to me why the amendments are adopted automatically when a definition has simply been adopted? Why does the adoption of a definition mean that amendments LIB-3 and LIB-8, for example, are adopted?

It seems to me that the scope of these amendments is beyond the comprehension of the term.

**Mr. Anthony Housefather:** This should have been mentioned before, but I didn't know.

The objective of these four amendments is the same, that is, to replace in the act the term “francophone and anglophone minorities in Canada” with “official language minority communities”, or OLMCs.

**Mr. Martin Champoux:** Perfect. That's what I didn't understand. We're simply changing the term.

**Mr. Anthony Housefather:** That's it. We're not changing anything else.

**Mr. Martin Champoux:** That's clear.

Thank you.

[*English*]

**The Chair:** I shall now move to CPC-1.

Now, I want to suggest, before we move any further and start getting into another amendment, that it is now almost 1:00 p.m., and we have a hard stop.

I would like to suspend this meeting until we return.

Go ahead, Mr. Julian.

● (1300)

**Mr. Peter Julian:** Madam Chair, I'd like to propose that, if we have unanimous consent, we continue up until question period.

**The Chair:** I will ask the clerk to speak to that. I think it may have to do with resources, breaks, etc.

**The Clerk:** That's correct, Madam Chair. We can continue until 1:30. Those are the resources we have available today.

**The Chair:** Mr. Julian, would you like us to continue until 1:30?

**Mr. Peter Julian:** If we have unanimous consent, I think it would be useful to continue our work.

**The Chair:** Yes, I'm going to ask for that unanimous consent now.

Is there anyone opposing this?

Mr. Waugh.

**Mr. Kevin Waugh (Saskatoon—Grasswood, CPC):** Yes. I'm on virtual. I have a meeting. In fact, I have people in my office already here. Unfortunately, I can't continue.

**The Chair:** Mr. Waugh, you know what happens if you have to take a break. Is there somebody to cover for you, to vote for you and take your place at the committee?

**Mr. Kevin Waugh:** There isn't right now, but I guess I can put it on mute and do that.

That's fine, then.

**The Chair:** All right, there is obviously unanimous consent that we continue until 1:30.

The next amendment is going to be CPC-1.01, and I wanted to say that if it is adopted, then CPC-1.02 to CPC-1.04, which are immediately following CPC-1.01 in the package, will become moot, as the question will already have been decided.

Is everyone clear on that? Would anyone like to ask Mr. Méla why they become moot?

**Mr. John Nater:** Madam Chair, can we get clarification from the legislative clerk on that one?

**Mr. Philippe Méla:** Thank you, Madam Chair and Mr. Nater.

The three amendments—CPC-1.01, 1.02 and 1.03—try to do the same thing, but with different numbers, so if the first one is adopted, the other ones become moot because one was adopted. If it's defeated, we go to the next one and so on.

**The Chair:** Are there any further questions, Mr. Nater? Are you comfortable with that?

**Mr. John Nater:** Thank you, Madam Chair.

I'm prepared to move my amendments if I have the floor.

As has been foreshadowed, there are a few amendments here related to this act. As a point of reference from the start, we want to see major foreign streamers—the big guys, for lack of a better phrase, the large enterprises—subject to Canadian rules, but at the same time, I don't want to see small start-ups, small enterprises that are trying to get off the ground, be captured by this act.

I think we need to have an open, vibrant sector online, and I think to do that we need to have some forms of thresholds so the CRTC is dealing with the Disneys, the Netflixes, the Amazon Primes of the world rather than some of the new start-ups, the small enterprises, and frankly, in some cases, some exciting niche specialty streamers.

What I try to do with this amendment and the other amendments is pick a figure that would capture the large foreign streamers but would also allow room and scope for the small enterprises. CPC-1.01 sets a threshold that—and I can explain it—would create a new 2(2.4) in this act, creates an exclusion: “This Act does not apply to an online undertaking whose revenues in Canada from paid subscriptions and embedded advertising do not exceed \$150,000,000.” That number was chosen to ensure that Disney, Netflix, and those types of enterprises are included, while leaving out the small individual ones that are starting out. You'll see the subsequent amendments with different amounts. I'm happy to move those if the time comes, but I think this is the most logical amount at this point.

Thank you, Madam Chair.

● (1305)

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

Is there any discussion on this amendment?



Mrs. Thomas.

**Mrs. Rachael Thomas:** Thank you.

I have a question for Mr. Ripley. I'm curious if, within Bill C-11, the term "commercial content" is used, and if so, how that might be defined.

**Mr. Thomas Owen Ripley:** No, the term "commercial content" is not used. When the government uses the term "commercial content", the concept to which it's referring is the factors set out in section 4.2.

**Mrs. Rachael Thomas:** Thank you.

I appreciate the clarification, Mr. Ripley, because, as the members around this committee table will recall, when the heritage minister was here at this committee he continually used the term "commercial content". You'll also recall that I asked him to define that term. You'll also recall that he wasn't able to. It's now been clarified that the term doesn't actually exist in the legislation.

What we are trying to get at with this amendment, CPC-1.01, is in fact a definition around the type of content that would be captured by this legislation. If it is supposed to be what the minister is referring to as commercial content—which, again, isn't a definition or a term that appears in this legislation—then it would seem that a financial threshold should be set.

You'll also recall that at that same committee meeting, when the minister was here, I asked him what that threshold or monetary intake might be. He was not able to define it. In fact, he continually went in circles, bringing me back to the fact that the CRTC would consider proposed section 4.1(2) and from there make a decision as to whether or not certain content would be regulated by this legislation or if it would be left out.

It is incredibly disingenuous of the minister to use "commercial content" when it doesn't exist in the legislation. It's dangerous for Canadians not to have a clear threshold laid out in terms of who is going to be captured and who is not. For individuals who are perhaps making an income "directly or indirectly", as the legislation says, then instead of allowing the CRTC to go after an individual who might be making \$5, \$10, \$15, \$100 or maybe even \$1,000 directly or indirectly from the content that they're generating, perhaps this committee should act with the appropriateness required and put a monetary threshold in place in order to protect individuals who are simply using TikTok, YouTube or Spotify to get a message out as an individual.

To capture in this legislation individuals who are simply trying to make a name for themselves—make a go of it—and who are small pieces of the puzzle, if you will, to ensure that they pay, for example, 30% of their revenue to the art fund is absolutely ludicrous. Again, it's incredibly irresponsible for this committee to let this legislation go through without any further definition around that.

If, in fact, the minister is truthful in wanting to level the playing field and go after large streaming companies to make sure that they "pay their fair share", then he should go after the large streaming companies. Leave the individuals who are trying to make a go of it on YouTube, TikTok, Spotify or Twitch alone. Stop punishing them.

The way we ensure that is by creating a threshold as to who is in and who is out. If an individual makes \$150 million, that's fine. I guess they can be captured by this legislation. If it is someone making a few thousand dollars, please do the respectful thing and leave them alone. It's up to the members of this committee to make that decision.

• (1310)

The members of this committee have a decision in front of them. They can go after individual Canadians who are making a go of it within new media spaces, which is incredibly harmful—it's punitive in nature—or they can set a financial threshold and go only after the large streaming companies, which is what the minister has stated his intent is. Unfortunately, however, it appears to be incredibly disingenuous, because the language is not reflected in this legislation.

**The Chair:** Thank you.

I have Mr. Housefather.

**Mr. Anthony Housefather:** Thank you so much, Madam Chair.

I just want to say that even this amendment, let alone the bill, deals only with "undertakings". It doesn't deal with individual users, creators or consumers, and the bill doesn't cover them either. A lot of what we've been hearing is, I think, a bit out of the scope of what this amendment does.

I want also remind you that the bill specifically instructs the CRTC to

avoid...imposing obligations on any class of broadcasting undertakings if that imposition will not contribute in a material manner to the implementation of the broadcasting policy

Small and niche services are not going to face these types of obligations. Also, on a monetary limit, if it were going to be a reasonable one.... This is an incredibly high one, at \$150 million, and it should be regulatory. I don't think it should be in the law, because it prevents us from adopting at any point in time....

I also want to point out that this doesn't say when these revenues are earned. Are these supposed to be annual revenues? Are they lifetime revenues? For clarity, I would invite my friend Mr. Nater to clarify that in his amendment if it's actually adopted, because there should be a clarity as to how the revenues are derived. I think that this is an incredibly high threshold, and I don't agree with this amendment.

Thank you.

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

Go ahead, Mr. Nater.

**Mr. John Nater:** Thank you, Madam Chair.

The good news for my friends is that if they think this one is too high, we have more amendments that may be more appropriate to our friends. I know that Ms. Thomas wants to speak and perhaps make a small amendment to address the issue of Mr. Housefather, which I take. It should be clarified that it should be "annual". I can't amend my own amendment, so I appreciate the addition that it is an "annual" amount.

I want to address very quickly the point made by Mr. Housefather about whether this ought to be regulatory in approach, and the fact that we don't want to see small and niche enterprises captured. I agree. That's why we did this. The challenge we have is that we don't have the policy directive. We don't have the direction to the CRTC of how this ought to be moving forward.

We've heard pronouncements, obviously, and I know there's the clause or the commentary on material impact, material benefit. I accept that. The challenge is that this is obviously a once-in-a-generation update to the Broadcasting Act of 1991. That's a long time, and if we go another 30-plus years, this is something that has to be done right and done correctly now. In the absence of a policy directive and in the absence of the draft regulations from the CRTC or the directive from the minister, we are resorting to this option to put it in the legislation to ensure that these enterprises aren't affected.

I accept some of the comments. I accept some of the commentary. In a perfect world, we would have had the opportunity to see that policy directive and to see the direction that would be given, so that we could have assurances that those small enterprises aren't there.

I just want to make one final point. I don't want to talk specifics, as we have a stack ahead of us. I was talking to a small independent streamer in my riding. I want to see them excel. I want to see them thrive, go forth and spread their content across Canada and around the world and not be caught up in regulatory messes.

I'm going to leave my comments there. I know Ms. Thomas wants to make a small amendment to clarify that. I will yield the floor.

Thank you, Madam Chair.

• (1315)

**The Chair:** Thank you very much, Mr. Nater.

I'm going to go to Ms. Thomas, please.

**Mrs. Rachael Thomas:** Thank you.

I would offer a friendly amendment. I'll read the amendment:

This Act does not apply to an online undertaking whose revenues in Canada from paid subscriptions and embedded advertising do not exceed \$150,000,000 annually.

That is adding the word "annually" at the end.

**The Chair:** Thank you.

If there's someone who wishes to suspend so that they can get that small subamendment looked at, please indicate it now.

Hearing none, I will move to the discussion of the subamendment.

Mr. Julian.

**Mr. Anthony Housefather:** Madam Chair, can we just do it on consent, so that—if Mr. Julian's okay—we don't have to vote on the subamendment and it can be part of their amendment?

**Mr. Peter Julian:** Yes, absolutely. I think that's a good suggestion. It clarifies things. If it was \$150 million a month, it would

have been \$2 billion a year. I'm glad that the Conservatives have clarified it.

I wanted to ask our officials, after thanking and praising them for being here through the long hours—we'll be saying the same things and complimenting you at three in the morning tomorrow.... This particular amendment does not appear to apply to individuals. I want to clarify that, because Ms. Thomas's comments seemed to indicate that, in some way, it exempted individuals. I was very confused about that.

I want to know, first off, what the impact of the amendment might be and, second, whether it applies to individuals, as I understood Ms. Thomas was suggesting.

Third, in a case where you exempt a \$150-million annual corporation with those kinds of subscriptions and embedded advertising, how long is that exemption in effect? In other words, would it be years for the organization, even if that company, in subsequent years, had extraordinarily large revenues? How long would it take before the applications of this amendment would apply? I'm assuming potentially at least two fiscal years, but I want to get a sense back from you of what you thought the lag would be and how long the exemption might end up being.

**Mr. Thomas Owen Ripley:** In terms of impact, I think Mr. Nater explained it in that the act would not apply to certain online undertakings unless they surpassed that threshold.

Mr. Housefather, I believe, referenced the current standard in the act, which is the assessment of whether material contribution can be made.

Online undertakings include both Canadian and non-Canadian online undertakings. One consideration I would bring to the committee's attention is that it would also.... We've been discussing community organizations. There are also public broadcasters in Canada that could operate online undertakings. This exclusion would apply to any online undertaking, regardless of who operates it, if it falls below that financial threshold. Some of those organizations may be very well equipped—again, thinking of public broadcasters—to contribute to the policy objectives of the act, but this would potentially exclude them.

With respect to your questions about individuals, the way the act is structured is that this applies to online undertakings. Then proposed subsection 2(2.1) of the act indicates that individuals are not to be considered online undertakings for the purposes of the act. That means that no individual can be taken before the CRTC and subject to regulation or contributions to the system unless they're acting as a mandatary or an affiliate of an online undertaking.

In terms of your question about the effect on timelines, if I understand it correctly, it's what happens if eventually an online undertaking surpasses that and how that would come into play. The answer is that it would depend. It could be that there would be certain regulations that the CRTC has enforced, that there are certain thresholds established and therefore, if an online undertaking surpassed that threshold, they'd immediately be subject to certain obligations. Alternatively, it may be that, given the kind of service, yes, the CRTC would have to do a regulatory proceeding and look at what contributions that service could make. There would have to be a regulatory proceeding that would take some time to put into place.

• (1320)

**Mr. Peter Julian:** Thank you for your answers. That is very helpful, and I guess you've clarified the red herring that Ms. Thomas put out: Individuals are not impacted.

Setting that aside, this appears to me to be a massive loophole, then, for foreign entities, if all they would need to do is claim exemption that they're under the \$150-million threshold. If they are not filing in Canada, there would be no way to prove or disprove that. Is that correct?

We have a massive problem with overseas tax havens in this country. The Parliamentary Budget Officer estimates that we lose \$25 billion of tax revenues each and every year to overseas tax havens.

If we have a foreign entity that doesn't file in Canada and that just claims the exemption, with the way you see this amendment, would they be able to do that?

**Mr. Thomas Owen Ripley:** The provision as drafted says that the act does not apply to an online undertaking, which means none of the provisions of the act would apply if a service fell under that threshold.

The CRTC does have information-gathering powers precisely to be able to assess questions around thresholds. In practice the CRTC should be able to go to a service and ask it to document or show evidence about its revenues in Canada. If that service refused on the basis that by its own assessment it was below this and therefore not subject to the CRTC's information-gathering powers, that would be a question that could potentially be litigated, and I'm not in a position to say how that would necessarily play out in court.

**Mr. Peter Julian:** Finally—and I thank the committee for its patience—if an online entity or online undertaking were in the Bahamas or Barbados, where there might not be the same strict adherence to accurate filings of revenues, how could the CRTC deal with a situation like that, or would it be hamstrung? Does this not mean that this is a significant loophole that would in many ways undermine the whole principle of having a level playing field in Canada?

**Mr. Thomas Owen Ripley:** The goal here, as I understand it from Mr. Nater, and the point of reference is revenues in Canada. That will be an important reference point for streaming services because, for example, their financial contributions to the system are likely to be considered in reference to things like their revenues that are earned in Canada.

The government has always expressed optimism that with respect to the big household names that operate in Canada, if the bill is adopted, we would have their co-operation as the CRTC starts to implement it in terms of providing the kind of information here. If ever there were an instance in which there was a service that, to your question, played hardball and claimed that it didn't have any revenues in Canada, etc., then that is a question on which the CRTC would have to make a determination with respect to whether it would start engaging in court proceedings to be able to exercise the powers of the court to compel that kind of information.

With respect to the big services, again, our expectation is that they are good corporate citizens who, if the bill is passed, will work to comply with their legal obligations.

• (1325)

**Mr. Peter Julian:** Thank you very much for your answers. Given those answers, the fact that we're not dealing with individuals and the fact that there are foreign entities that can claim smaller revenues in Canada, it seems to be a massive loophole that you could drive a truck through in terms of determining the purpose of the bill, which is to try to make sure we have a level playing field in Canada, so I'll be voting against this amendment.

**The Clerk:** Mr. Champoux.

[*Translation*]

**Mr. Martin Champoux:** Thank you, Madam Clerk.

Thank you, Mr. Ripley, for your explanations, which are always relevant.

Madam Chair, I'm going to propose a subamendment. I think it's too restrictive to define an amount. The market varies, and there are many factors that would influence this threshold that I don't think we can define in the legislation.

So I propose a subamendment, which would go like this, “that this Act not—”.

[*English*]

**The Chair:** Mr. Champoux, we have an amendment already on the floor from Ms. Thomas that we have not voted on.

[*Translation*]

**Mr. Martin Champoux:** Madam Chair, we established earlier that the subamendment was incorporated into the original amendment. So we have unanimous consent to go back to the amendment. As a result, we can move a subamendment to the amendment on the table.

My proposed subamendment is: “this Act shall not apply to online businesses with revenues in Canada that do not exceed a threshold that the Commission determines”.

[*English*]

**The Chair:** Thank you. We want to allow for others to look at your subamendment, Mr. Champoux.

We had agreed to go to 1:30. We have two minutes left.

Could we come back to this, and I will suspend right now?

Yes, Mr. Méla.

[*Translation*]

**Mr. Philippe Méla:** I need a clarification, Mr. Champoux. Further to what you said—

[*English*]

**The Chair:** Yes. We'll—

[*Translation*]

**Mr. Martin Champoux:** Madam Chair, Mr. Méla is asking me a question, but he's speaking very quietly.

[*English*]

**The Chair:** I know. You cannot hear him.

Mr. Méla, can you speak into your microphone, please?

**Mr. Philippe Méla:** I can.

[*Translation*]

I was asking Mr. Champoux whether, at the end of his sub-amendment, he continues the sentence or ends it there and removes what is left.

**Mr. Martin Champoux:** I remove what's left.

**Mr. Philippe Méla:** Okay.

**Mr. Martin Champoux:** I remove the proposed amounts.

**Mr. Philippe Méla:** Okay. Thank you.

[*English*]

**The Chair:** I would like to suspend the meeting, because we need to distribute that to everyone around the table, etc. We said we would have a hard stop at 1:30. We now have one minute to do that.

I will suspend until the next sitting.

[*The meeting was adjourned at 1:29 p.m. See Minutes of Proceedings*]

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