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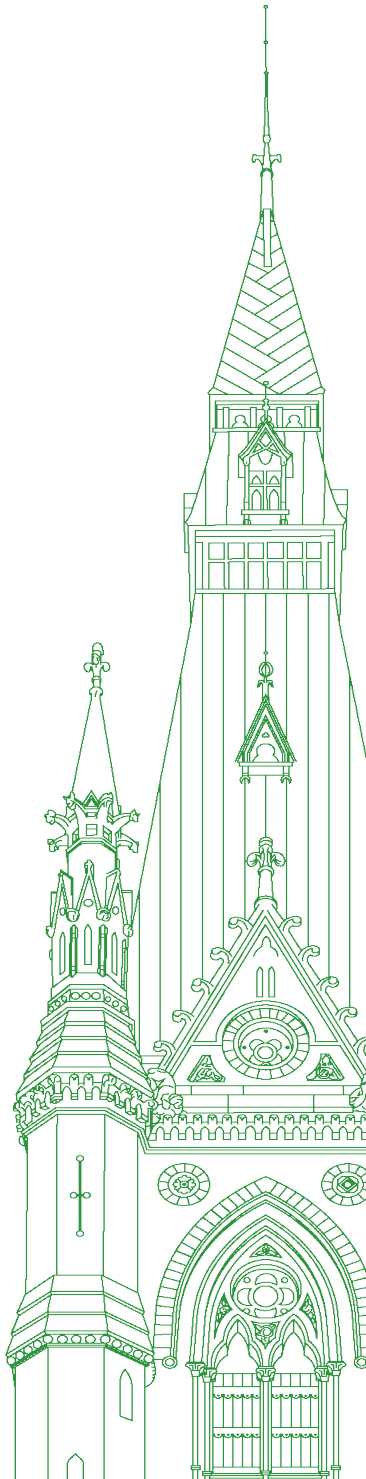

Chair: Mr. Kelly McCauley

Standing Committee on Government Operations and Estimates

Thursday, September 26, 2024

● (1105)

[*English*]

The Chair (Mr. Kelly McCauley (Edmonton West, CPC)): We will start our meeting.

Welcome, everyone, to meeting number 141 of the House of Commons Standing Committee on Government Operations and Estimates, known of course as the mighty OGGO.

Please, everyone, as always, keep your headphones away from your microphones so that we can protect the hearing of our very valued interpreters.

We have two guests with us today to start. Each will have a five-minute opening statement.

We'll start with you, Mr. Buckley, for five minutes. Please keep right to the time. That will stop me from having to cut you off.

Then, we'll go to Mr. Potestio after that.

Mr. Buckley, the floor is yours for five minutes, please.

Mr. Shawn Buckley (Constitutional Lawyer and President, Natural Health Products Protection Association): Thank you, Mr. Chair.

I think it's timely that this committee is considering the regulation of natural health products. This is the regulatory issue that is of most importance to Canadians.

By way of example, the organization I'm with, the Natural Health Products Protection Association, created over half a million citizen letters to targeted MPs for a single campaign just to support Bill C-368 concerning the regulation of NHPs.

Citizens are extremely engaged in this because they're concerned that Health Canada is going to increase the regulatory burden through the self-care framework. However, this committee needs to understand that the current regulations are far too dramatic and render us very uncompetitive in comparison with the United States.

I want to draw three major differences between how the U.S. and Canada regulate natural health products. I hope this committee understands that we arrived at these completely polar opposite regulatory approaches from consumer pressure.

In the late eighties and into the nineties, both the FDA and Health Canada were over-regulating natural health products by imposing the chemical drug regulations. The consumer rebelled with two messages: do not regulate NHPs like drugs, and we want increased access, meaning we want a reduced regulatory burden not an increase.

The citizen rebellion in the United States led to the passage of the Dietary Supplement Health and Education Act of 1994, which does three things completely opposite to how Health Canada manoeuvred us to regulate.

The first difference is that NHPs in the United States are classed as foods, but we've been manoeuvred into classifying them as drugs.

The second major difference—and listen carefully—is that NHPs in the United States are deemed by law to be safe, but we've been manoeuvred into the drug model where our NHPs are deemed by law to be dangerous.

The third major difference is that, in the United States, you don't need government pre-approval to sell a natural health product, but in Canada, because we've been pushed into the drug model, we have to jump through all of these regulatory hoops to get Health Canada permission in the form of a license.

This has driven the cost of Canadian NHPs through the roof compared to our American competitors, and that has removed them from low-income Canadians, who now don't have the option of using NHPs. This has health consequences.

The curious thing in the sole message by Health Canada is that we need these regulations for safety, and we can safely conclude that it is not true for several reasons. First of all, we weren't having a safety issue before the regulations. The United States isn't having a safety issue with how they're regulating. The big fraud is that every Canadian is free to import the unregulated natural health products from the United States and to use them personally, and a large number of Canadians are doing that because of the price difference.

Risk is always measured. There's a risk hierarchy. How many deaths per million of the population are there per year? Health Canada refuses to tell us what that number is because there likely isn't a credible death attributed to the entire NHP industry per decade, let alone per million per year.

Finally, if you want to have an honest risk analysis, if we're really here to regulate because of safety, then everyone on the committee knows that well over 70% of Canadians are regularly using natural health products, and a large number of those are effectively managing health conditions—some of them serious—with these products. Obviously, there's going to be a health consequence to taking products away that people are effectively using to manage their health, but we never have that type of discussion. We're just told that there's risk and that we need to increase our regulations. These are the most unpopular regulations in Canadian history, and they're likely the most damaging; there are health consequences.

I'll just close, as I think I'm getting close to my five minutes, by pointing out that I'm not suggesting, in any way, that we stop products at the border. That would not survive a section 7 Charter of Rights and Freedoms challenge. That's not the answer. The answer is getting rid of this regulatory burden that has nothing to do with safety, and moving more towards a model like the U.S. has.

● (1110)

The Chair: Thanks, Mr. Buckley.

Mr. Potestio, please, you're up for five minutes, and the floor is yours, sir.

Mr. JohnFrank Potestio (Chief Executive Officer, Freedom Cannabis Inc.): Good morning, Mr. Chair. Thank you for allowing us to voice our concerns today from the industry.

Despite the federal finance committee's recommendation to support the cannabis sector, no action has been taken by the government. It raises a question as to whether the government plans to provide relief for the industry they legalized and set in motion.

Approximately 40% of all bankruptcies in Canada over the past three years were of cannabis companies, highlighting the issues plunging the industry. This collapse underscored the urgent need for federal intervention and support in the industry.

Cannabis companies face a crippling tax burden of over 45% of their revenues, far beyond what is seen in other regulated industries such as alcohol and tobacco. This has led to unviable profit margins, with many businesses unable to sustain their operations. Benefit from lower taxes and better regulatory framework is needed.

The industry has seen massive wealth destruction, as many cannabis companies raised tens of billions of dollars in capital investment only to declare bankruptcy and have their facilities demolished and closed. Financial failure, despite the sector's being heavily regulated, is rare outside the major market crashes and demonstrates that the current regulatory fundamentals are broken. Companies that followed all required steps have still been unable to reach breakeven, even after investments exceeding millions of dollars. The proposed 10% flat, ad valorem tax would allow the financial pressures and situations that have been advocated in industry leaders over the years, but action from the federal government is long overdue and needed.

While Canada leads the world in cannabis production, its domestic companies are struggling under regulatory and tax burdens that make it more viable to sell products abroad rather than at home. The burdensome tax and regulatory environment are pushing consumers and producers towards illegal cannabis markets that can offer lower prices without the strict government rules, which undermines the legal industry that raises tax revenue for the government.

There has been a backlog of unpaid excise taxes in excess of over $200 million in the last years. Companies are unable to pay the taxes due to the unstable financial conditions, further endangering the sector's stability. The wave of bankruptcies has resulted in significant job losses, affecting thousands of Canadian workers across the country. Without tax relief and regulatory reform, the industry employment base will continue to shrink.

Over-regulation in innovation and potential growth of new product development, research, intervention and competitiveness are being limited by the restructuring of the tax and regulatory environment. The cannabis industry is a multi-billion dollar sector with the potential for driving economic growth in this country and job creation; however, over-regulation and excise taxation are hindering its full contribution to Canada's economic recovery.

Thank you for your attention and the opportunity to contribute to this important discussion on Canada's industries.

Thank you.

The Chair: Thank you very much.

Before we start our rounds, I just want to wish one of our members a very happy birthday.

Mr. Sousa, happy birthday.

Some hon. members: Hear, hear!

The Chair: As a birthday gift, you can take all the rounds today. Go ahead.

Some hon. members: Oh, oh!

The Chair: You're up for three hours, Mr. Souza. Go ahead.

We'll start with Mrs. Block for six minutes.

Go ahead, Mrs. Block.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): Thank you, Chair.

Welcome to our witnesses today as we continue our study on red tape reduction.

My first questions will be for Mr. Buckley with the Natural Health Products Protection Association.

I would have to say that as a member of Parliament, there are certain issues that we tend to hear back from our constituents about in a really big way. I heard from many constituents after the introduction of the budget implementation act last spring. They were deeply concerned with the changes that were introduced in that bill to the regulation of natural health products.

I have two questions for you.

First, were any consultations held with the natural health products industry?

Would it be fair to say that your industry was caught off guard by the changes that were introduced in the budget implementation act, Bill C-69?

● (1115)

Mr. Shawn Buckley: First of all, you need to understand the history. This law that came to be known as Vanessa's law in 2014 was first introduced by former health minister Tony Clement in March 2008. It was called Bill C-51. The bureaucracy still remembers Bill C-51.

Basically, it brought in these $5-million-a-day fines and all of these almost God-like powers that Health Canada has. The original bill just applied to all drugs. We didn't have the therapeutic product category. That came in with Vanessa's law.

I remember a meeting I had at the Prime Minister's Office. We were being escorted out by Laurie Throness, who was number two at the ministry of health at the time. He explained to us that there was so much mail going into the minister's office that it was coming in wheelbarrows. Canadians were concerned.

Health Canada knew that Canadians did not want these powers and penalties applied to natural health products, so it waited until 2014, when Vanessa's law created the category of therapeutic products, which excluded natural health products, so the consumer was fine. The consumer was not concerned with fines, which actually are very small when you consider the money the pharmaceutical companies make, but which would absolutely destroy any natural health product producer or practitioner for that matter. The consumer was also not concerned about Health Canada's having increased powers, but about a rule of law perspective that would be inappropriate for any branch of the public, so everyone sat still.

I can tell you that everyone was absolutely surprised. Why would you put major changes to our drug regulation that you know the consumer is extremely concerned about into a budget bill? It's an affront to the parliamentary process. We were caught completely off guard. There would have been an absolute citizen rebellion. I mean, how often does a private member's bill get into committee? Bill C-368 did because Parliament understands that the Canadian citizen is concerned about it.

I gave you the figures just from our organization, but other organizations like the CHFA are also running campaigns and supporting Bill C-368.

Half a million letters through our organization alone speak broadly to Canadians' interest in this.

Mrs. Kelly Block: Thank you.

I'm wondering if you would be willing to speak to the huge financial implication for small and medium-sized businesses that offer natural health products, as well as the implications for Canadians who rely on these products to manage their health.

Mr. Shawn Buckley: Right. You're really asking a health question. I'll address concerns with this self-care framework. However, when you have.... You know, some figures are that upwards to 80% of Canadians are regularly using these products, but low-income people cannot afford them. Low-income people.... You know, if you go to a naturopathic doctor or a traditional Chinese practitioner, you're not able to afford these, so you've basically lost a fundamental right to decide how you're going to treat yourself when you're ill. We're going into legal, philosophical problems. However, this self-care framework is going to make the regulation of natural health products prohibitive, so even just on cost recovery itself, which has already been gazetted.... Health Canada had a large Zoom meeting with the industry. Even with the new figures that are given—and we all know that the goal is full harmonization—there are players out there that are saying that they're not going to do business in Canada anymore. Almost every manufacturer will be reducing its line, and—this is very scary—with regard to cost recovery alone, we're going to lose the suppliers for the traditional Chinese practitioners who literally need thousands of products for a full scope of practice...and also homeopathic medicine. What's going to happen to the natural health community when we lose two major healing traditions within that community and have the rundown affects on the distributors and stores?

Let's not even forget, I mean, the self-care framework. Health Canada is publicly telling us that you're not even going to be able to get licensed for any product for which you'd seek the advice of a health care practitioner, like a naturopathic doctor or a TCM doctor, so now we're in a licensing scheme under, you know, C.08.001 of the drug regulations.

● (1120)

The Chair: I apologize for interrupting, Mr. Buckley, but we're out of time. Are you able to just wrap up quickly?

Mr. Shawn Buckley: Okay.

We could go through the different elements of the self-care framework. All of them together are going to make it completely uneconomic. The NHP industry is rightly viewing this as the end game. Either we get intervention or we're not going to exist.

The Chair: Thank you very much.

Mr. Kusmiercyzk.

Mr. Irek Kusmierczyk (Windsor—Tecumseh, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Buckley, for your testimony.

Of course, this committee is looking at how we balance the priorities of making sure that Canadians have access to a product and also that the product is safe for them to use.

This is an important issue for my community. We have a company, an incredible company, in Windsor—Tecumseh called Jamieson. I've had the honour and the pleasure of meeting Jamieson folks who work there probably about four or five times just in the last two years. It's a company that has a one-hundred-year-old history. It has a thousand people working there. It's incredible. It's the largest natural health product company in Canada, and it's the fastest growing. It exports to 50 countries around the world. This is something that's, again, a pride of Windsor-Essex, and again, its products are exported around the world to 50 countries. In speaking with Jamieson, one of the things that I heard is that Health Canada is actually seen as the gold standard for regulation around the world. This actually provides companies like Jamieson with an advantage against international competition because people trust Canadian-made products. People trust the products that are created because when it has that Health Canada stamp on it, it means something around the world. Therefore, that product can compete in places like China, Europe, the Middle East, Africa and elsewhere because there is trust in a strong regulatory system.

I want to ask you to speak to that—about how, in some instances, regulation can actually be seen as a strength and an advantage for Canadian-made products because people trust it.

Mr. Shawn Buckley: I wonder what we're doing here, because we're told we need this for safety, and not for trade advantages.

There's a name for what is happening in the regulation of natural health products. Economists call it rent-seeking, where you basically up the cost and up the cost, so that you're left with a handful of large companies left standing that support the regulations, and support increased fees to the regulatory body. Look up rent-seeking. Jamieson would be one of the few companies to survive and be a quasi-monopoly.

If we want to have exports, why don't we have a voluntary licensing scheme that meets the same standards, and those companies that want to meet that to export can do it.

There are different things, but we're talking about safety here. Safety is measured in terms of how many deaths per million of the population per year are caused by an event. Lightning is more dangerous than the entire natural health product industry. My understanding is that lightning kills about one to four Canadians a year, so there would be about 10 deaths. Well, we can't point to 10 credible deaths in all of Canadian history caused by natural health products, but I can point to you examples where Health Canada restricting products have led to deaths.

What are we doing here? Are we having regulations to make the Canadian industry able to export? Let's have voluntary standards for whatever it takes to export. We're actually talking about health products that people use. Some people survive on them.

I was counsel for Truehope nutritional support, and Health Canada restricted access to that single product for a short period of time. The Canadian Mental Health Association held a press conference every time there was a death. The court acquitted Truehope, finding there was a violation of the law, but it was legally necessary, because more people would have died from the restriction of this single natural health product, which is now happily licensed by Health Canada. You couldn't get licensed back then.

I want to caution you. We are talking about products that people rely on for their very lives, and we never have an honest safety discussion. What are the consequences of our regulations? What are the consequences of ever increasing them, upping the prices, and dropping the number? We all know when you over-regulate, you restrict.

It's just funny, because Jamieson used to be the poster child for health freedom, with the decision in Jamieson (C.E.) v. Canada. It was one of the best decisions ever. When it was a small company, it felt very differently. If I were on the board of Jamieson, I would have a legal fiduciary obligation to support this rent-seeking, because it would be good for my company, not good for the safety of Canadians. I would have a legal obligation to maximize the share price of Jamieson and profits for the shareholders.

We're talking about different things. We can export by having voluntary standards. In no way do we need that for safety. Health Canada talks about safety. You tell me, how have these regulations saved a single life since they came into force on July 1, 2004?

● (1125)

Mr. Irek Kusmierczyk: Mr. Buckley, I do agree that obviously NHPs have a different risk profile from pharmaceuticals and drugs on the market. Within a two-year period, there were Health Canada reports of 1,000 adverse reactions from NHPs. It included 772 hospitalizations and adverse effects.

There is a balance. I agree there is a balance that needs to be struck with, again, making sure that Canadians have access to these products, but at the same time making sure that safety is absolutely paramount. One adverse reaction, or one negative impact, is one too many.

The Chair: I'm afraid that is our time, so we'll now go to Mrs. Vignola, for six minutes, please.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): I have a point of order, Chair.

Could the witness be allowed a quick response? Usually, we allow a brief witness response if members takes it to the end of their time. I'd be curious for a—

The Chair: Normally we would, but we're short of time, because we have two panels today. Perhaps in Mrs. Kusie's turn, we can get a response.

Go ahead, Mrs. Vignola.

[*Translation*]

Mrs. Julie Vignola (Beauport—Limoilou, BQ): Thanks very much, Mr. Chair.

I'm going to take a moment to give notice of a motion the text of which reads as follows:

> Given that:
>
> (a) the media reported on Wednesday, September 25, 2024, that the Governor General of Canada, Mary Simon, was still unable to converse in French during a visit to a community organization in Lévis, Quebec, and that she had to cancel some of the events planned for her trip to Quebec for this reason;
>
> (b) the Governor General said she was “deeply committed” to learning French in 2021, when she was appointed, and she reiterated to Radio-Canada, in a 2023 interview, that she wanted to be able to “speak to francophones” by the end of 2024; and
>
> (c) tens of thousands of dollars in public funds have been spent on French language courses since 2021, with limited results;
>
> that, pursuant to Standing Order 108(2), the committee invite the following witnesses to appear for a minimum of two hours each within 15 days of the adoption of this motion:
>
> (a) Her Excellency the Governor General; and
>
> (b) the Minister of Official Languages;
>
> and that the committee report to the House.

I don't wish to discuss the motion right now. I'm just giving notice of it, but the situation is concerning. If you can't speak the language of the place where you're going, it's better to have an interpreter. That would have been respectful and much appreciated. I won't comment any further. We can discuss this matter at another time. The text of the motion will be distributed to committee members shortly.

Now I'll go to my questions for the witnesses.

Mr. Buckley and Mr. Potestio, my question is for both of you. On April 10 of this year, Corinne Pohlmann, executive vice president of the Canadian Federation of Independent Business, recommended that the government use plain language and make regulatory compliance flexible. We understand from your remarks that regulations are very onerous and have consequences. How can we make regulations plain and flexible? Do you have any specific proposals or examples to suggest?

● (1130)

[*English*]

The Chair: Mr. Potestio, did you want to start? Did you hear the question properly?

Mr. JohnFrank Potestio: I did, but it was in French, so I didn't understand the question.

The Chair: There's a button in the middle of the Zoom screen for translation.

Why don't we start with Mr. Buckley while Mr. Potestio gets that done?

Mr. Shawn Buckley: Yes, absolutely.

John, it's right beside the participants button, if that's helpful to you. We'll be looking at the same screen.

Mr. JohnFrank Potestio: Yes, I have it now.

Mr. Shawn Buckley: The question related to the Canadian Federation of Independent Business association and Ms. Pohlmann's saying that we need clear language in compliance and regulations.

We were invited to comment on specific examples. It's interesting, because a lot of the costs in the natural product industry are in the policy and guidance documents—in how those are implemented. You go through this onerous licensing process, which can take you an exorbitant amount of time. Let's say you then want to do a change. You file for any type of change. You have to give notice of a change because something minor has been tweaked. Then, all of a sudden, you're under a full-scale review. The industry is absolutely confused, because you don't know from one time to the next what type of decision you're going to get. There's no consistency in the application. It's not a language question, except that the policy documents and the law as is are not giving the industry clarity on what to expect, going forward.

That is in every part of our regulations, which are quite detailed, right down to good manufacturing practices, standards of evidence and the like. Because we're in the drug model.... As I said, in the United States, the same products are deemed by law to be safe. The FDA needs to have actual evidence of a specific product causing harm before they take any action. However, we have to prove products are safe. I know of a company that couldn't prove that encapsulated parsley was safe, because—wouldn't you know it?—nobody's done a safety study on parsley. It would be very helpful to go back in time. Shouldn't we be clearer that, if an ingredient is in our food supply, it's been deemed safe for policy reasons?

I'll let JohnFrank go. I don't want to dominate the discussion.

The Chair: Mr. Potestio, I'll have Mrs. Vignola repeat the question for you now that you have the interpretation going.

[*Translation*]

Mrs. Julie Vignola: I'll be brief.

This past April, Ms. Pohlmann, vice-president of the Canadian Federation of Independent Business, recommended that the government use plain language and make regulatory compliance more flexible.

Mr. Potestio, do you have any proposals or examples of what could be done to simplify regulatory language and ensure greater flexibility?

● (1135)

[*English*]

Mr. JohnFrank Potestio: Yes, the main example here is allowing the cannabis companies brought into this regulated space to succeed as companies. We need them to succeed today. I mean, there have been a lot of recommendations made or proposed by the government, but the government has to take action. The government has not taken any action, at all, in what's happening to these cannabis companies across Canada. We've seen hundreds of companies close their doors, and there has been no action taken in order to....

We were brought into these regulated industries saying that the cannabis industry is going to be supported by the Canadian government. There was no support at all in the industry. There were recommendations made by committees and presented to the government, but there was no action taken at all. We sit here today asking whether we can survive in this industry. Can we make sure we're keeping Canadians' health as our main concern?

The Chair: That is our time, I'm afraid.

Mr. Bachrach, please go ahead, sir.

Mr. Taylor Bachrach (Skeena—Bulkley Valley, NDP): Thank you, Mr. Chair.

Thank you to both of our initial witnesses.

This is an interesting study. We've heard from a lot of different areas of regulation. As much as we could talk specifically about each of your fields, there are thousands of regulations across government at different levels that affect different sectors.

I'd like to start by bumping this up to 10,000 feet and talking about the tenets of regulation—the principles that you feel are being violated in these cases and that should be applied more broadly across the regulatory environment. I take Mr. Buckley's point very well. If you don't have a safety issue or a problem, what are you fixing? I guess that is the argument being made.

Perhaps to both of you, what are the lessons that can be learned from natural health and cannabis products that should inform regulatory reforms across government?

Mr. Shawn Buckley: John, if you don't mind my going first, I'd love to jump in. I'll try to be quick.

I love the question, because sometimes we get caught up in the minutiae, like you say, and we forget to look at things from a broader perspective. The drug model, which came into force in all of the western world in the 1930s, basically captures everything used for a therapeutic purpose. Anything you ingest, either to prevent illness or to treat illness or injury, is a drug.

The drug model has captured the entire field. I could say to you: “You look dehydrated. Would you take some water to treat your dehydration?” I would have just broken a myriad of federal laws: I made water a drug. Literally, water is a drug, if we use it to treat dehydration.

The second part of the drug model is that we make it illegal. All drugs are illegal except that the government will grant temporary exemptions in the form of a licence, allowing us to access a drug. How did we end up in the legal philosophical situation where in Canada it is illegal to treat ourselves with anything or to prevent injury unless it's approved of by the government? That's very offensive from a legal philosophical perspective. I mean, we've been using ginger tea to treat nausea for 3,000 years, and now, all of a sudden, it is illegal and we need to seek Health Canada's permission.

I think that from a regulatory framework we always have to ask ourselves, how actually does this affect the rights of the citizen and is this justified? I mean, sometimes it will be, but we've basically lost sovereignty over our own bodies because there are whole treatment modalities that are illegal for us to access.

The Chair: I'm going to interrupt for two seconds, Mr. Bachrach.

I see that Mr. Latimer is back. Once we're done with your round, we're going to suspend for about 30 seconds and then sound-check Mr. Latimer.

After we do that, he will be able to participate.

Go ahead, Mr. Bachrach.

Mr. Taylor Bachrach: Yes, I think those points that Mr. Buckley made are very interesting.

As a follow-up, I'm curious about this line between drugs and non-drugs and I'm curious about how it's defined in the United States. Maybe this shows my ignorance around the details of the issue, but where would your organization, Mr. Buckley, draw the line?

I would imagine that you would agree that pharmaceuticals—complex, sophisticated pharmaceutical drugs—should continue to be regulated as drugs. At the far extreme other end, you've used the example of water. Where should the line be drawn?

● (1140)

Mr. Shawn Buckley: First of all, it's important to understand, and I don't have...unless the committee gives me five minutes just to explain how the drug model is not designed for good health outcomes....

You have to understand that the purposes of our drug regulations are to protect intellectual property rights. They're not to get good health outcomes. You won't find in the Food and Drugs Act or regulations any legal onus on Health Canada to get good health outcomes.

The reason why we've defined drugs so broadly...and it's the same in all western nations. Everything ingested is a drug if it's used for a therapeutic purpose, in every western nation. We're all captured by this model, but that again is a fantastic situation. I mean, I would argue that we need stricter regulation of the pharmaceutical drugs, and I could explain to you how our drug approval process for the chemical drugs is a complete fraud on the Canadian populace.

I agree with you there, but how on earth do we end up in a situation where the only treatments, even if they're perfectly benign, are...we have to go through the government for that?

Mr. Taylor Bachrach: Mr. Buckley, if I could interrupt, earlier you said that natural health products in the United States are classified as food—

Mr. Shawn Buckley: Yes—

Mr. Taylor Bachrach: —so I assume they are also for therapeutic purposes.

Mr. Shawn Buckley: Yes, but that's an exemption to their drug law. Their definition of “drug” is as broad as ours, and then the Dietary Supplement Health and Education Act of 1994 makes an exception and basically says that for this class of product—they call them “dietary supplements”, but they're the same as our natural health products, by and large—they are classifying them as foods, and then they even go further. Because foods aren't deemed unsafe, they actually put in there that, by law, they're deemed to be safe. It's because they've done a specific exception.

It's like when Vanessa's law came in and created therapeutic products: The definition excluded natural health products. That's how they've done it there. But for the dietary supplements definition exception, absolutely everything is a drug. We had that option. I mean, we didn't have to go there in Canada.

I think the real answer would be the charter of health freedom. Just go to charterofhealthfreedom.org. Basically, the industry and consumer practitioners got together and said, "How do we solve this?" It's to create a third category, different from the United States, but where the industry could compete and thrive.

Mr. Taylor Bachrach: I think most people....

Oh. Is that my time, Mr. Chair?

The Chair: That is your time.

We're going to suspend for a very short time to sound check Mr. Latimer, and then we'll be back.

● (1140)

_____(Pause)_____

● (1145)

The Chair: I call the meeting back to order.

We're going to Mrs. Kusie and Mrs. Atwin for five minutes each, and then Mrs. Vignola and Mr. Bachrach for two and a half minutes each to finish this off.

Go ahead, Mrs. Kusie.

Mr. Tim Latimer (Chief Executive Officer, Business as a Force for Good Inc.): Will you slip me back into the agenda?

The Chair: We won't have time for an opening statement, I'm afraid, because of all the delays, but you'll be able to answer questions or respond now.

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for being here today.

Mr. Buckley, Mr. Kusmierczyk started very enthusiastically with an anecdote about a natural health products company in his riding, before providing you with statistics on deaths and hospitalizations, none of which, I'm sure, occurred as a result of the products made by the organization in his riding.

He also left you with no opportunity to respond, so I want to go back to you now on his comments about the necessity for balance. As I said, he started out very enthusiastically supporting this natural health product business in the riding and was very keen on it, but then he changed his tune a bit. He flipped. He did a little switcheroo, if you will, in providing these statistics.

What would you like to say in response to that argument from Mr. Kusmierczyk, please?

Mr. Shawn Buckley: Thank you for giving me that opportunity. I recognize it's a little inconsistent to say, "Here, we need the regulations to support the big companies exporting, but look at all the dangers that have occurred under the regulations."

To be quite frank—and I expect the committee members will have had this experience—Health Canada doesn't ever really give us the raw data. I don't believe it. Every risk analysis I've seen done by professional risk analysis people using government data had to go to other western nations to find actual evidence of death.

Health Canada is trying to create a safety argument—that's its sole basis for this—even though, as I said, if the committee gave me time, I could explain how our drug policy is intended to protect intellectual property rights. I'm not the only expert who says that.

If we were going to have an honest safety discussion about how we get the best health outcomes...we are going to have good manufacturing practices. We're going to have procedures in place to make sure that people are safe. However, we can't have this discussion by just saying we need ever stricter regulations without asking if there is a health consequence to taking products away. Canadians are telling MPs, yes.

Why are Canadians concerned? Canadians are quite intelligent. They know what works for them and they know what doesn't work for them, but Health Canada just says, risk, risk, risk.

When officials were in front of the Standing Committee of Health last year, I watched them use Ezekiel Stephan as an example of a death. I'm sorry. I was counsel at both of the Stephan trials, and I don't understand how his death could be attributed to a natural health product. We had Alberta Health Services take out of every ambulance...it destocked all the ambulances in southern Alberta of all the equipment you would need to get an airway for anyone under the age of 12. The ambulance attendants were weeping on the stand, saying, "We were telling management the first infant is dead." That first infant was Ezekiel, because they couldn't get a whiff of air into him for eight minutes and 38 seconds because they didn't have the equipment.

How is that attributed to a natural health product? Was the Alberta Health Services person—who, in my opinion, was criminally negligent in making that policy decision—under the influence of an NHP?

Health Canada doesn't explain these things. Sometimes those of us who are aware of these cases are just shocked, but I don't believe the figures. If Health Canada gives us the case reports so that we can analyze them, maybe I will, but it won't.

Please, Health Canada, tell us how many deaths per million there are per year so that we can put them in a risk hierarchy like every other country and have an honest discussion.

Mrs. Stephanie Kusie: Further to that, Mr. Buckley, you may be well aware that Conservatives have put forward Bill C-368, which passed through its second reading this past May. This bill seeks to repeal sections 500 to 504 of the budget implementation act, 2023.

In your opinion, why is it so important that we see this legislation passed as quickly as possible? Can you share why it would be a priority to see Bill C-368 passed as soon as possible?

Thank you very much.

● (1150)

The Chair: Give us a 30-second response, please, Mr. Buckley.

Mr. Shawn Buckley: I am familiar with the bill; I wrote the first draft for MP Blaine Calkins.

We've moved into a category where the penalties and powers are so strict that there's now no discretion and no ability for companies to stand up to Health Canada, even when following Health Canada advice will lead to death or harm.

As a lawyer who has practised for 30 years in that field, there have been times when companies have had to stand up to Health Canada to protect life, and we've lost that initiative. You're going to be destroyed.

Whenever you're in a situation where the bureaucracy has absolute power over you and you can't argue with them, the bureaucracy has all the discretion. If you look up the definition of tyranny, it just means absolute discretion. It's not meant to be a negative term. We just know bad things happen.

The Chair: I'm afraid that is our time.

We'll go to Ms. Atwin, please, for five minutes.

Mrs. Jenica Atwin (Fredericton, Lib.): Thank you very much, Mr. Chair.

Thank you to our witnesses for being with us today.

My questions will be for Mr. Potestio about the cannabis industry.

In my community and riding there are a lot of unregulated stores that have popped up. We're really dealing with what this looks like in the community. We're thinking about exposure for children and all these other pieces.

There's a company in Fredericton called RPC, which does a lot of the testing of cannabis from across the country, and they can confirm that regulated cannabis products are free of heavy metals, pesticides and other harmful residues. It's part of the peace of mind for consumers when they go to buy these products. I would assume they are associating some of those elevated costs with the safety piece that's there.

The cannabis industry is relatively newly regulated and involves products that the government has indicated are therapeutic, but there are also some negative effects for Canadians to consider. In your view, and in your experience with the licensing process and getting your company up and running, did that process find an appropriate balance between public health and safety and the ease of doing business?

The Chair: I'm sorry, Mr. Latimer; hold on two seconds.

Mr. Potestio and Mr. Latimer, because both of you are in the same room, only one of you can be unmuted, just so you're aware.

Go ahead, Mr. Latimer.

Mr. Tim Latimer: I think it's a great question, and it's very unfortunate. This is such a study in public policy and just getting maybe two words wrong—the words "greater of" or "less of"—in the Cannabis Act. It has to do with the excise tax. As a result of having it say "greater than" and the analysts saying, "Hey, we're going to be at $7 to $10 for a gram of cannabis and it turns out to be $2", we've now turned it around and made it a lucrative marketplace for the black market to get back into the space. That was the unintended consequence of just a flip in the words.

Now the black market is all of a sudden emboldened to get back into the marketplace. Not only are they emboldened but they can actually open up, as you pointed out, in neighbourhoods. They look exactly like all the other cannabis stores out there, except they're not following the regulations and don't have to live up to any of the regulations.

With regulated cannabis, JohnFrank, through all of the work, spends $50 million and a lot of family wealth and effort and time to build a facility. Every time he sells $100,000, because the words are "greater of", he has to give a dollar of the $2 price to the government, or about 44%. If he sells $100,000 in a week, he sends $44,000 to the government.

The illegal guy doesn't have to send that $44,000, so he has that money. I'm going to call him a "cowboy entrepreneur" on the street. He's all of a sudden seeing an opportunity. Before he had to be downtown and selling for cash. Now he can be in the neighbourhoods all over the place selling. He can use Visa and debit cards. He can take as much money as he wants. He makes $44,000 extra in a week. He starts buying fancy things for his partner or his wife, and he starts asking himself, because he's an entrepreneur, “How can I do more?” He opens up a second and third location—

● (1155)

Mrs. Jenica Atwin: Can I just interrupt you there? I'm sorry, but I just have such a short time for questions. I just want to add a piece.

In the opening statement by Mr. Potestio, he mentioned that 40% of recent bankruptcies in Canada were cannabis companies. My questions are these. Did these regulations evolve over time? Was there a change that these industries were unaware of, or were they just not prepared to enter the market? What can account for that 40%? It's quite high.

Mr. Tim Latimer: It's such a new market. They put too much tax on it. The analysts had it wrong. They thought the price would be seven dollars to $10. It's only two dollars for a gram. That's where they had it wrong, and they never adjusted it. Now they have a lucrative market for the black market. What you're going to see is this. I'm going to call them "Dr. Dooms". They're going to be opening stores. You're going to be able to order online. You're going to be able to buy a small joint laced with a little bit of crystal meth just sprinkled on top of it for five dollars. It'll be available to all of our children and in our neighbourhoods. This is a travesty that is not being addressed. It has to be with the timeliness of adjusting the policy. Okay, we have the policy a little bit wrong. Adjust it.

I agree with Mr. Shawn Buckley. There's too much control from Health Canada. They've overloaded the system, and they keep on overloading and overloading it and throwing on bureaucracy. It's really created a nightmare, and these places are all going broke. And they've invested. For example, JohnFrank and family have invested $50 million in this. They need to close up, because the CRA is extorting them and saying that if they don't pay this money in the next 30 days, they're going to pull their licence. They're literally saying that. Meanwhile, the illegal ones are saying that this is the best thing they ever had. They're now out in the open. They can collect with Visa and so forth, and they're innovative. They can bring new products in, and look at them go. They're going to scale up and get across the country, get online to be able to sell a lot of product.

The Chair: Thanks.

Mr. Latimer, that is our time. I had to cut you off there.

We'll go to Ms. Vignola for two and a half minutes, please.

[*Translation*]

Mrs. Julie Vignola: Thank you very much, Mr. Chair.

Mr. Buckley, perhaps you can help me understand this more clearly. I'm always open to ways to improve processes. I think we now understand that regulations are onerous. I'm going to ask you a question for the purposes of consistency.

Let's talk about natural products. Oxygen is a natural product. Of course, 100% of human beings need it in order to live, but some people, for example, need oxygen tanks. Nitrogen is a natural product in that it's found in the atmosphere we breathe, but some people need it to treat warts, for example.

I don't know if I'm over-extrapolating, but is it possible that enforcing current regulations governing natural products might restrict access to those products for people who need them? If so, how would we go about ensuring that products that are healthy, good and essential to the health of those persons remain available to the general public?

[*English*]

Mr. Shawn Buckley: I'm not sure I fully understood the question, and it might have been the translation. What is it that you're asking could restrict access? Are we talking about the self-care framework?

● (1200)

[*Translation*]

Mrs. Julie Vignola: How can we ensure that the regulatory framework doesn't block people's access to products that are healthy and essential to their health, such as oxygen and nitrogen, in certain instances? Can the present framework go so far as to prohibit access to those products? If so, what can we do to prevent that kind of anomalous situation?

[*English*]

Mr. Shawn Buckley: If the self-care framework, which has several branches, is permitted to proceed, we are going to lose most of our natural health products and cause severe problems for many of our healing traditions. The way we solve this is by starting to ask the proper question. Just say for the regulation of all drugs, be they chemical drugs or be they natural drugs, how do we get the best health outcomes? We need to review the entire system, because the system isn't based on that question. Most people agree. There are so many reasonable things. No one in the industry is going to say, let's not have good manufacturing practices—

The Chair: I'm sorry to cut you off, Mr. Buckley, but we're past our time.

I have to turn it over to Mr. Bachrach for two and a half minutes.

Mr. Taylor Bachrach: Thank you, Chair. I love how you used the words “have to”.

Voices: Oh, oh!

Mr. Taylor Bachrach: Mr. Buckley, I think the last question you posed is a really important one: How do we ensure the best health outcomes? Surely in that somewhere is the use of high-quality data to inform regulatory decisions. Health Canada has pointed this out as a possible shortcoming of past regulatory systems when it comes to natural health products, or at least that's their claim, which is why, to my understanding, the Vanessa's law piece has been applied.

From your perspective, how do we ensure that there is high-quality, objective data on which to base our regulatory decisions so that we're ensuring those positive health outcomes that you talked about?

Mr. Shawn Buckley: It starts by looking into asking the proper question. If you are looking for risk, you will find risk. If you are looking for harm, you will find harm.

We've had the adverse reaction database reporting system, which has been very robust, since 1965. You're not going to find a credible report of a death caused by a natural health product in that entire time, which means peanut butter is dramatically more dangerous. I don't want to talk about shellfish. We just have to ask the right question: How do we get good health outcomes? Then we start measuring that.

You know, some of the leading causes of death in Canada are connected to the chemical pharmaceutical drugs. Good health policy might be that we restrict access to those until you've tried more safe treatment modalities. But we're not allowed to have that discussion. Nobody's saying there isn't risk with any type of health product, but if we're asking the question of how we can get the best health outcomes, which we've never asked, in our drug policy, we'll arrive at a reasonable place. If we then keep asking that question, we'll learn and learn and learn.

Truly, our drug regulations are there to protect intellectual property rights, not to get good health outcomes. We just have to start asking the right questions. Then we'll know what to measure.

Mr. Taylor Bachrach: I imagine that's my 2.5 minutes, but maybe I'll look to the chair to inform me on that.

The Chair: You do have four seconds, Mr. Bachrach.

Mr. Taylor Bachrach: I'll cede those seconds to my next colleague.

Thank you.

The Chair: Actually, that's it for this panel. Normally we have a bit more leeway, but we do have another panel of witnesses that we have to get to.

To the witnesses, thank you very much. We appreciate your patience in dealing with the mic and some of the translation issues. If you have a brief or anything in writing that you wish to share with us for the report, you are certainly welcome to send it in to our clerk. We will include it for consideration.

Thank you again for joining us.

We'll suspend for a few minutes in order to bring in the new witnesses.

● (1205)

(Pause)

● (1210)

The Chair: We are back, colleagues. Thank you for your patience.

We have the second panel with two witnesses.

We'll start virtually with an opening statement from Mr. Beaulieu-Guay, please.

Go ahead, sir. The floor is yours for five minutes. We are relatively tight on time, so we're going to keep everyone to their timeline.

Please go ahead, Mr. Beaulieu-Guay.

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay (Associate Professor, Johnson Shoyama Graduate School of Public Policy, University of Saskatchewan): Thank you very much.

It's extremely difficult to ease the regulatory burden of a country like Canada. Many reforms have been attempted in various circumstances and have met with mixed success. Here, more particularly, certain initiatives have worked, while others have not. For example, there was the implementation of the “one for one rule”, under which regulatory authorities are required to remove one existing rule for every new rule. It has never really been possible to apply the rule effectively on a large scale. However, other measures have resulted in cultural changes at certain departments. One of those measures was the small business lens, under which regulatory authorities use a checklist to increase awareness of the impact their actions have on small and medium-size businesses.

That being said, the regulatory burden has been a major issue for Canadian regulatory authorities since the 1980s. Early on, Canada established many administrative measures to reduce that burden on individuals and businesses.

The leading tool used to provide regulatory relief and improve regulations is the regulatory impact analysis, which is mandatory for every new regulation and regulatory change likely to have a significant impact in Canada. Canada is a good regulatory impact practitioner. The regulatory impact analysis statement, or RIAS, combines many tools that are used to control regulatory creep and ease any undue regulatory burden on Canada's economy and society. Those tools include cost-benefit analyses, public stakeholder consultations, a supervisory body and checklists.

Cost-benefit analyses estimate net regulatory benefits that are equal to the difference between the costs of those benefits and the benefits themselves. Public consultations are sectoral in nature and involve the principal parties affected or concerned by the regulations in question. They provide a forum where all parties may speak out and express their views to regulatory authorities. The RIAS process is spearheaded by the Treasury Board Secretariat, which ensures the quality and rigour of the analyses conducted and a degree of cross-government uniformity.

Among the checklists included in the RIAS are a small business lens, provisions concerning co-operation and harmonization of intergovernmental regulations, and measures to facilitate the incorporation by reference of international regulatory frameworks. These elements respond directly to certain objectives of this committee, particularly those cited in points (a) and (c).

Consequently, we already have tools in place, considerable experience and more than 25 years of administrative data on regulatory relief and improvement in Canada, but much progress needs to be made. First, not all departments are capable of conducting comprehensive impact analyses. Second, not all cost-benefit analyses are reported using the same units, which complicates comparisons and estimates of the total cost of regulations. As for consultations, the ones that have the greatest impact are, in many cases, the most exclusive ones conducted upstream and involving handpicked stakeholders. Lastly, it can be difficult to determine how successful the checklists are as they aren't necessarily associated with specific or ascertainable results.

In addition, efforts to provide regulatory relief often boil down to adding certain procedures to others. If corporate accountability can be simplified, that often complicates the regulatory process as such. If you want to require less of businesses yet remain a leader in meeting Canadians needs for security, environmental protection, food safety and public health, someone somewhere will have to do the work. If you want to require less of businesses, the government itself will have to gather the information it needs to secure a safe and predictable environment for Canadians. However, that may result in deadweight losses because businesses have easier access to the information needed to develop good rules in Canada.

Consequently, if the government wishes to modernize its regulatory process, it has many tools at its disposal to determine what and where the problems are, whether it be through frequent interactions among regulatory authorities and regulated parties or by relying on the expertise we have acquired from nearly 40 years of regulatory impact analyses.

[*English*]

The Chair: Thank you very much.

We'll now welcome Mr. Trudel.

The floor is yours for five minutes, please.

● (1215)

[*Translation*]

Mr. William Trudel (President, Founder and Chief Executive Officer, Trudel): Good afternoon, everyone.

I find it somewhat intimidating to be here because this isn't something I do as part of my normal work. I'm not a doctor, an engineer or a lawyer. I'm a former police officer with the Quebec City police force, and I served the Government of Canada for many years abroad.

I started up my business in my twenties with barely $1,000 in my pocket. Today the 18 businesses that I run, mainly in the province of Quebec, are worth nearly $1 billion. We mainly operate in commercial and residential property development and the redevelopment of rundown urban sites. I have received many political party leaders on the site of one of our biggest projects, Place Fleur de Lys and recently spoke with Prime Minister Trudeau in Quebec City.

My appearance here affords me an apolitical platform from which to answer your questions and attempt to explain to you, as a contractor, the difficulties we're facing and the actual impact they're having on housing construction in Canada as they relate to various organizations and federal Crown corporations.

You should know that I don't need interpretation. I understand English. I may even speak in English, but I'll try to be careful to lend the interpreters a hand. I learned English at the United Nations with police officers and military personnel from around the world. Sometimes it was more practical than diplomatic, and perhaps less polished. So I'll be careful. I can be a little more detailed if you speak to me in French, but it won't be a problem if you speak to me in English. I understand it.

Listening to what's been said here, I realize I already have one of the necessary qualifications to become a governor general one day, since I'm bilingual.

[*English*]

The Chair: Thank you for that.

We'll start our first intervention with Mrs. Block for six minutes, please.

Mrs. Kelly Block: Thank you, Chair.

Thank you to our witnesses for joining this second hour of today's meeting on red tape reduction, and also, as we have explored with many witnesses, the cost of government policies and the regulatory burden on businesses that ultimately impact Canadians and our economy.

Mr. Beaulieu-Guay, I would like to ask my first questions of you, seeing that you are from the University of Saskatchewan. Would you agree that investments in schools and students are important?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Yes.

[*English*]

Mrs. Kelly Block: Thank you.

Recent reports show that the Saskatchewan education system is paying over $200 million in carbon tax annually. Isn't that money that could be invested in student education and research like the research that you do?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Yes, that money can be distributed in many ways. It's public money, and politicians decide how to distribute it.

[*English*]

Mrs. Kelly Block: Yes, in 2021, the University of Saskatchewan paid $3.7 million in carbon tax prior to raises in the carbon tax. This will rise to $12.1 million by 2030. According to the 2022-23 operating budget of the University of Saskatchewan, operating revenue cleared operating costs by $17 million.

With such close margins, does the ever-increasing carbon tax not threaten the existence of public institutions such as the University of Saskatchewan and the research that you are conducting?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: I don't see the causal link between the carbon tax and the funding of post-secondary educational institutions. I'm sorry, but that's really not my area of expertise. These are two fields that can very easily be separated. Monetary inputs and political outputs are two different things.

[*English*]

Mrs. Kelly Block: But surely when a government is paying that amount of money in a carbon tax or a province is paying that amount of money to the federal government in a carbon tax, that is money that is not going to fund programs within their own province.

I understand that you have done substantial research on the impact of stakeholders on public administrators and policy formulation. I'm wondering if you could provide us with your opinion on whether or not the current government does enough to consult with businesses of different industries and then implement the recommendations made during those public consultations.

● (1220)

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: I haven't studied the present government in any specific or particular way. Generally speaking, I take a more macroeconomic view of public administration.

My research concerns the years from 2000 to 2021. I don't have any specific comments to make on the current government. For regulations in particular, the regulatory impact analyses include mechanisms enabling all stakeholders affected or concerned by regulations to take part in consultations and to be consulted. Furthermore, a forum is open to them via the notices of consultation and the calls for comments that are made. It's also quite well documented that large businesses in particular have very close ties with government when the latter wishes to develop regulations. They are one of the stakeholders that interact most with government regulatory bodies, at both the federal and other government levels.

In the course of my research, I have discovered that both types of stakeholder consultations can indeed have an impact on regulations, whether the consultations are held upstream, which is more bilateral, or whether they are more open consultations involving notices of consultation and calls for comments.

I've noticed that, when businesses appear alone at these consultations and are the government's sole interlocutor, they often manage to make the regulations less binding. When they appear at public consultations and interact with regulatory bodies, they're able to make the regulations less binding because, in most cases, they have the most information on their own activities and can therefore help the regulatory organizations more fully understand their situation.

If I may continue, we—

[*English*]

Mrs. Kelly Block: Thank you. I appreciate that. My time is limited.

The website of the Johnson Shoyama Graduate School of Public Policy states, in relation to your research, “His research challenges the commonly held belief that public consultations are, at best, useless or, at worst, another venue for corporate lobbying.” .

Would you care to comment on that?

The Chair: Answer briefly, please.

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Yes. I actually show that the broader the public consultation, the more significant the regulatory changes will be. In other words, the more you consult people, the more diverse the opinions expressed will be. Furthermore, a problem that might seem simple may become more complex and be linked to a more significant government intervention.

As regards lobbying, as I said earlier, when businesses are consulted directly by regulatory organizations, they may express their views and make the regulation less binding. However, when other stakeholders are also around the table, they may thwart the business's interests. If non-governmental organizations, citizens and several sources of information are involved in consultations—

[*English*]

The Chair: Thank you. I'm afraid that is our time.

We're going to go to Mr. Sousa, please, for six minutes.

Mr. Charles Sousa (Mississauga—Lakeshore, Lib.): Thank you, Mr. Chair.

I'm going to share my time with my colleague.

Before I do, I'd just like to ask a quick question of the professor about the jurisdictions that are engaged in the red tape and regulatory affairs.

Prior to your being here, we had someone from the cannabis industry—also on medical health issue with natural products. I think there was somebody else who was supposed to be speaking about payday loans legislation. All these require provincial regulatory matters as well.

Can you comment on the consultation process that's been had in regard to some of these issues?

Where are we making more advancements?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: I have no expertise in any particular sector, whether it be health, transportation or anything else. I really focus on the public policy formulation process and therefore wouldn't be able to identify a problem in any specific sector.

However, I do know that the consultation on the legalization of cannabis was one of the broadest ever conducted for regulatory purposes because it was about paradigm change. It was about a product that was illegal and then became a therapeutic product and ultimately a recreational product. A very broad consultation was conducted of industry people and many experts in the health field. I know that health experts, particularly the Health Canada people, had a considerable influence on the regulatory structure of the legalization of cannabis.

As for the other specific policies that you mentioned, I have no information on those subjects.

● (1225)

[*English*]

Mr. Charles Sousa: Thank you for that.

I know that between 2013 and 2016.... We just heard a member of the Conservative Party talk about their concerns for the universities. Back then, $2.6 billion in cuts were made through the science-based ministries and associations, including some universities that required some support, all of which would be to advance our technology, our advancement and our regulatory affairs in regard to some of this.

With that, Mr. Chair, I'd like to pass on my time to Ireneusz Wlodzimierz Kusmierczyk.

The Chair: Well done.

Mr. Kusmierczyk, you have almost four minutes.

Mr. Irek Kusmierczyk: Thank you.

Thank you very much for that introduction. I will allow it because it's your birthday.

I do have a question for Professor Beaulieu-Guay.

As was mentioned already, your bio on the University of Saskatchewan's website states that your research “challenges the commonly held belief that public consultations are, at best, useless or, at worst, are another venue for corporate lobbying.” You're basically saying that your research indicates that public consultations and stakeholder consultations are important and that they do have an impact.

That's been my experience, and I want to give you two examples. Going back to the natural health product discussion that we had, I too was concerned about the impact of costs, specifically in cost recovery, to be able to fund oversight and accountability. I was concerned about the cost, and I know that other small businesses, especially, in that space were really concerned about the cost of that oversight.

There were thousands of stakeholder consultations that were accepted by Health Canada. There were about 4,600 submissions in which they talked about everything from the burden of labelling to the burden of cost for cost recovery. Since that time, very recently, Health Canada responded with changes to cost recovery where they lowered the total cost recovery by half, and also, in some cases, they actually reduced the fees by up to 72%. They also phased in the cost-recovery approach over seven years to make sure that it would have less of an impact and would allow businesses to adjust. On top of that phased-in approach and reduction in fees, it also kept the already existing small business discounts. Again, it recognized the fact that it heard from Canadians about the potential impact this could have on small businesses, so it kept the small business discounts as well.

That's just one example of where the interaction among Canadians, small businesses and Health Canada had an impact. I would say it was a large impact on proposed regulations that were going to come into force.

Can you speak a little about how stakeholders and non-experts actually do influence the regulations that come out of organizations like Health Canada?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Administrators don't have all the information they need to anticipate all potential regulatory consequences. People understood that quite quickly, and that's why many provisions require administrators to consult people on the ground, particularly those experiencing the effects of public policies and those who are targeted by those policies.

Consequently, the model under which administrators develop the regulations themselves and impose them on everyone has been abandoned in favour of a more open model in which people who want and are able to comment on those regulations may do so. However, certain segments of the population may not have access to those consultations. The people who most often interact with regulatory bodies, who adopt the language of those bodies and who are most knowledgeable about the specific aspects of each regulation will have the greatest influence. It's very hard for citizens to get involved and have any real impact, particularly on matters requiring considerable technical expertise.

Overall though, consultations can have a beneficial impact even if only to prevent future conflict and legal challenges by stakeholders where the regulations initially considered were inadequate. Consequently, consultations and the fact that you have—

● (1230)

[*English*]

The Chair: Thank you very much.

I'm afraid that's past our time.

Mrs. Vignola, go ahead, please.

[*Translation*]

Mrs. Julie Vignola: Thank you very much, Mr. Chair.

Mr. Trudel, thank you for being with us today. How many people in your business are specifically assigned to deal with red tape?

Mr. William Trudel: Easily a dozen people in our businesses are assigned to paperwork. In our legal department alone, at least two or three of our five full-time lawyers are assigned to corporate compliance with the regulations of the various levels of government, which often include the federal government. Given the nature of our operations, we frequently interact with the federal government through Crown corporations such as the Canada Mortgage and Housing Corporation, the Business Development Bank of Canada and, more generally, the Office of the Superintendent of Financial Institutions.

We also hire many people as consultants, although they aren't direct employees of our businesses. They may include lawyers, cost consultants and engineers. In short, there's a whole range.

It would be complicated to calculate the exact cost to hire all the people who work directly in our businesses and all the consultants we have to engage on a daily basis, but we spend several million dollars a year to meet the federal government's compliance requirements associated with very simple matters that are becoming extremely complicated for no reason.

Mrs. Julie Vignola: Would you please cite a few examples illustrating the limits of compliance criteria, particularly with regard to preserving heritage buildings that are essential?

Mr. William Trudel: I recently spoke with people from the Business Development Bank of Canada, the BDC. These are highly competent and dedicated people, and the BDC does a great deal to develop entrepreneurs in Canada. However, it doesn't take long for you to hit a roadblock. What I often don't like, and this is at the Crown corporations, not just BDC, is that I get the impression they've lost all common sense. When I speak to people, sometimes I realize from the expressions on their faces that they're scanning their brains for the right compliance table in the computer system, the third tab or the fourth paragraph that will enable them to answer my question.

I recently spoke with someone at BDC when we visited the former Sears building at Place Fleur de Lys, in Quebec City, which is a registered heritage building. We're completely renovating the building and restoring it to its original state. I asked the BDC representatives if they could help me with the file and they told me that would be a good idea. However, one person started explaining the regulatory compliance framework to me and ultimately discovered, 14 subquestions later, that no compliance check mark is required for heritage buildings that are being restored to their original state. That person then began to explain to us that, on the other hand, if we went the green energy route in such and such a way, he'd be able to bring the project into compliance.

So now we've come to a point where we're working with officials who help us legally circumvent Crown corporation rules for meeting compliance tables using little check marks because we've completely lost all common sense.

Mrs. Julie Vignola: As an entrepreneur, does all that leave you any room for entrepreneurial innovation? Renovating and restoring a heritage building, rather than demolishing it, is a laudable thing. We should thank you for that because you'd think that nothing in North America lasts for more than 50 years. However, do these compliance requirements stifle your innovation or prevent it from expanding?

Mr. William Trudel: It really complicates matters. Take CMHC, for example, the Canada Mortgage and Housing Corporation, another Crown corporation that we do a lot of work with. In recent years, as a result of rising interest rates, CMHC has literally propped up the housing market in Canada. If CMHC hadn't been around in the last two or three years, the situation would be catastrophic, way worse than it is now. I can attest to that.

However, the retail business has changed, since online sales have altered consumer habits. In our projects, we take old rundown shopping centres, partly dismantle them and remove their parking lots to recreate living environments including a university, an international-level hotel and affordable housing. However, we constantly run into regulatory frameworks that basically weren't designed for this new economic development model where we're repurposing former commercial properties in response to the housing crisis. This involves water issues relating to the national Cadastre du Québec, taking out cross guarantees and not preserving too many businesses in the former shopping centre because our business is a residential one. We constantly encounter compliance issues.

I dislike the lack of transparency shown by the federal Crown corporations with which we do business. We can never understand what we have to do to meet compliance requirements, and we're incapable of getting answers. Sometimes we even get this response:

● (1235)

[*English*]

We are a Crown corporation. We do not talk with the private sector or with a private party.

[*Translation*]

It gets really frustrating for us, when we pay CMHC millions of dollars a year in premiums, and I have to employ 10 people and numerous consultants, and we ultimately never understand how to move a file forward. As I often say, it would definitely be an improvement if we established The Twelve Tasks of Asterix as Canada's housing development model.

Mrs. Julie Vignola: That's quite clear, Mr. Trudel. Thank you. I gather from what you're telling me that you aren't criticizing the institutions as such, but rather the way they do things.

Mr. William Trudel: The Canada Mortgage and Housing Corporation, the Business Development Bank of Canada and the Office of the Superintendent of Financial Institutions are very important institutions that help Canadians. However, there's a philosophy issue, there's a transparency issue, and there's the fact that the Crown corporations will have to switch over to “client” mode. Ultimately, who's the client of BDC or CMHC? It's the entrepreneur who works 1,000 hours a week and manages to spend his weeks paying millions of dollars in premiums. At some point, we'll have to get back to basics, talk to our entrepreneurs and try to agree on innovative solutions with them instead of always whipping out the compliance tables.

Mrs. Julie Vignola: Thank you, Mr. Trudel.

[*English*]

The Chair: Thanks very much.

Mr. Bachrach, please go ahead, sir.

Mr. Taylor Bachrach: Thank you very much, Mr. Chair.

I'd love to ask some questions of Mr. Beaulieu-Guay.

I'll start with a really high-level question. The concept of regulatory modernization is based in most cases, I believe, on this premise that regulations in our country are becoming more onerous and complex. I certainly hear from many small businesses that are frustrated by the complexity and the requirements of regulatory processes.

Is there data to suggest that this is the case countrywide, that on the whole, in general, Canada's regulatory environment is becoming more onerous?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Yes, regulatory accumulation is quite well documented, but efforts have been made to reduce it. I mentioned a few in my opening remarks.

To echo what Mr. Trudel was saying, you must also understand that small businesses are far more vulnerable to this increasing regulatory burden because they don't have a department dedicated to these issues and can't hire lawyers to deal with them.

In addition, as I mentioned earlier, small businesses have less access to regulatory bodies. When you start considering a rule, you look at the usual suspects, which are the big businesses, and the small businesses, citizens and non-governmental organizations won't intervene in the regulatory process until later, at a stage where consultations have somewhat less impact because the original rule has already been quite well established.

It's a well-documented fact that rules are more complex now, but that was foreseeable because the areas of activity of government and even society are becoming increasingly complex. I don't think we'll be reducing the regulatory framework for artificial intelligence or new technologies any time soon because those new technologies are disruptive and the regulatory framework has to adapt.

Consequently, although that's the way society goes, we mustn't fall victim to over-regulation, as has already happened in the United States. That's why, every 10 or 15 years, a committee like this one attempts to determine whether we've gone too far and whether we can establish new procedures to calm things down somewhat and come up with necessary rules that are also well designed.

[*English*]

Mr. Taylor Bachrach: Your point about the differential impact of regulations on small businesses and large enterprises is a really important one. I wonder if government's efforts at regulatory modernization should focus on those regulations that impact small businesses disproportionately.

Is that a fair recommendation?

● (1240)

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Yes, I think so.

Big businesses, in many instances, have branches in other countries and whole departments whose only role is to deal with the regulations of various countries in other circumstances. They have consulting firms. They'll be prepared to react and adjust regardless of the regulatory framework the federal government imposes on them.

That's not the case of small businesses, which find it much harder to keep up with the regulatory pace. They aren't there to do this kind of work because, in many instances, they have a specific objective and clearly defined missions. They don't have large departments or connections with regulatory bodies through which they can ascertain what's coming. They aren't privy to draft regulations when authorities want to change or create new rules.

If authorities wish to modernize regulations, or if the Canadian regulatory context becomes more complex, it's definitely the small businesses that will suffer most.

[*English*]

Mr. Taylor Bachrach: I'm curious about regulatory capture. Could you provide for the committee a definition of regulatory capture, and also your recommendations for how the Government of Canada can avoid regulatory capture across the regulatory environment?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Thank you.

Regulatory capture occurs when regulation drafters come to rely overly on the people who are to be regulated to determine the regulatory framework and, in the end, gather all their information from those same sources, which are the businesses and individuals that they'll have to regulate. As a result, those businesses exercise control over the regulations and can even use them as a barrier to competition and to secure an advantage for themselves.

The administration's transparency is the most effective tool to prevent this situation. When the administration addresses businesses in particular or individuals in a meeting setting, other concerned businesses and individuals must be made aware of that fact. In addition, subsequent consultations must be conducted in a very sincere manner, particularly at the notice of consultation and call for comments stage.

We have witnessed some egregious examples of this. Although not an example of regulatory capture, there was nevertheless an apparent conflict of interest in the Tiger Team and genome-editing case. In that instance, the businesses provided the public administrators with talking points. Essentially, the regulations were virtually developed by the business and the private sector before consultations were even held or comments had been received from other sectors, particularly the health sectors and non-governmental organizations.

If, at the start of the process, you only consult certain businesses or stakeholders that frequently interact with the industry, and, in addition, don't sincerely consult other actors, there can be a risk of regulatory capture. Transparency makes it possible to identify these connections, to know with whom you've spoken and when. If discussions are open, there will be no further apparent conflict of interest or regulatory capture. Transparency is therefore the solution.

[*English*]

The Chair: Thank you very much.

We'll now go to our second round. We'll start with Mr. Gourde.

Mr. Gourde, welcome back to OGGO. The floor is yours, sir.

[*Translation*]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

Mr. Trudel, your testimony is music to my ears. One of the biggest challenges we'll be facing over the next 10 or even 20 years will be the construction of housing and other buildings, somewhat as what you're doing based on your expertise.

Yes, the regulations are really burdensome. At the risk of exposing you to further costs, would it be possible for you to ask your lawyers to send the committee a note on how to improve all the paperwork and red tape that adversely affects you?

To what degree do you think this delays your projects? Have you cancelled any projects because the required process was too burdensome? Have you lost years? Have you lost a number of doors? We really need a lot of doors in Canada right now. Contractors like you are really in a bind that puts you behind schedule. When you're spending time completing documents, you aren't building housing.

Mr. William Trudel: We calculate project delays in numbers of years. That's the case for thousands of residential units for our company alone.

I've been in the media in the Quebec City area for most of today. One of our projects, which was announced a few days ago, will be delayed another 12 months as a result of a regulatory framework, a municipal one in this case. Right now, we're working on an approximately $225-million phase at Fleur de Lys that will comprise 480 units, 15% of them affordable units—I promise—and 48 units for people living with disabilities. As the insurance certificate was being issued, the Canada Mortgage and Housing Corporation decided to cut funding by $16 million. To this day, I still don't understand why. Fortunately, we had the $16 million and used it to complete the project, which wasn't delayed as a result. However, there are consequences to that: In three or four years, once we've reached phases 5, 6 and 7, that $16 million won't be available and we may have to delay those phases. I hope I can organize a second funding round with CMHC for that property, but the compliance grid doesn't allow for it. We aren't supposed to do that. I may be able to reopen the file, and, once again, I'll of course have to pay millions of dollars in fees for a new analysis of the same file. We spend our lives delaying projects and paying fees without understanding why.

● (1245)

Mr. Jacques Gourde: Let's go back to the compliance grid. I understood from your statement earlier that you had trouble finding someone who could take responsibility within the organization. If that isn't entered in the compliance grid, you can't get an answer and you'll circumvent it.

In fact, it's because no one in these organizations is able to make a decision, to say that they support you and that it will work. This should operate somewhat as at a bank: They support you or they don't, but at least you know where you stand. When you're forced to do a lot of things—without being told—that are all wrong—

Mr. William Trudel: Actually, I'd go even further than your comment.

I regularly receive responses from officials who know that it's the right thing to do and that I'm right, but that their internal regulations, in the federal government and at the Crown corporation, don't allow them to do it. Then I ask them what we can do, and what I can do, since everyone has understood that it's the obvious thing to do. So I call my MP, who tells me that he understands my story but that a Crown corporation is involved and there's nothing he can do. Then I try calling the Crown corporation, which tells me that, since it's a Crown corporation, it can't speak to people. I ask whether there's an Ombud or if someone in the federal government can give me an answer, but the answer is no. So I look for another way around this. I try to present the file differently; I try to ask my architects to do an eighth iteration in an attempt to make the project fit within a compliance grid so the whole thing ultimately works. We waste one, two or three years, and people have nowhere to live in the meantime.

Mr. Jacques Gourde: Should we cut red tape by 50% or 60% to expedite matters? Everyone knows the major challenge is that we have to build housing. We're way behind schedule. People will wind up sleeping outdoors.

Mr. William Trudel: I think that's already the case.

Mr. Jacques Gourde: How far should we reduce red tape? Is it possible to cut a 15-page form down to 3 pages?

Mr. William Trudel: I'm just going to give you a concrete example.

To be a major borrower from the Canada Mortgage and Housing Corporation, you have to have a certificate for projects valued at more than $100 million, a limit that we've long exceeded. It's a rigorous process, and I clearly understand why. Every year, we actually have to demonstrate to CMHC our financial capacity to carry out our projects and to undergo a risk analysis of our governance method, our funds and our capital.

So this certificate is valid for a period of 12 months and has to be renewed every year. We just completed the one for last year this past week. It took nearly 6 months of analysis to get a compliance certificate that's valid for only 12 months. At the end of the sixth month, I was asked the same questions as I was asked the first time because it was already out of date. As a result, I'm going to have a major borrower certificate that will last me 6 months, and I'll have to redo it next year and spend another 6 months to get a certificate that's valid for 12 months.

Mr. Jacques Gourde: I have another question for you, but you may submit your answer in writing if you don't have time.

Is it still possible to build affordable housing in Canada with all this regulation?

Mr. William Trudel: It's still possible, because we're doing it, but it's very difficult. I can tell you one thing: We have to be ingenious, we have to work hard, and we have to have a dedicated team. We have to work with our community and our collectivity. We have to work with the community organizations.

Don't forget one thing: Every time one of the three levels of government invents a new tax, it inevitably adds to the cost of housing. The unit of measure in property development is a "housing unit". In cars, the unit of measurement is the kilometre, but, for us, it's the "housing unit". A new tax created by one of the three levels of government will necessarily add to the cost of everyone's rent.

[*English*]

The Chair: Thank you very much.

Mr. Bains, we'll go over to you, please, sir.

Mr. Parm Bains (Steveston—Richmond East, Lib.): Thank you, Mr. Chair.

Thank you to both of our witnesses for joining us today and for providing some very interesting comments and testimony here.

I'd like to go back to Mr. Trudel.

Can you expand on some of the challenges you talked about? We have a couple of projects that we were able to successfully get done in Richmond, British Columbia, with respect to affordable housing for women, women with children and vulnerable members of our community.

I see some of these things, and this one project specifically at Steveston Highway and Railway Avenue is an 18-month project. I look at that and say “wow” because I understand how long it does take to get things done. It took the partnership between the municipality and the federal government, and in this specific project, it was a direct one with the municipality.

What are some challenges? You said that all levels of government.... If they can work together, what kinds of things need to be done to improve the regulations to get things done more quickly, in your estimation? What are some recommendations you can make?

● (1250)

[*Translation*]

Mr. William Trudel: That's an excellent question.

With regard to housing in Canada, let's start at the top with the federal government. The federal government will mainly influence what I call money and finance through the Superintendent of Financial Institutions, the CMHC and the Business Development Bank of Canada.

I'm going to talk about the provincial governments, the Province of Quebec in my case, because that's what I know best. The latter will impose statutes and regulations respecting property development, urban development and land use planning. The municipalities will have to apply all those regulatory frameworks. However, the three levels of government don't really talk to each other on a daily basis. I don't know whether that's the case elsewhere, but that's what happens in the province of Quebec.

I think we'll have to establish a national strategy focusing on the housing crisis that we're currently facing, for which standing committees will have to be struck representing the three levels of government. Those committees will have authority to issue good recommendations and even to make decisions to improve matters and to simplify the regulatory framework of the three levels of government at the same time. If one level of government works alone, that effort will naturally yield a partial result.

[*English*]

Mr. Parm Bains: Thank you.

I've noticed some of the work you're doing with heritage buildings and some of these other things. There are existing regulations in each unique municipality. What is the work that goes into it? You have to provide some type of proposal to show the importance of the project. How long does it take to do that work in order to just get started?

[*Translation*]

Mr. William Trudel: We are in the process of managing a $2 billion development project at Place Fleur de Lys, in the Quebec City region. It involves a former shopping centre that dates back to the 1960s and sits on three million square feet of land located next to the Centre Videotron, five minutes from Quebec's parliament.

I purchased the property for $60 million in July 2018 but couldn't secure the zoning I needed to begin my project until late 2022, despite massive community support for the project and the fact that the four neighbourhood committees in the neighbourhood surrounding our property and more than 63 community organizations had written in support of our foundational project for Quebec City. It was exactly like in The Twelve Tasks of Asterix: we had to find Permit 38 on the 17th floor, which doesn't exist. It took me nearly five years to get the zoning to begin construction of a single unit, even though the community supported the project. The three levels of government have generated so much regulation that we're still tilting at windmills in an attempt to resolve something simple.

[*English*]

Mr. Parm Bains: Again, that speaks to the challenges. I've seen projects get introduced and then get derailed because maybe a certain special interest group in the area doesn't want something to happen. The levels of government, the communities involved and so many different things can either get projects going or ultimately halted.

Maybe I'll ask Mr.—

The Chair: I'm afraid you don't have any more time, Mr. Bains.

Mr. Parm Bains: Okay, thank you.

The Chair: That's it, but thank you very much.

We'll go to Mrs. Vignola for two and a half minutes, please.

[*Translation*]

Mrs. Julie Vignola: Thank you very much, Mr. Chair.

Mr. Trudel, we've been talking for some time now about the number of people required to complete paperwork, about certain inconsistencies and how difficult it is to reach objectives as a result of those inconsistencies and a lack of communication.

In real terms, how much more rent does all this red tape mean that renters will have to pay for housing?

● (1255)

Mr. William Trudel: An actual figure is hard to estimate, but the Trudel finance team has calculated the taxes: school taxes, municipal taxes, the green space tax, development royalties and a foundational transit system tax, if that's the case. Now there's no more federal HST, which is a step in the right direction, but there's still a provincial QST. There are also—and this is no joke—an elevator tax and an elevator music tax. If you calculate all this, the total comes to $500 a month, an amount that won't apply for only one, two or three months, but rather for the entire lifespan of the property. Consequently, for every unit, that's a monthly amount of $500 that won't come back to us. In other words, the first $500 that people pay out won't be used to construct the building. What's more, construction costs have doubled in recent years.

In the Quebec City region, you need a miracle to build affordable housing units at $1,027 a month thanks to the MLI Select program of the Canada Mortgage and Housing Corporation, or CMHC. It's a good program. Access to a brand new, high-quality home located in an integrated living environment will change the lives of ordinary people, single people and vulnerable people.

However, we propose that CMHC enhance the program to enable us to build two or three-bedroom units for single-parent and reconstituted families. According to the federal criterion, a unit that rents for $1,027 is currently an affordable unit. However, at $1,027 a month, we have no choice but to build a small unit suitable for a single person. It's impossible to build a two or three-bedroom unit because the bank would never agree to finance the building. I've tried for years to explain to CMHC that the MLI Select program has to be enhanced to give single-parent and reconstituted families a chance. Everyone tells me I'm right, but nothing ever changes.

Mrs. Julie Vignola: Thank you very much. Your testimony is eloquent and important.

[*English*]

The Chair: Thank you very much.

We'll go to Mr. Bachrach to finish off the day.

Mr. Taylor Bachrach: Thank you very much, Mr. Chair.

I have one more question for you, Mr. Beaulieu-Guay. You talked about participation and the fact that small businesses and interested parties, which perhaps don't have as many resources, have differential access for advocacy around regulatory processes. Big companies are able to spend millions of dollars on lobbyists and influence regulatory change, whereas ordinary citizens, not-for-profit organizations and small businesses have much less access.

I'm wondering about participation funding. When there are consultations or reviews of regulations that take place, should that be accounted for, somehow, so that government is hearing in an equitable way between large and small players in the environment?

[*Translation*]

Dr. Louis-Robert Beaulieu-Guay: Yes, one solution would be to give those actors the means to participate. The most important point is that the most open and inclusive consultations occur at the end of the regulatory process, during the consultation and comment period, when people have 30 or even 90 days to comment. At that stage, it's already a done deal.

So we need to enable people to participate before they get to this stage, which is quite difficult. Even the regulatory bodies can't know who will be affected by or interested in their draft regulations. In many cases, they'll rely on their family and friends; that is to say, the people who often participate. Those actors informally become privileged.

I unfortunately don't have a solution for you. We need to find a way to include these people earlier in the process. There has to be a greater diversity of stakeholders, bringing to the same table small businesses, citizens, non-governmental organizations and citizens' groups to allow them to have a say before the decision is made.

[*English*]

The Chair: Thank you very much, witnesses, for being with us today. We appreciate all the feedback and information you've given us. It's greatly appreciated.

Before we adjourn, again, happy birthday to Mr. Sousa.

I just want to update you regarding Global Affairs. We're still working on Minister Joly with her schedule. I notice that she was able to do some outreach with the Canada-Lebanese friendship group, so I'm hoping she'll make time for us as well. We will be open to whatever recommendations.

For Ms. Nicholson, the witness we had planned for October 3, we've set aside two hours. Right now, Global Affairs is trying to dictate to us one hour only. The clerk and I are working on that situation.

With that, we are adjourned.